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SOCIAL SECURITY DISABILITY BENEFITS: DID A GROUP OF JUDGES, DOCTORS, AND LAWYERS ABUSE PROGRAMS FOR THE COUNTRY'S MOST VULNERABLE?

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

OCTOBER 7, 2013

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Committee on Homeland Security and Governmental Affairs

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SOCIAL SECURITY DISABILITY BENEFITS: DID A GROUP OF JUDGES, DOCTORS, AND LAWYERS ABUSE PROGRAMS FOR THE COUNTRY'S MOST VULNERABLE?

MONDAY, OCTOBER 7, 2013

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 3 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Thomas R. Carper, Chairman of the Committee, presiding.

Present: Senators Carper, Levin, McCaskill, Baldwin, Heitkamp, Coburn, and McCain.

Also present: Senator Manchin.

OPENING STATEMENT OF CHAIRMAN CARPER

Chairman CARPER. The hearing will come to order. We welcome all of our guests here today.

I want to start at the outset by thanking Dr. Coburn, Senator Levin, Senator McCain, their staffs, and our witnesses for the heroic work, I think, that you have done—to bring us here to this day.

I am going to make a very brief opening statement. I am going to yield to Dr. Coburn for a much longer statement. Then I will have some more things to say.

I will say this: All of us know we are facing huge budget deficits in this country. They are down, cut in half, from about $1.4 trillion to about $700 billion. That is still way too much, and it is part of the reason why we have this government shutdown that is in effect even today. But there are a number of things that we need to continue to do to make sure that we bring down that deficit and we run this country in a fiscally responsible way.

I think we have a moral imperative to do what is right, the right thing to do, particularly looking out for the least of these in our society. I think we also have a fiscal imperative to make sure we are meeting that moral imperative in a fiscally, financially responsible way. And Dr. Coburn and I have spent years working together, along with Senator Levin, Senator McCain, and others on this Committee, trying to make sure that we are rooting out waste, whether it is fraud or just ineffective spending, wherever we find it, and to reduce it. And in this case, I think Dr. Coburn and his staff and others have done terrific work. I am grateful for that, and

I am going to yield to him at this time. And when he finishes, I will have some more to say. And I think maybe Senator Levin would like to make a short opening statement, too. Thanks.

Dr. Coburn, congratulations and thank you for all your good work.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Thank you, Mr. Chairman. This is the second hearing in a series looking at deficiencies in the Social Security Administration handling of disability claims. Our first hearing, held in September 2012, looked broadly at the weaknesses and decisions made by the agency's administrative law judges (ALJs), and their own internal study showed that 22 percent of those were decided inappropriately. Our look at those showed 25 percent.

This afternoon, we are going to focus on the findings of a 2-year investigation into the Huntington, West Virginia, Social Security Office of Disability Adjudication and Review (ODAR). Specifically the investigative report we are releasing details how one lawyer, one judge, and a group of doctors financially benefited by working together to manufacture bogus, fraudulent medical evidence to award disability benefits to over 1,800 people.

I would like to thank my Chairman, Tom Carper, and the Chairman and Ranking Member of the Permanent Subcommittee on Investigations (PSI), Senators Levin and McCain, for their support and their hard work on this investigation. Without their help, this hearing would not be possible.

Before we get into the findings of our investigation, I want to extend a thank you to the four courageous ladies sitting in front of us at this time. Republics only survive when courage is demonstrated on the basis of character, sound morals, integrity, and honor. And each four of them have demonstrated that to this Committee, their investigators, and I think the public will see that as their stories are told.

These women—Jamie Slone, Melinda Martin, Sarah Carver, and Jennifer Griffith—saw the disability programs being exploited and were brave enough to bring their story to the Committee. I commend all of you and hope others will take up your example to speak up when you see wrongdoing, whether it is in Social Security or any other agency of the Federal Government.

Congress needs to know where the problems are in our government so that they can be addressed and hopefully changed for the better. Again, thank you to each of you for traveling to Washington to tell your story. I very much look forward to hearing from you.

The issues we are going to discuss today, like many of our country's current problems, began and begin with Congress. Only here could we take something as important as the Social Security disability programs and let politics hurt those most in need. By this I mean that for a long time Congress has acted as if getting people onto the program is more important than doing oversight of the program. In practical terms, this has meant pushing the Social Security Administration (SSA), to eliminate its hearings backlog with little interest on how that is performed.

This point was driven home clearly the last time the Senate considered a nominee to head the agency. During the 2007 confirma-

tion process for former Commissioner Michael Astrue, many Senators used the chance to criticize how long it took for claimants to get a hearing. Mr. Astrue in response pledged to work to reduce the backlog and wait times for hearings, and we saw the results.

Shortly after he was confirmed, the agency rolled out an aggressive plan to reduce the backlog. At bottom, the backlog plan asked agency employees to do more, faster. While the agency hired more administrative law judges to carry the load, it also pressured the ALJs to decide more cases by spending less time on each case. As part of the plan, SSA pushed all ALJs to decide between 500 and 700 cases per year, many of which contained thousands of pages of medical evidence. The agency also went so far as to set daily goals for ALJs. In 2011 and 2012, each ALJ was to decide 2.37 cases per day. To speed the process further, the judges were encouraged to skip hearings altogether and just write opinions if they felt it was warranted.

The agency made clear that moving a high volume of cases was the top priority. On the surface, the plan appeared to work.

Over the next few years, the agency saw an incredible improvement in the time it took to issue a decision by an ALJ. Wait times for ALJ hearings dropped from 514 days to as few as 353 days by 2012. The number of ALJ decisions likewise increased from roughly 575,000 in 2008 to more than 820,000 in 2012, a 43-percent increase. By February 2011, Commissioner Astrue proudly announced that under his watch the agency had "reversed the trend of declining service and increasing backlog in our disability workloads."

With so much emphasis on the quantity, the agency's attention to oversight of the ALJ decisions diminished. The report the Committee is releasing today details just how much the quality of the decisions suffered in one particular office—SSA's Huntington, West Virginia, office. The report describes how one lawyer, several judges, and a group of doctors took advantage of the situation and exploited the program for their own personal benefit. Together they moved hundreds of claimants onto the disability rolls based on manufactured medical evidence and boilerplate decisions. As a result, they saw millions of dollars flow their way, promotions at work, and had bad behavior ignored.

The ALJ at the center of this mess was Judge David B. Daugherty. Over the course of his tenure with the agency, he became one of the most prolific ALJs for the agency in the country. During 2010, the last full year he decided cases, Judge Daugherty was the third highest producing ALJ out of more than 1,500 at SSA. In that year alone, he decided 1,375 cases and awarded benefits in 1,371, with an approval rate of 99.7. He denied only four cases. He was outgunned only by Frederick McGrath of Atlanta, Georgia, who decided 3,200 cases, and Charles Bridges of Harrisburg, Pennsylvania, who approved 1,855 cases.

Many of Judge Daugherty's peers, however, questioned how it was possible to decide so many cases when most others struggled to finish a third of that. When asked by a fellow ALJ how he was deciding such a high volume of cases, Judge Daugherty responded, "You are just going to have to learn which corners to cut."

To cut those corners, our investigation found that Judge Daugherty focused on cases from one attorney, Eric C. Conn of The Conn Law Firm. A self-described multimillionaire, Mr. Conn's law office is located in Stanville, Kentucky. His practice focused almost entirely on clients seeking Social Security disability benefits. Early on, Mr. Conn became known for his aggressive marketing with billboards throughout Stanville and eastern Kentucky. Witnesses interviewed by the Committee said you could not listen to the radio or watch television without seeing his commercials.

By all accounts, his marketing efforts worked. By 2010, Mr. Conn was the third highest paid disability attorney in the country, despite working in a town with only 500 people. In 2010, Mr. Conn received almost $4 million in attorneys' fees from the agency. The only other attorneys receiving more from SSA were Charles Binder of the Binder & Binder firm, which received $22 million, and Thomas Nash of Chicago, who received $6.3 million.

However, as our investigation uncovered, there was much more to the story than Mr. Conn's advertising. Mr. Conn, Judge Daugherty, and several doctors carried out a sophisticated plan to ensure claimants would be approved for disability, relying on questionable and, in my opinion, fraudulent methods. We will turn next to the plan they carried out.

For the plan to succeed, the top priority was getting Mr. Conn's cases in front of Judge Daugherty. Generally, whenever a claimant is denied benefits and then appeals to an ALJ, the Social Security Administration sends the case to whichever office is closest to where the claimant lives. This protects claimants who might otherwise have to travel great distances, which can be difficult for someone who is disabled.

Mr. Conn, however, discovered a way to ensure that his cases would always go to the Huntington office. He would require his clients to sign a waiver requesting their cases instead to go to SSA's Prestonsburg, Kentucky, office, a satellite office of the Huntington office, which was located near the Conn law offices. The Prestonsburg hearing office is staffed by Huntington ALJs who travel there once a month, and so no matter where the claimant lived, their disability claim would be assigned to a Huntington ALJ on appeal. Directing the cases from there to Judge Daugherty, however, would take additional effort.

In the normal course, agency rules required cases to be assigned to ALJs on a rotational basis with the oldest cases assigned a hearing date first. Yet at the moment a case arrived in the office, but before it was assigned, Judge Daugherty would at times intercept Mr. Conn's cases and assign them to himself. If cases would happen to slip past and get assigned to another judge, Judge Daugherty would go into the computer system and move the case to his docket.

Some in the SSA office began to notice what was happening and brought it to the attention of the office's chief judge, Charlie Andrus. Despite having the issue brought to him repeatedly over a period of 10 years, Judge Andrus never once stopped this procedure. By approving a large volume of Mr. Conn's cases, Judge Daugherty met his agency mandated monthly quota with very little effort.

According to documents and Committee interviews, each month Judge Daugherty and Mr. Conn would coordinate on a list of his clients to approve. The key, however, was that he would only approve Mr. Conn's clients if he provided the judge with one additional piece of evidence that showed they were disabled. And so every month, Judge Daugherty would call Mr. Conn's office to let him know just what kind of evidence he needed for each client. On the call, Judge Daugherty would start by relaying the name and Social Security number of each person he was ready to approve. He would then say whether the new piece of evidence should relate to a mental or physical impairment. The list would then be typed up and saved on computers at The Conn Law Firm. Mr. Conn's staff referred to these monthly lists as "the DB list," after Judge Daugherty's nickname, D.B. Daugherty.

The Committee obtained DB lists from June 2006 through July 2010. The list contains as many as 52 claimants each month. In total, the DB list from that time contained 1,823 people who were approved for disability benefits.

After Judge Daugherty told Mr. Conn the kind of medical evidence he needed, the next step for Mr. Conn was to ensure a doctor provided it. Fortunately for Mr. Conn, he had a crew of paid doctors ready to provide what he needed. To find doctors willing to go along with him, Mr. Conn searched the Internet for ones with checkered or difficult pasts. Those in his circle had histories of malpractice, medical licenses revoked, hospital privileges suspended.

Until his death in 2010, Mr. Conn's go to doctor for physical ailments was Dr. Frederic Huffnagle. While practicing as an orthopedic surgeon, Dr. Huffnagle was the subject of multiple malpractice suits, had his medical license revoked, and hospital privileges revoked in other States.

Since Dr. Huffnagle lived 4 hours away, Mr. Conn arranged for him to come to town for 2 days each month and examine his clients in a medical suite in his law office. Clients were scheduled for exams in 15-minute blocks, and the doctor would meet up to 35 clients per day.

The medical report Dr. Huffnagle gave Mr. Conn was modest at best. Dr. Huffnagle, as well as the others, would provide brief reports about the visit in a form describing the claimants' residual functional capacity (RFC). That is an important term that we need to be aware of during this hearing.

The second form is commonly known as the "RFC" and is a key document used by all SSA judges. A residual functional capacity describes a claimant's limitations in performing any job in the national economy, the agency standard in determining whether a claimant was entitled to benefits.

To understand the problem with RFCs filled out by Dr. Huffnagle, it is important to understand what they contain. For each claimant, the RFC asks the doctor to determine a few basic things: the amount the claimant could lift or carry, the number of hours that the claimant could sit, stand, or walk in an 8-hour work day. The RFC also required the doctor to determine how often the claimant could perform 22 other activities by marking one of four answers: never, occasionally, frequently, or constantly.

Given the vast range of answers Dr. Huffnagle could provide on this form about the claimant, it would be nearly impossible for two claimants to be found with the exact same limitations. The chances of two RFCs being filled out the exact same way is next to impossible. Yet somehow Dr. Huffnagle found that his patients almost always had the exact same limitations. Ninety percent of the time, Dr. Huffnagle signed one of just 15 different variations of the form. For just one version he frequently signed, Dr. Huffnagle reported 97 claimants had exactly the same limitations.

This was no coincidence. Our investigation found that this was a planned step in the process for getting Mr. Conn's clients onto disability. Mr. Conn had developed 15 versions of the RFC completely filled out before any doctor visit took place. He cycled through them, assigning one of these 15 pre-filled RFCs to people in the order that they came through his door. It had no connection to their disability. The only thing that changed was the name and Social Security number on the top of the page. Mr. Conn then forwarded the opinion and the RFC to Judge Daugherty.

While agency rules require ALJs to carefully review a claimant's entire file and write a comprehensive decisions, Judge Daugherty did otherwise. Based on the decisions we reviewed, his opinions would routinely cite only a single piece of evidence, namely, the reports from Mr. Conn's doctors. As such, his opinions were much shorter and less detailed than those of other ALJs. Almost all of them included a boilerplate paragraph and concluded with the following quote:

"Having considered all the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best."

This was remarkable for two reasons: One, a claimant's case file can be hundreds of pages, if not thousands of pages long. For a judge to say the only piece of evidence worth looking at is the one paid for by the claimant's lawyer is absurd.

Second, before a claimant ever gets to the ALJ, most have already been evaluated and denied by the agency twice, professionals who do this all day every day and have dedicated their lives to it. In the opinions we reviewed, Judge Daugherty rarely strayed from a basic format. In fact, most of his decisions were identical to one another with only small portions changed. As such, he was able to write a lot of decisions with little effort.

While Dr. Huffnagle passed away in 2010, the same RFC forms that he signed continued to be submitted by other doctors, several of whom we will hear from today. We reviewed 102 RFCs signed by Dr. Herr, and 94 percent were identical to the RFCs that Dr. Huffnagle signed. Of the 10 RFCs we reviewed signed by Dr. Ammisetty, 9 were identical to the pre-filled forms used by Dr. Huffnagle.

Identical RFC forms were also used by doctors examining Mr. Conn's clients for mental impairments. For these, Mr. Conn often sent his clients to see Dr. Brad Adkins. Dr. Adkins would meet with the clients, write up a short report, and submit a mental RFC. This RFC required Dr. Adkins to rank the claimant with regard to 15 different abilities, such as follow work rules, behave in an emo-

tionally stable manner. The form required Dr. Adkins to rank the ability in the following ways: unlimited, good, fair, poor, or none. Once again finding two identical RFCs should be next to impossible, yet we found that 74 percent of the RFCs signed by Dr. Adkins were one of just five different forms. These five forms came from Mr. Conn's office already filled out, but Dr. Adkins told the Committee investigators that he routinely signed them. Only the names and Social Security numbers were changed. Just as before, Judge Daugherty would cite only these documents when awarding benefits to Mr. Conn's clients.

It would be useful now to turn back to the issue of why these individuals did what they did. The short answer is that each of them—Mr. Conn, his doctors, Judge Daugherty, and Judge Andrus—benefited in different ways, both personally and financially. Mr. Conn made millions for claimants on the DB list. From 2006 to 2010, Mr. Conn was paid over $4.5 million by the Social Security Administration in attorney fees. In 2010 alone, he earned over $3.9 million for all of his cases, including those from Judge Daugherty.

Mr. Conn's doctors also benefited handsomely. Mr. Conn paid his doctors up to $650 per claimant, helping them earn considerable fees, and by testimony that we have, sometimes spending less than 10 to 15 minutes with them. For the 4 years of records that the Committee obtained, Mr. Conn paid Dr. Huffnagle almost $1 million, Dr. Herr was paid more than $600,000, Dr. Adkins was paid nearly $200,000.

And Judge Daugherty took full advantage of his freedom. The running joke in the Huntington office was if you wanted to find Judge Daugherty, do not bother looking in his office. When fellow ALJs complained about Judge Daugherty taking advantage of time and attendance rules, the agency looked the other way. His big numbers effectively let Judge Daugherty do whatever he wanted.

Finally, as the Huntington office rose to be the second most productive office in the agency, office management and ALJs received salary increases. Some of the office management even received bonuses for their productivity. Judge Andrus received national recognition when he was tapped by the agency to mentor other ALJs across the country and then promoted to assistant regional chief administrative law judge.

While lawyers and doctors were getting rich by exploiting a broken program, the real victims were the claimants and the American taxpayer. The claimants suffer because we do not do any favors when we wrongly award benefits, and we will certainly hurt those who justifiably are receiving those benefits when the trust fund runs out of money probably in less than 18 months.

At the same time, the American taxpayers suffer. For just the claimants listed on the DB list, Judge Daugherty approved an estimated $546 million in lifetime benefits. For all his cases, Judge Daugherty awarded $2.5 billion in the last 6 years.

Probably the most troubling issue our investigation uncovered, however, is what happened when the details of this plan started to become public. In May 2011, a reporter named Damian Paletta with the *Wall Street Journal* ran a story about the relationship of Mr. Conn and Judge Daugherty. Along with Judge Andrus, Mr.

Conn and Judge Daugherty responded by carrying out what appears to be an elaborate attempt to cover up the truth from the Social Security Administration and the American people.

After the story ran, Judge Daugherty and Mr. Conn made the unusual decision to speak with each other only using prepaid disposable cell phones. We were told by Mr. Conn's former employees that this was to keep the conversations from being recorded.

For his part, Judge Andrus conspired with Mr. Conn to retaliate against Ms. Carver, one of our witnesses today, who he believed was behind the Wall Street Journal article. Their plan was to follow and film Ms. Carver on days she was working from home in an attempt to get her fired for violating agency telecommuting rules. Despite several attempts, they were never able to find Ms. Carver doing anything wrong. Once the agency discovered what was going on, they placed Judge Andrus on administrative leave.

The final troubling finding was the systematic destruction of documents once allegations began to surface publicly. Both Mr. Conn and the agency took the unusual steps to destroy documents potentially related to a known open congressional investigation. After the Wall Street Journal article, the Committee found that Mr. Conn had hired a local shredding company to destroy over 3 million pages of documents. His former employees informed us he shredded all hard copies of the DB lists along with a warehouse full of files. He had another employee destroy all the office computers along with the hard drives in a massive bonfire. Ms. Slone also noted that a number of e-mails from Judge Daugherty to Mr. Conn mysteriously went missing. The agency for its part could not find any of Judge Daugherty's e-mails either.

While Mr. Conn was destroying documents, the agency approved the purchase of personal shredders for the offices of Huntington's management. Keep in mind this occurred in the middle of a congressional investigation when the agency was legally obligated to preserve all relevant documents. Senator Levin and I immediately asked the local SSA Office of Inspector General (OIG) agent to seize the shredders, which they did.

Why Huntington management allowed an office under investigation to buy personal shredders is a question that needs to be answered. When my office asked the office's top judge why he approved the purchase, he said he had not even considered that it might be a problem. This is a judge. It is unacceptable.

We cannot lose sight of why we are here today. The bipartisan 2-year investigation shows that Congress needs to update laws and regulations governing Social Security's disability programs. Judge Daugherty, Mr. Conn, and his doctors clearly stretched and, in my mind, broke all agency rules. But attorneys using doctors to provide bogus medical evidence is not just isolated to Mr. Conn or even Huntington, West Virginia. Just last year, I released a report that found the same thing happening in three other offices.

And much like I began, I will end by noting that Congress continues to be the problem. With the clock ticking on the agency's trust fund, some in Congress refuse to acknowledge that the disability programs are broken and in dire need of significant oversight. People who are truly disabled will pay the price of our dithering.

One simple reform that would make a big difference is including professionals from the Social Security Administration to represent the government and ultimately the American taxpayer in decisions made by ALJs. This reform would bring a needed balance to both hearings and decisions at the ALJ level of appeal which is especially true now that most claimants have representation.

As we learned in our previous report, some claimant attorneys withhold evidence from the ALJ showing that the claimant's condition has improved. A government representative would make sure no such information is overlooked.

While the ALJ is tasked with also representing the interests of the government, he is clearly outnumbered. Then add agency management breathing down the neck of ALJs to meet monthly quotas for deciding cases. A representative for the government would bring needed balance to ALJs' decisionmaking and ensure the ALJ considered all the medical evidence in the claimant's file.

This reform has long been a recommendation of the Social Security Advisory Board and is fully supported by the Association of Administrative Law Judges (AALJ). This is one area where Congress can find common ground on needed reforms.

We also need to make sure that these ALJs have the tools they need to render the proper decisions. The agency's recent forbidding of the purchase of symptom validity testing, like the Minnesota Multiphasic Personality Inventory (MMPI), is ridiculous. These tests determine if an individual is malingering or lying about their symptoms. The SSA OIG recently determined the agency stands alone in not using the MMPI with everyone else finding it a useful tool—other Federal agencies, private disability insurers, academics, and the medical community at large.

I hope today's findings encourage others to take a hard look at this program and support much needed reforms for this program that last year supported almost 11 million Americans with $137 billion of American taxpayer money.

I would close with one remark. If you work somewhere in the Federal Government today, I would hope that if you are seeing fraud, if you are seeing manipulation, if you are seeing things that are not right, that you will follow the lead of these four courageous women in bringing it to the attention of Senator Levin's Permanent Subcommittee on Investigations or my office.

With that, Senator Carper, I thank you.

Chairman CARPER. Thank you so much.

I am going to go out of order and ask Senator Levin, who chairs the Subcommittee under which this investigation has taken place, to make a statement. I will make a short statement after that, and then we will turn to our witnesses. Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you very much, Senator Carper. And first let me commend Senator Coburn for his leadership and for his and his staff's hard work in uncovering the abuses that are the subject of today's hearing.

I also want to thank Senator Carper for supporting this investigative effort and for having his Subcommittee hold this hearing today.

This investigation began at the Permanent Subcommittee on Investigations, which I chair, when Senator Coburn was our ranking Republican Member, and then Senator McCain became our ranking Republican Member, and that is now his position on our Subcommittee.

Our Subcommittee rules provide that the ranking minority Members may initiate an inquiry. It is an unusual rule. It is a very important rule, and it almost guarantees that this Subcommittee will be a bipartisan Subcommittee, and that is true of a number of our other rules as well. But it is our tradition now as well—it is not just the rules—that we participate and work together in a bipartisan way and that our staffs work together on investigations. And that is what happened here.

For the first year of the minority-led 2-year investigation, our Subcommittee staffs worked together on document requests, conducted joint interviews, and dug into the facts. In the second year of the investigation, when Senator Coburn became ranking minority member of the full Committee, which he is now, the joint report being released today was drafted, and so this report is a prime example of a bipartisan congressional oversight effort, as the entire investigation has been, and we are now very happy and proud that Senator McCain is our ranking Republican, and we are working together on many ongoing investigations.

Senator Coburn has already described what this investigation has uncovered: a case study of conduct that is abusive, fraudulent, longstanding, and intolerable. The case study shows how one lawyer living in Kentucky, Eric Conn, engaged in a raft of improper practices to obtain disability benefits for thousands of claimants, taking advantage of Federal disability programs that were designed to help the most vulnerable among us.

His improper practices included: manufacturing boilerplate medical forms, misusing waivers to submit claims that should have gone elsewhere, employing suspect doctors willing to conduct cursory medical exams and sign virtually any form put in front of them, and colluding with administrative law judges on procedures that broke the rules and improperly favored his clients.

Evidence of inappropriate collusion between Mr. Conn and one of the administrative law judges deciding the disability cases is particularly striking. Administrative Law Judge David Daugherty used a range of techniques to quickly award benefits in large numbers of the Conn cases. They included his improperly assigning the Conn cases to himself, secretly informing Mr. Conn of what cases he would decide and what documentation should be submitted, accepting boilerplate medical forms, relying on conclusory medical opinions to reverse prior benefit denials, skipping hearings, churning out short, poor-quality decisions.

In addition, the chief administrative law judge in the regional office, Charlie Andrus, failed to act on complaints that too many of the Conn cases were going to Administrative Law Judge Daugherty and allowed Conn cases to receive favorable scheduling compared to other cases. After a negative media report on Mr. Conn tarnished the reputation of his office, and only after that report, Chief Administrative Law Judge Andrus did something else. He teamed

up with Mr. Conn to discredit the Social Security employee that they believed had blown the whistle.

In addition to improper practices, the evidence exposes the inept, almost non-existent oversight by Social Security officials that allowed the abuses to continue for years. Repeatedly, lower-level Social Security employees and administrative law judges warned senior personnel about the improper case assignments, Mr. Conn's outside influence over the office, and the mishandling of his cases by Administrative Law Judge Daugherty. But nothing was done to stop it. Decisive action was taken only after the abusive practices were exposed in the media, in the Wall Street Journal article that has been mentioned by Dr. Coburn.

The report being released today documents how the individuals involved in the abuses profited from them. Mr. Conn was paid millions of dollars in attorneys' fees, becoming, as Dr. Coburn said, in 2010 the third highest paid disability lawyer at the Social Security Administration with fees totaling almost $4 million. The doctors who provided the medical opinions justifying benefit awards were also well paid, and since 2006, just five of them split $2 million in fees paid by Mr. Conn. Judge Daugherty never explained the origins of multiple cash deposits to his family bank accounts totaling $96,000.

So where are we today? Administrative Law Judge Daugherty was placed on leave by the Social Security Administration in 2011, then retired, and is no longer deciding disability cases. Last month, Judge Andrus was also placed on administrative leave and is undergoing a review to determine whether he should lose his job.

Eric Conn is still going strong, representing thousands of disability claimants and reaping millions of dollars in attorney fees. He has even opened a new office in Beverly Hills. There has been no accountability yet for his actions. Maybe this investigation and this hearing and our report will begin that process.

This investigation did not reach a conclusion about whether the benefits awarded to all Mr. Conn's claimants were wrong. There are too many claimants to generalize. Nor is the report intended to denigrate the dedicated and honest professionals that keep our disability programs going despite limited resources and back-breaking caseloads. Remember that this investigation was launched because some of the Social Security administration's hard-working employees blew the whistle on the misconduct that they observed. Those Federal employees will testify today, as will two former members of Mr. Conn's office who also helped blow the whistle. These are courageous witnesses. Our first panel is an extraordinary panel. Our Nation is in your debt.

The point of this hearing is not to attack our disability programs which play a critical role in the lives of many Americans, but to spotlight the abusive conduct of a group of legal, medical, and judicial professionals exploiting these programs. Also, the purpose is to press the need for greater oversight in the agencies and by this Congress. You can have greater efficiency, and we must always have great efficiency. We cannot tolerate fraud. We also recommend a number of measures to prevent similar abuses in the future.

Again, I want to thank you, Mr. Chairman, for pitching in the way you have, and also to Senator Coburn and his staff again for spearheading this investigation. Thank you.

Chairman CARPER. Senator Levin, my thanks to both you and to Dr. Coburn for those introductory statements. They were much longer than usual. You usually do not hear a Chairman of the Committee or Subcommittee or the Ranking Member give a statement of that length. This is an extraordinary investigation that has taken several years to do, painstaking, a huge amount of effort, and I am grateful to those who have led that charge.

I said earlier that as we try to grapple with our Nation's fiscal woes, I believe there are essentially three things that we need to do:

One, we need to look at our entitlement programs and ask what steps we need to take in order to save money in those entitlement programs, in order to save those programs for our children and for our grandchildren. And how do we do so in a way that is sensitive to the least of those in our society, that we do not savage old people or poor people or deserving people? That is No. 1.

No. 2, I believe we need tax reform, tax reform that generates at least some revenues for deficit reduction.

And the third thing that we need to do, we almost need a culture change in this government to go from a culture of spendthrift to a culture of thrift, and an approach in which we look at everything that we do across the government and say, How do we get a better result for less money or for the same amount of money? And just as we need a culture of thrift, we also need a culture that says there is zero tolerance for fraud, there is zero tolerance for dishonesty, there is zero tolerance for wasting taxpayers' money in order to benefit a relative handful.

Entitlement spending in this country amounts to over half of what we spend. Social Security is a big part of that, and most of the people who receive Social Security, almost everybody, at least for the regular Social Security retirement benefits, deserve that, and they have worked and they have earned them. We want to make sure that the monies that are spent in this Social Security disability program—Dr. Coburn just said that we are going to run out of money in about a year and a half. How do we make sure that we stop wasting money and we actually direct money to the places where it is most needed?

We had originally hoped to have four panels here today before us. The fourth panel is not here. As we all know, the government is in a shutdown. We had hoped to hear from the Social Security Administration, some of the top folks. They have asked to be excused and to have a chance to come back later this month. As soon as the government is back open for business, we expect to schedule a second hearing to invite the Social Security Administration to come in and tell us what we are doing nationally throughout the program and throughout the country in order to address these kinds of problems that have been uncovered. And we look forward to that hearing.

We are not going away on this issue. This is a problem. It is a big problem. I would like to say I am a native West Virginian, and what I heard here today does not make me particularly proud of

some of the things that have happened in my native State. But whatever State that we are from, this kind of thing, if true, cannot be tolerated, and we have to use our dead level best efforts to make sure that it stops. The old saying that Harry Truman used to say, "The buck stops here?" Well, in the case of these witnesses, the buck stopped with all of you.

A number of us on this panel pray fairly regularly. Among the things we pray for is wisdom to do the right thing, and we pray for the strength and courage to be able to do what we know is the right thing. And what you all have done is not an easy thing to do, but it is the right thing to do. And from whatever source you drew your courage and your strength, hopefully you will be an example for the rest of us, and to enable us and those who might be following this proceeding today.

We want to thank you for being here. Citizens and Federal employees who bring forward evidence and indication of potential violations of the law are one of the most important ways in which Federal agencies, our Inspectors General, and Congress can address waste, fraud, and abuse. Without each of you, this hearing would not have been possible. So thank you for putting such a high value on public interest and our Nation's interest and enabling us to examine these issues.

I want to briefly introduce each of you. We will administer an oath of office and invite you to go ahead with your statements.

Senator McCain, let me just yield to you as the Ranking Member of the Subcommittee, if you would like to make a short statement. Let me just stop right now. I should have asked you if you would like to make a brief statement. Go right ahead, please.

Senator MCCAIN. No, thank you, Mr. Chairman. I am looking forward to hearing from the witnesses.

Chairman CARPER. All right. Thank you so much. That was brief. We are not always that brief here.

Our first witness is Sarah Carver, senior case technician at the U.S. Social Security Administration. She works at the Huntington, West Virginia, Office of Adjudication and Review. She is here before our Committee to describe her experiences and disclosures about the operations of the Huntington office. Ms. Carver appears today in a personal capacity and is not representing the views of the Social Security Administration.

Ms. Carver, thank you for joining us.

Our next witness is Jennifer L. Griffith. She is former master docket clerk of the U.S. Social Security Administration, where she worked at the Huntington, West Virginia, office. She is also here before our Committee to describe her experiences and disclosures about the operations of that office. Ms. Griffith appears today in a personal capacity and is not representing the views of the Social Security Administration.

Ms. Griffith, welcome. Thank you for joining us.

Next is Jamie Slone. Ms. Slone is a resident of Pikeville, Kentucky. She appears today to share her observations and experiences as an employee of the Eric C. Conn Law Firm from 2006 to, I believe, 2012. And we want to thank you again for appearing before our panel today. Thank you so much.

And, finally, Melinda L. Martin, a former employee at The Conn Law Firm. Ms. Martin was an employee at the Eric C. Conn Law Firm, and I am not sure for how long, but I am sure you will cover that in your testimony. We are grateful to you for making time to come all the way to testify before us today.

The next thing before you testify, though, is I am going to ask each of you, if you will, to stand, and I am going to ask you to stand and raise your right hand, please. Do you swear that the testimony you will give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. CARVER. I do.

Ms. GRIFFITH. I do.

Ms. SLONE. I do.

Ms. MARTIN. I do.

Chairman CARPER. Please be seated. Thank you.

Ms. Carver, if you would like to proceed, your entire testimony will be made part of the record, and you are welcome to summarize if you wish. Please proceed. Thank you.

TESTIMONY OF SARAH A. CARVER,[1] SENIOR CASE TECHNICIAN, U.S. SOCIAL SECURITY ADMINISTRATION (APPEARING IN A PERSONAL CAPACITY)

Ms. CARVER. Chairman Carper, Senator Coburn, Members of the Committee, good afternoon. My name is Sarah Carver. In September 2001, I joined the Social Security Administration Office of Disability and Review, beginning a 12-year career at the agency.

Over the course of my employment with the Administration, I have held the position of a senior case technician (SCT). In 2006, in addition to my duties as an SCT, I was elected to the position of the American Federation of Government Employees (AFGE) 3610 Union Steward for the Huntington, West Virginia, ODAR. Prior to my employment with ODAR, I was a paralegal in the private sector for 13 years, 8 of which I primarily focused on representation of claimants seeking Social Security disability benefits. I am a graduate of Marshall University with a degree in legal studies.

From 2001 to 2006 I routinely received performance awards for the quality and production of my work in the Huntington ODAR office. However, in 2006 those awards came to an abrupt stop when Greg Hall became the hearing office director (HOD). Coincidentally, I had been voicing my concerns about what I perceived as the improper processing of Social Security claims in the Huntington office. Not only did I report my concerns to Mr. Hall, I also reported them to other members of the Huntington management throughout the years. These members consist of Arthur Weathersby, Kathie Goforth, Stacy Clarkson, Jerry Meade, John Patterson, Kelly Rowland, and Chief ALJ Charlie Paul Andrus. I am still currently employed as an SCT at the Huntington ODAR office despite many retaliatory actions against me by several members of management.

I reported to management on numerous occasions what I perceived as inappropriate actions involving Huntington ODAR management, ALJ Daugherty, and Attorney Representative Eric C. Conn. One such example is, in May 2007 I sent an e-mail to Greg

[1] The prepared statement of Ms. Carver appears in the Appendix on page 102.

Hall requesting justification on the hearing request dates of ALJ Daugherty's fully favorable dispositions. I discussed the serious evidence which would substantiate the overt favoritism of Mr. Conn's claimants and management's continuous sweeping things under the rug with regards to Daugherty and Conn.

In that e-mail I directly warned my managers, and I quote, "the Eric Conn situation is going to bite this office in the butt one day." I further requested management to open their eyes to the Daugherty and Conn issues and change the way Conn's cases were handled before it became an outside issue.

Instead of any corrective action being taken, the situation only escalated. I continued reporting to management for several years thereafter before I took my concerns out of the office.

As a result of my multiple disclosures, I have suffered tremendously. Management has been allowed to harass, intimidate, oppress, stalk, discipline, ostracize, monitor, and make my life as miserable as possible for the last 7 years.

Knowing that a private investigator was hired to follow me has been very traumatizing. I still fear for my safety and the safety of my family. Also knowing that employees have been terminated for their association with me has left me with such a burdensome feeling. Perhaps I should mention at this point that the agency has asked me to inform you that I am here testifying in my personal, not official, capacity, and that the agency does not sanction my testimony.

Every employee in the Huntington, West Virginia, ODAR, including management, is considered a public servant and is held to a higher standard of conduct. Management officials and judges are no exception.

Where is the accountability in this agency? Why does the agency promote and reward management for this activity? Agency production goals benchmarks are important; however, they should not diminish the importance of the quality of work we perform for the American people. Changes need to be made in the agency to not only allow for timely processing of claims without sacrificing quality but also as important, a system needs to be put in place and monitored by an outside source, to assure that agency leaders and claimant representatives are held accountable for failing to following the laws, regulations, and agency policies.

I appreciate the opportunity to speak with you and would be happy to answer any questions that you may have. Thank you.

Chairman CARPER. Ms. Carver, thank you so much. Ms. Griffith.

TESTIMONY OF JENNIFER L. GRIFFITH,[1] FORMER MASTER DOCKET CLERK AT THE U.S. SOCIAL SECURITY ADMINISTRATION (APPEARING IN A PERSONAL CAPACITY)

Ms. GRIFFITH. Chairman Carper, Senator Coburn, Members of the Committee, good afternoon. My name is Jennifer Griffith. I am a wife, mother of two, and student, as well as a former employee of the Huntington, West Virginia, Office of Disability Adjudication and Review. I am both humbled and honored to appear before you today and appreciate the opportunity to describe my experience while employed there.

October has always been a special month for me. It was this day in 1997 that my son was born. It was 12 years ago in the month of October that I began my career with ODAR.

Chairman CARPER. So today is your son's 16th birthday. Is that right?

Ms. GRIFFITH. Yes, it is.

Chairman CARPER. Give him our best. Thank you. Tell him we said thank you for sharing his mom on his birthday.

Ms. GRIFFITH. Thank you.

During my employment, I was a master docket clerk or case intake technician. Beginning in late 2005 or early 2006, on too many occasions to count, my group supervisor, Kathie Goforth, began to call me into her office and issue verbal reprimands based on cases being docketed improperly, incompletely, or not docketed timely. I was unable to answer her questions and had no idea what was causing the docketing issues.

In an attempt to determine what was occurring, I began to run various reports on a daily basis and keep track of cases I docketed each day. I determined, in fact, the docketing issues were occurring because ALJ David B. Daugherty was assigning cases to himself at the master docket level before I was ever aware that the case had been transmitted to Huntington ODAR.

CPMS, the agency's computerized docketing system, provided no safeguards at that time to display who had made the improper assignments. I immediately brought this to the attention of Ms. Goforth, Hearing Office Director Gregory Hall, and Hearing Office Chief Administrative Law Judge Charlie Paul Andrus, thinking that my discovery would explain and alleviate the issues that appeared to be mistakes on my part. Instead it was the beginning of the end of my career.

I began to question how ALJ Daugherty was accessing files that were not even making it to the daily master docket reports. If the files had not been through the docketing process and assigned to an ALJ, how was he aware that they were even in the office? It is simple. He had prior knowledge.

ALJ Daugherty did not simply take cases from the master docket without proper docketing. He assigned and self-scheduled extensive quantities of Mr. Conn's cases and awarded all of them in favorable sham hearings.

In 2007, other area attorneys complained that Conn was receiving preferential treatment from ALJ Daugherty in scheduling hearings. I forwarded those individuals to speak with Ms. Goforth and

[1] The prepared statement of Ms. Griffith appears in the Appendix on page 102.

Mr. Hall. Soon after, ALJ Daugherty stopped holding hearings for Mr. Conn's claimants, and for an extended period, all of his cases were decided favorably, on the record, without hearings, 100 percent approval.

Ms. Goforth and Mr. Hall instead increased their efforts to stop my reporting. I then decided to make each notification in writing and to include my union representative. I felt I was doing the right thing. I simply wanted the retaliation to stop and to be able to do my job without constant threat of reprimand.

Instead, as my reporting of ALJ Daugherty's misappropriation of Eric Conn cases increased, the investigations and retaliation by Huntington ODAR management increased. At one point my supervisor would time every action I took during the day, including how long I spent in the bathroom.

In October 2007, after enduring multiple investigations and verbal and written reprimands, Ms. Goforth told me in an annual progress review that her goal by the end of the year was to make sure that I was no longer employed there and that there was nothing I could do about it.

After years of attempting to get Huntington ODAR management to correct the consistent misappropriation of cases by ALJ Daugherty for Eric Conn, it was clear to me that things were never going to change. The constant retaliation had severely affected my health and my family. My physician advised me to leave my employment with the Huntington ODAR before it killed me, and I left.

I filed 2 complaints with the Office of the Inspector General. One was a verbal anonymous complaint made to the OIGs hotline in 2009. They did not contact me until April 2011, apparently because of a rumored Wall Street Journal investigation. The OIG called me regarding my complaint, and I cooperated fully. The 2nd complaint was in 2011, using the OIG's website.[1]

In addition to my cooperation with the OIG, I have had the great fortune to cooperate with this investigation and speak with Committee staff, as well as to participate in the article written by Damian Paletta for the Wall Street Journal.

I also filed a complaint with the Office of Special Counsel regarding my forced resignation from ODAR, and after appealing that claim to the Merit Systems Protection Board (MSPB), I settled it, and as requested by the agency, I have agreed not to seek employment with the Social Security Administration for 5 years.

In October 2011, Sarah and I found attorneys to sue Mr. Conn and ALJ Daugherty on behalf of the United States, and we are continuing to pursue that case in hopes that through it we will be able to obtain compensation from them for the American taxpayers.

Each time I spoke with someone, I was asked what I thought could be done to prevent this type of situation from occurring and what could be done to fix it. There are not nearly enough safeguards built in to catch the type of fraud that occurred here. As long as financial incentives to produce large numbers of disability decisions exist, there are going to be managers willing to subvert the system to meet those goals and receive compensation. In my ex-

[1] See page 123 for edits requested by witness.

perience, the primary concern of the management I worked for was quantity, with little to no regard for quality.

My family has not been the same since my employment with Huntington ODAR, and financially we will never have the same amount of security that we had at that time. We have suffered loss and will probably continue to do so. But I can look at my children with a clear conscience and know that whatever happens from this, whether any meaningful action has taken place, I did everything possible to make sure that the American public knew about it.

Thank you, and I look forward to your questions.

Chairman CARPER. Ms. Griffith, thank you very much for that statement and, again, for joining us today, and for this journey of the last several years.

Ms. GRIFFITH. Thank you.

Chairman CARPER. Ms. Slone, welcome, and you are recognized to make your statement. Thank you.

TESTIMONY OF JAMIE L. SLONE,[1] FORMER EMPLOYEE AT THE CONN LAW FIRM

Ms. SLONE. My name is Jamie Slone. I am 36 years old, and I live in Pikeville, Kentucky. I am married and have four children. I worked for the Eric C. Conn Law Firm from September 2006 to March 16, 2012.

One of my responsibilities at the firm was to field calls from Administrative Law Judge David B. Daugherty. Each month, Judge Daugherty called and gave the following information for 30 to 50 Social Security disability claimants represented by Eric Conn: first name, last name, the claimant's Social Security number, and either "mental" or "physical."

I created a list of these claimants, which was known throughout the office as the monthly "DB list." Once the list was created, another employee called each claimant on the DB list to schedule an exam with a doctor. During my tenure at the firm, Jessica Newman was primarily responsible for scheduling claimants. Depending on whether Judge Daugherty indicated "mental" or "physical" for the claimant, Ms. Newman scheduled the claimant to see a certain doctor to provide an opinion on the claimant's alleged disability.

When the medical opinions were completed, Judge Daugherty sent a barcode to the firm to attach to the reports, which were used to upload the reports into the SSA electronic file system. After 6 to 8 weeks, Judge Daugherty issued a decision approving the claimant for disability benefits "on-the-record" without holding a hearing.

If you have any questions, I would be happy to answer. Thank you.

Chairman CARPER. Thank you, Ms. Slone.

And, finally, Ms. Martin, please proceed. Welcome. Would you make sure your mic is on? Thank you.

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[1] The prepared statement of Ms. Slone appears in the Appendix on page 113.

TESTIMONY OF MELINDA L. MARTIN, FORMER EMPLOYEE AT THE CONN LAW FIRM

Ms. (MARTIN) HICKS. My name is Melinda Hicks, formerly Melinda Martin. I was married in June 2012. I worked at The Eric Conn Law Firm from January 2006 until February 2012. My responsibilities at the firm ranged from receptionist to several different supervising positions to assisting in management of the office.

During my time at the firm, I did witness several inappropriate acts between Eric Conn and some of the administrative law judges from the Huntington, West Virginia, hearing office. I have previously submitted an affidavit which outlines the relationship between Mr. Conn and some of those judges that I saw during my time working at his office.

If you have any questions, I am ready to answer those.

Chairman CARPER. All right. Ms. Martin, thank you.

This is not a trial. This is a Committee hearing. And this is an opportunity for us to try to get to the truth. I think it was Thomas Jefferson who said that if the American people know the truth, they will not make a mistake. And so what we are trying to do today is to garner as much of the truth as we can.

I do not know who would like to do this, but whoever—our staff come and go, our Senators come and go during a hearing like this because there are other things that they need to be doing at the same time. But if one of you or a couple of you could just take a minute or two and or maybe explain what was going on. Just in your own words, what was going on here? If someone, one of you feel comfortable in doing that, please do.

Ms. CARVER. It is in my opinion that it was a mass collusion between a judge and an attorney. It was something that was very noticeable from within days of my employment, and it just increased. And it was done in such openness, and it was not something that was going on behind the scenes. I mean, we had office statistics, and as Jennifer mentioned, as those statistics became available to us in a system to where we were able to view these reports, it became more apparent because you could see the mass numbers of favorable decisions going out. This was something that really came to light when this electronic folder came out, because you could just see the massive amount of numbers.

And the other thing that kind of astonished me, even after this investigation started, management was still pulling—and, again, this is in my personal opinion. Management was still pulling these cases out of hearing request dates and was still allowing—and then at one point before—and it happened also on several occasions—once Judge Daugherty helped them meet their monthly goals, because we had monthly disposition goals, they would bank these decisions. I mean, these were decisions of people who were waiting for them to come in the mail, and they would bank these for their own numerical purpose and hold them before sending them out the next month. And they were all Eric Conn cases. I mean, there would be 50 sitting, all favorable, on-the-record Eric Conn decisions. Management would allow him to put them in AWPC, which basically means it is with the judge for writing. However, they had

been written 2 weeks ago, and all favorable, just sitting there for the next reporting month.

So, in my view, management was just a part of this as the individuals that were actually, you know——

Chairman CARPER. All right. That was a great overview. Thank you.

Any idea how many people worked at the Huntington office, the Social Security office in Huntington? Are we talking about dozens of people? Scores of people?

Ms. CARVER. Oh, at one time I believe we had about 60 employees.

Chairman CARPER. In that office, maybe other satellite offices, and maybe in the law office of Mr. Conn, other people had to know something was going on.

Ms. CARVER. Absolutely.

Chairman CARPER. People had to know. But the four of you have somehow stepped up, shown courage, and are here today. It sounds like some of you have been through a very difficult time. Let me just ask, what was it that compelled you to stand up and say this is wrong and somebody needs to say something and do something? What compelled you, Ms. Martin? We will just ask everybody that question. What compelled you to do this?

Ms. (MARTIN) HICKS. I am not really sure. I actually probably would have been too scared to do it myself. But I had actually spoken to another attorney in the Prestonsburg area just about what was going on, and he actually contacted someone for me, and that made it a little easier for me to be able to do.

Chairman CARPER. All right. Thank you. Ms. Slone.

Ms. SLONE. Actually, I——

Chairman CARPER. What you have done is not an easy thing to do. What was it that compelled you and gave you the courage to do it.

Ms. SLONE. Melinda had initially taken the first step toward speaking to someone about the problems within the office. Then I was approached to cooperate and answer some questions and give my insight on things involved at the law firm. And, I mean, there was not any question; I just cooperated.

Chairman CARPER. Cooperated with whom? Was it the Inspector General or——

Ms. SLONE. At first it was your staff. It was the staff here, the Subcommittee, and then also the OIG.

Chairman CARPER. All right. Thank you.

Ms. Griffith, same question, please.

Ms. GRIFFITH. I do not really know the answer to that question. I left in 2007 and walked away from it, until 2009. And in 2009, I began to see some things in the media that were put out by Mr. Conn and some other things, and it just—I walked away for my health, but suddenly I was mad again and ready to take that next step to do something. And I filed a complaint with the OIG fraud division at that time. And just sort of nothing really happened for a while, and then I was contacted by Mister—or communicated with Mr. Paletta and then to the Committee here and worked with them to bring it out. I think you just have to have a certain level

of anger over what you see to get you to have the courage to come forward.

Chairman CARPER. OK. Same question, Ms. Carver. What compelled you to step forward?

Ms. CARVER. I agree with Jennifer as far as the anger. We initially started reporting this together. I was the union rep, and she initially came to me because of the disciplinary problems that she was having with her supervisors. And whenever I would have one-on-one talks with our office management, it was apparent that this is not what they wanted to hear. And at a point where they started retaliating in doing things not only to her but to me, I really truly believe that that just triggered something inside of me that, I am a fighter when it comes to doing the right thing. And I just kept doing it to the point where I could not stop now and I am there to—as a union representative, to help and to set an example, and that is what I was trying to do.

Chairman CARPER. Good, and I think you have. You all have.

Ms. CARVER. Thank you.

Chairman CARPER. Before yielding to Dr. Coburn for his questions, I would ask unanimous consent that my entire statement be made part of the record.

Dr. Coburn, please.

Senator COBURN. Thank you.

Jennifer, I am going to go through a list of questions, if you can answer them fairly rapidly for me. I think you probably have the answers to them in your mind.

How long did you work at the Huntington office?

Ms. GRIFFITH. From 2001 to 2007.

Senator COBURN. And you were a master docket clerk?

Ms. GRIFFITH. For the latter half of my employment. I initially was a senior case technician.

Senator COBURN. OK. And were cases assigned only by the master docket clerks, or were judges allowed to assign cases themselves?

Ms. GRIFFITH. At that time the master docket clerks were the only ones assigning cases, unless, of course, something was brought to their attention by a supervisor, and then the supervisor would assign it. But, traditionally, it was the master docket clerk.

Senator COBURN. And the reason that they did not want judges assigning cases on the master docket list?

Ms. GRIFFITH. Is to avoid judge shopping or favoritism.

Senator COBURN. OK. And once a case was assigned to a judge, was it typical for that case to then be reassigned to another judge?

Ms. GRIFFITH. It was not supposed to be assigned to another judge.

Senator COBURN. Now, you have talked about some of the problems you had when Judge Daugherty was going into the computer system, the CPMS, and assigning himself cases, and that was some of your conflict that you were supposedly disciplined over——

Ms. GRIFFITH. Yes.

Senator COBURN [continuing]. That really was not your fault. Is that the only way you can manipulate this system? Are there other ways that you can manipulate the system and somebody could still cheat the system today?

Ms. GRIFFITH. There are numerous ways, or at least there was when I was there. Keep in mind I have been gone for a while. But at the time, unless something is changed significantly, the numerical goals make it a priority to sort of sort things around. For example, if you have a case in one status for too long, then that could be an issue. You want to make sure that you are processing things timely. You can simply change status out of a case and then change it back or move it to a different status without really ever doing anything to that case.

Senator COBURN. So you meet the numbers, but you did not really do anything?

Ms. GRIFFITH. Essentially, yes.

Senator COBURN. All right. Sarah—let us see. Let me finish with Jennifer again. Jennifer, if you would turn to Exhibit 26[1] that is in that big book in front of you, this is an e-mail you wrote on September 11, 2007, to Greg Hall, the hearing office director, who was the top manager in charge of the Huntington office at that time. In it, you express serious frustration. You let him know that you were quitting. You wrote, "I am aware that while I was out of the office, Judge Daugherty felt it was necessary to take away some more cases that were assigned to another judge and place them in his name."

I take it that this was not the first time that this happened?

Ms. GRIFFITH. No. This had begun approximately a year, year and a half prior.

Senator COBURN. Why did that make you so upset?

Ms. GRIFFITH. Because every time a case would disappear or a group of cases would disappear off the master docket list, then my supervisor was coming to me for explanations as to why. If I am not performing my job to the fullest capacity, then I will not receive a successful performance evaluation, and I have no chance for promotion or anything else. And it had taken me a long time to figure out what caused this because there was no clear way to determine what happened. And it had escalated to a point of almost constant altercations with my supervisor.

Senator COBURN. How long do you think Judge Daugherty was doing this?

Ms. GRIFFITH. By my estimation, it began after the e-folder process went into effect——

Senator COBURN. Which was?

Ms. GRIFFITH. In 2005 is when we started that.

Senator COBURN. All right. How many times do you remember this happening that he would reassign cases?

Ms. GRIFFITH. I do not think I can count that. I mean, it was every month. He would do it——

Senator COBURN. Fifty, 60, or 100 times?

Ms. GRIFFITH. Yes. I mean, there would sometimes be 50 cases missing off of my pending list, or sometimes it might be 5—you docket daily, and there would be cases disappearing every day, sometimes every week.

Senator COBURN. In your e-mail you also wrote, "Judge Daugherty"—"DBD does many things like this every month. When

[1] See Exhibit No 26, which appears in the Appendix on page 729.

I find them, I make management aware of it. Nothing is ever done about it."

What did you tell your managers and what was their response?

Ms. GRIFFITH. Well, at a certain point in time, after verbal notifications, it became clear to me that they were not going to do anything. So I started making written notifications and including the name and Social Security number of each case that he took off the docket that I became aware of. And that continued from mid-to late 2005 all the way up until I left in 2007.

Senator COBURN. And to your knowledge, was Judge Daugherty ever disciplined for what he did?

Ms. GRIFFITH. Not to my knowledge.

Senator COBURN. And that is a violation of the rules inside Social Security. Is that correct?

Ms. GRIFFITH. To my understanding, it is a violation of the Hearings, Appeals and Litigation Law (HALLEX).

Senator COBURN. Were the cases always from one particular lawyer, or did he do that for all kinds of cases?

Ms. GRIFFITH. I am not aware of him doing it for any other office other than Eric Conn's office.

Senator COBURN. All right. Thank you.

Ms. Carver, you noticed many of the same problems that Ms. Griffith saw in the Huntington, West Virginia, office. Can you describe your role in the office specifically as to what Jennifer has talked about?

Ms. CARVER. Jennifer was receiving disciplinary reprimands, verbal and in writing, at first she was denied a union representative to even be present when they were verbally—what they said is counseling. But then it escalated to the verbal counseling and they would always put it in writing. It was a battle with management to even let me be present. So that is when I kind of got involved with not only management, but even with my outside union president and vice president and chief steward, and I began talking with management and also keeping things in writing based on what conversations we had.

Senator COBURN. Right. Before we talk about Judge Daugherty's decisions, I understand the office joke was that if you were looking for Judge Daugherty, do not look in his office. Is that true?

Ms. CARVER. That is true.

Senator COBURN. That was an observation not by you but by several other people in the Huntington office?

Ms. CARVER. Yes. There were several occasions where they had to go next door or management would call him on his cell phone because there were people waiting in the hearing rooms for him, and he was usually at the coffee shop at the Holiday Inn across the street.

Senator COBURN. And did anyone in Huntington management know about Judge Daugherty's time and attendance problems?

Ms. CARVER. Yes. Not only did other ALJs report it, I reported it approximately probably two or three times.

Senator COBURN. Was anything done about it?

Ms. CARVER. No.

Senator COBURN. It has now been about 2½ years since the problem within the Huntington Social Security office became known

publicly. Have you witnessed any retribution recently for those who are still trying to speak out?

Ms. CARVER. Yes.

Senator COBURN. Would you describe that, please?

Ms. CARVER. There have been—well, I will give you a really good example. One of the employees who reported to the OIG that the private investigator was hired to have me followed, she went from being one of the top employees as far as production and her workup in the country—I mean, she was No. 1, No. 2 in workup, and often helped management with projects that were not even—I mean, they were management-type projects—to being suspended for 2 weeks. She was also reprimanded for bringing the word "diversity" up in one of her office evaluations. Several employees that participated were also—we were now being charged with absent without leave (AWOL). I had a police officer call my work, and my 16-year-old daughter had been in a car accident, and I had verbally went and sought approval from management and received it and left the office. However, when I came back, when I officially put in my leave request, I was charged with AWOL, and that was the beginning—and it is still occurring. Despite any type of medical certification that employees are receiving from their physicians, management is giving themselves the right to decide whether or not your condition is serious and denying employees leave. And this is happening every day. You can speak with anybody in management in our office right now. That did not happen before this investigation.

Senator COBURN. Each judge would have several support staff working with them, including those that would help draft decisions. Can you describe Judge Daugherty's approach to writing decisions and the extent to which he was helped by staff?

Ms. CARVER. When he was holding hearings for other representatives, they would write the decisions. These are paralegal writers. They would write the decisions, and we had one writer specifically who said that, "There is not enough information for me to write this favorable decision. There is not enough substantial evidence in the file." And she was told by the supervisor, Ms. Goforth, that if she did not write the decision that she would be held insubordinate.

Senator COBURN. All right. We have heard from many judges that ALJ hearings can take as long as an hour or more. When Judge Daugherty would hold hearings for Mr. Conn's clients, how long would they take?

Ms. CARVER. About 10 minutes, if that.

Senator COBURN. And did he issue a decision at the time?

Ms. CARVER. Most of the time, yes. He went in long enough to go on the record and no testimony was taken, you could listen to the court reporting as a senior case technician. We would bring these hearings back in and put them into our system, and you could listen to the recordings and he would just go on record and announce that his decision was favorable, and there would be no testimony from the vocational expert (VE), the claimant, or anybody.

Senator COBURN. And it is true that you notified Mr. Hall that you were aware that Judge Daugherty was assigning himself cases as well?

Ms. CARVER. On many occasions.

Senator COBURN. And that was written as well?

Ms. CARVER. Yes.

Senator COBURN. All right. Thank you.

Chairman CARPER. The next questions will be asked by Senator Levin, and he will be followed by Senator McCain, Senator Baldwin, and Senator Heitkamp. Senator Levin.

Senator LEVIN. Thank you very much, Mr. Chairman.

Ms. Carver, you were targeted for speaking out. Administrative Law Judge Andrus and Mr. Conn used a Conn employee who was a former police officer to videotape you on the days that you were supposed to be working from home. They were trying to catch you going shopping or otherwise taking advantage of the rules. They failed. They were unable to provide any kind of proof like that, so instead, you were filmed going shopping on the weekend. And then evidence was fabricated in that videotape to make it appear as though you were going shopping during work hours. And then the videotape was turned over to your superiors.

So far is that correct?

Ms. CARVER. Yes.

Senator LEVIN. They tried to discredit you because they believed you had spoken to a reporter about what was going on in the office, and Judge Andrus has admitted as much in the signed statement to the Social Security Administration IG, which is Exhibit No. 82.[1]

Shall I call you "Ms. Martin" or "Ms. Hicks?" I am sorry.

Ms. (MARTIN) HICKS. Either will be fine.

Senator LEVIN. OK. Ms. Hicks—you are married, obviously—did a member of the Huntington office, Sandy Nease, regularly place calls to you at the Conn office informing you when Ms. Carver would be working from home?

Ms. (MARTIN) HICKS. She did. She actually did not call the office. She called my personal cell phone.

Senator LEVIN. Were you at the office when she called?

Ms. (MARTIN) HICKS. Most of the time.

Senator LEVIN. And why was she calling your personal cell phone, do you know?

Ms. (MARTIN) HICKS. Yes. She wanted me to let Eric know when——

Senator LEVIN. Eric Conn?

Ms. (MARTIN) HICKS. Yes, what days Sarah would be on her flex day, and she also called to give us directions to her home, her address. She told us that she had a tall privacy fence that would be hard to record over, and also told us the type of vehicles that she and her husband drove so that it would be easier for them to find her.

Senator LEVIN. And this came from the Social Security office?

Ms. (MARTIN) HICKS. Yes.

Senator LEVIN. And then was part of that a coded message?

Ms. (MARTIN) HICKS. Yes, a couple of messages she would say that her children had band practice, and I do not think that she had children that actually had band practice. That just meant that

[1] See Exhibit No. 82, which appears in the Appendix on page 1276.

instead of saying it is her flex day, she would just call and say her children had band practice.

Senator LEVIN. And a flex day is when employees are working at home. Is that correct?

Ms. (MARTIN) HICKS. Yes.

Senator LEVIN. And so that was, in your judgment, coded words for she is supposed to be doing work at home on a flex day.

Ms. (MARTIN) HICKS. Right.

Senator LEVIN. And not that the kids had band practice.

Ms. (MARTIN) HICKS. Correct.

Senator LEVIN. And did you then give that information to Mr. Conn?

Ms. (MARTIN) HICKS. I did.

Senator LEVIN. That is pretty stunning testimony, I have to tell you. You are being tracked and followed here, Ms. Carver, and we now have a witness from the Social Security Administration office there who confirms that these calls were made to Mr. Conn from your office so that you could be tracked. And I am just wondering, I think you have initiated a lawsuit I believe you have made reference to. Is that correct?

Ms. CARVER. Yes.

Senator LEVIN. Against the Social Security Administration?

Ms. CARVER. Well——

Senator LEVIN. What kind of lawsuit is it called? It is a special name, right?

Ms. CARVER. The qui tam.

Senator LEVIN. Yes, OK. Have you also thought about suing Mr. Conn for interfering with your employee-employer relationship?

Ms. CARVER. Well, a lot of this information, obviously, I was not privy to until just within the last couple of days. It was quite shocking because in the report it stated that the agency, once they found out this information, that they did not use it. And they did use it. The acting Hearing Office Chief Administrative Law Judge (HOCALJ), Judge Devlin, had talked to me and had ordered an investigation with Steven Hayes, which was my supervisor at the time, and they brought me into the office and asked me a bunch of questions. It was kind of intimidating because they would not tell me what, when, where, or how, and at the time my union representative had requested any information that they had, documentation that they based this investigation on, and they were told—I was told there was not any. It was just an anonymous call.

So I am just now kind of finding out this information. I mean, it is shocking.

Senator LEVIN. Well, it is stunning and shocking information.

Ms. CARVER. It is scary.

Senator LEVIN. I hope it will have an impact in many ways. I think that both you, Ms. Carver, and Ms. Griffith indicated that you pointed out what was going on to your bosses there at the Social Security office. I believe you alerted the chief of staff in your office—is this correct?—Greg Hall as to what was going on. Is that correct, Ms. Griffith?

Ms. GRIFFITH. Yes, that is correct.

Ms. CARVER. Yes.

Senator LEVIN. OK. Now, what about Chief Judge Andrus? Did you inform him what was going on as well?

Ms. GRIFFITH. Most of the e-mails after a certain point started to be copied to Mr. Andrus. On one particular occasion, Judge Daugherty had taken approximately 50 cases away from ALJ Gitlow and had them in his office preparing to write favorable off-the-record (OTR) decisions after they had already been assigned to Judge Gitlow. I took Ms. Goforth and Mr. Andrus into Judge Daugherty's office and showed them the cases. They removed them, but they were then later back with Judge Daugherty and were decided favorably.

Senator LEVIN. OK. Thank you.

Let me ask Ms. Slone and Mrs. Hicks, the bank records of Judge Daugherty from 2005 to 2011 show some, so far, unexplained cash deposits of $96,000 in round amounts, usually starting as low as $1,000, going as high as $5,000 at a time. Some $26,000 was posted to his daughter's account from 2007 and 2008. When asked, Judge Daugherty declined to provide any information for those cash payments. There is no explanation of them in his financial disclosure forms.

Ms. Slone and Mrs. Hicks, do either of you know anything about those cash deposits? Ms. Slone.

Ms. SLONE. No, sir, I do not know anything specifically about those cash deposits. I had been at the firm for quite a few years and working closely with Eric, and I did his schedule for him for hearings——

Senator LEVIN. That is Eric Conn, right?

Ms. SLONE. Eric Conn, yes, sir. So I pretty much knew where Eric Conn was every day. There were some days—one day usually a month that he was unaccounted for—by myself, anyway. I had asked him—one day when he came back. He was gone half the day, and I told him that I had a theory about him, and he asked what that theory was. And I said, "I think when you disappear 1 day a month that you go and meet DB." And he just looked at me and kind of smiled, and he said, "Well, you know what they say. Where there is smoke, there is fire."

Senator LEVIN. That you go and meet whom?

Ms. SLONE. DB. Judge Daugherty. But that has been the only—I have never——

Senator LEVIN. Do you know, Ms. Hicks, anything about those cash deposits?

Ms. (MARTIN) HICKS. No, not about the cash deposits.

Senator LEVIN. My time is up. Thank you.

Chairman CARPER. Senator McCain, and then Senator Baldwin, Senator Heitkamp, and Senator McCaskill.

Senator MCCAIN. Well, I want to thank the witnesses. I also want to thank Senator Coburn and Senator Levin on the excellent work they and their staff have done. Obviously this is appalling. It is one of these things you read about in novels or see on TV.

What is most disturbing—and I would like to begin with the witnesses, who I want to thank profusely. Is it true there was a pattern of intimidation and inaction concerning your willingness to step forward? Could I just go down the line and make sure that that is an accurate statement? Is that true, Ms. Carver?

Ms. CARVER. Yes, it is.

Senator MCCAIN. And could you give me a couple of the most egregious examples?

Ms. CARVER. Everything from, I guess it would be, suspensions to a private detective——

Senator MCCAIN. To videotaping?

Ms. CARVER. Being videotaped, yes.

Senator MCCAIN. It should not happen in America, I do not think.

Ms. CARVER. No.

Senator MCCAIN. Ms. Griffith.

Ms. GRIFFITH. I am much more fortunate than Sarah. I have not been followed by the private investigator in this matter. I was already gone by that time. And I was already gone by the time the worst of the office environment happened, I had been gone for several years. But during my time there, each reporting action was met with equal and opposite reaction of negative verbal reprimands. I have had files that would disappear and be reviewed.

In the last example before I left, the supervisor had issued another union employee to go through my desk to determine if any mail was over a certain age. Then in my progress review, she told me that was her goal, to make sure that I was not going to be there by the close of the year, which would have been 2 month away.

Ms. CARVER. Can I say one more thing?

Senator MCCAIN. Sure.

Ms. CARVER. During this investigation, we were able to obtain an e-mail from Greg Hall to Howard Goldberg, which——

Senator MCCAIN. And would you identify who they are?

Ms. CARVER. Greg Hall is the hearing office director; Howard Goldberg was, I believe at the time, an employee relations person in the region. And the e-mail said, "Sarah we have suspended. Jennifer we are working on."

Senator MCCAIN. Ms. Slone.

Ms. SLONE. Once the Wall Street Journal story aired or came out, at our office things changed. Before we went into Eric's office, he actually had a security wand.

Senator MCCAIN. Eric is Mr. Conn.

Ms. SLONE. Eric is Mr. Conn. You would have to go through a security check to make sure you did not have any phones or any recording devices or anything like that before you would be allowed to enter his office. He just became a lot more strict and more aware of who was around him, things that he said in the presence of certain people. But there was no retaliation. I mean, we were asked if we had spoken to anyone or been contacted by anyone, but other than that, there was not anything.

Senator MCCAIN. Ms. Hicks.

Ms. (MARTIN) HICKS. No, not for me personally. After the story came out, I did not stick around too much longer because Eric Conn did start to do things so crazy, like have someone call my phone so that he could stalk some person. So I actually did not stay too much longer after that.

Senator MCCAIN. How do you know that he had someone do that?

Ms. (MARTIN) HICKS. Because he had actually spoken to Administrative Law Judge Andrus, and he had given my phone number to an employee there, Sandra Nease, and she had left several messages on my phone to let me know when the employee was going to be off work so that Eric could send someone to follow her.

Senator MCCAIN. So there is no doubt you felt intimidated.

Ms. (MARTIN) HICKS. Very much so. I did not want to be involved in it. It was bad enough that she had my number and left messages on my phone, but he actually asked me to drive to her home. He would get upset if you told him no to anything, so when I told him I did not want to do that, there were just days that he would not talk to you for a while and make you feel bad for not doing what he wanted. So I just left shortly after that.

Senator MCCAIN. Ms. Carver and Ms. Griffith, from what you have seen, there is no way that Judge Daugherty could have had as many cases under his authority and carried out a lot of the activities that he did without the active support of Judge Andrus.

Ms. CARVER. Correct.

Ms. GRIFFITH. Correct.

Senator MCCAIN. And that obviously is disturbing since Judge Andrus was the chief judge here, right?

Ms. CARVER. Yes. When I would report it to the hearing office director, Greg Hall, he had told me on several occasions that he had spoken with ALJ Andrus about it and that ALJ Andrus was going to address the judges. However, the activity never did stop.

Senator MCCAIN. How is your life now, Ms. Carver?

Ms. CARVER. In the office, it is not good right now.

Senator MCCAIN. Are you shunned by fellow employees?

Ms. CARVER. For several years, every supervisor that I was assigned to—I now have employees telling me things that they were afraid to tell me at the time. Each and every one of them were told to not associate with me, that I was a bad person, that if you wanted to be promoted in that office, you were to be——

Senator MCCAIN. And do you know who it was that was saying these things?

Ms. CARVER. They were newly hired employees as they would be——

Senator MCCAIN. No, but I mean who was telling them.

Ms. CARVER. The supervisors.

Senator MCCAIN. And you know who they were?

Ms. CARVER. Yes.

Senator MCCAIN. Ms. Griffith.

Ms. GRIFFITH. My life is drastically different. I do not have the medical problems that I had when I worked there that were caused by stress. Right now I am going back to school, and, I am very happy that I am not there now, because I cannot imagine if it was as bad for me as it was then. I was taken out of the office one time. I was taken out of the office by ambulance because my blood pressure had reached the level of stroke. I had been working with my doctor for a number of years to try and get that down, and my health was just going downhill because I could not control the stress. And I walked away from that, and I have worked for several years in the private sector as a paralegal, and I have not ever experienced anything like what I experienced there.

Senator MCCAIN. Well, I thank the witnesses. I thank you, Mr. Chairman. And all I can say is that I know I speak for all of us that we will try to see that no one else ever goes through what you have been through, and obviously there are problems here that are much larger than your office and you individually. But you are the people who have made this possible, and we thank you.

Chairman CARPER. Senator McCain, thank you. I made a mistake earlier when I said that Senator Baldwin was here before Senator Heitkamp, and the honor system would suggest that the next Senator recognized is Senator Heitkamp. Senator, welcome.

OPENING STATEMENT OF SENATOR HEITKAMP

Senator HEITKAMP. Senator Baldwin is always honest. An amazing woman, as all of you are amazing and really pretty remarkable women who are doing something incredibly difficult and who have been doing something incredibly difficult for a very long period of time, which is to stand up for the American taxpayers, which is to stand up for what is right. And I want to just extend my personal thank you, but also a thank you on behalf of the people of this country.

Unfortunately, your story is so utterly remarkable because all of you attempted, on every step along the way, you attempted to try and get attention to this problem. And I have heard repeatedly during this that management stopped you or management began to use intimidation, management began to do this, management began to do that.

I am obviously not as familiar as Senator Levin, Senator McCain, and Senator Coburn with this file. I am new on this Committee. But this is an opportunity, I think, for especially Ms. Carver and Ms. Griffith, to name all of the people within management who have been intimidators, who have been ignorers and in some way, whether illegally or legally, collaborators with a system that allowed this to continue. And so I guess I would start with you, Ms. Carver, to provide us a list of those names.

Ms. CARVER. I started with Supervisor Arthur Weathersby, Kathie Goforth, Jerry Meade, Stacy Clarkson, Steven Hayes, currently Bobby Bentley, and I have a new supervisor that has just recently conducted an investigation on me, and his last name is Bono, and he is so relatively new that I do not even recall his first name at this point.

Senator HEITKAMP. Thank you. Ms. Griffith.

Ms. GRIFFITH. My primary experience with it was with Ms. Kathie Goforth and former Hearing Office Director Greg Hall and Chief ALJ Charlie Andrus and to some degree, although much more minor, ALJ Daugherty.

Senator HEITKAMP. It may seem odd to you that I have asked you to name folks, but it certainly has been our experience that sunshine can go a long way, and if other agencies are operating like this, if other events like this are occurring within the system, having people know that your name will be listed in Washington, DC, in a hearing could provide maybe some relief to folks in your situation who are calling out these kinds of egregious problems and not getting any answer.

I want to transition from what was happening internally, because obviously not only has this hearing and all of the attention not led to a change of atmosphere for you within that agency, it seems like there continues to be pushback from the agency on what needs to be done. But I want to just transition for a moment, because I think it was you, Ms. Griffith, who talked about filing an Inspector General's complaint in 2009.

Ms. GRIFFITH. That is correct.

Senator HEITKAMP. And never hearing—I want to just make sure we have this right. You filed the complaint in 2009 and did not hear from the Inspector General until 2011, after the report in the Wall Street Journal. Is that correct?

Ms. GRIFFITH. I believe that is correct, yes.

Senator HEITKAMP. Did you ever followup with the IG in that, not hearing, or did you just say it is more of the same, I am done with it, my blood pressure is going down, I want to be rid of this problem?

Ms. GRIFFITH. Initially I made a few phone calls, but I really did not yield any results, and I just sort of let it go.

Senator HEITKAMP. Do you remember who it was or do you have any record of who it was in the IG's office that you contacted?

Ms. GRIFFITH. No. The only thing I have with regards to that complaint was a copy of the original e-mail confirming that complaint that I had.

Senator HEITKAMP. And you got that e-mail almost right after you filed the complaint in 2009?

Ms. GRIFFITH. Yes. I think it might have even been the same day that they knowledged receiving that.

Senator HEITKAMP. So probably just something that was generated. One of our tasks here is not just to expose your particular situation but to look ahead and say if there are women like you in an agency who are being intimidated, who are having these problems, who are pointing out something that just seems so blatantly wrong and not getting listened to, how do we fix that for other women or other individuals within agencies? Have you thought about that? And I, again, direct the question to Ms. Carver and Ms. Griffith. Have you thought about if only this, that would have made a difference?

Ms. CARVER. Well, I have often, because we currently have had several complaints filed from women in our office, and, unfortunately, the way our grievance procedure operates is we file our first appeal with our first-line supervisor, our second appeal with the hearing office director, and then the third appeal goes to the chief ALJ at the region level. They are all three denied. And management knows this because our union can only arbitrate so many cases a year based on money, and if your case is not selected to be arbitrated, then you have no other recourse.

Senator HEITKAMP. Ms. Griffith.

Ms. GRIFFITH. Part of the problem, when you run into a problem within the agency, or at least in my experience, is that if you have a complaint about your supervisor, that is who you file the complaint with. So you do not have the ability to be anonymous, to talk to anybody who is not going to either turn around and tell her everything that you just said about her or him, or whoever. You do

not have that protection. You are going to complain, you are going to complain to two people who are responsible for supervising you and who can in turn discipline you for anything they like, and they know they can get away with it.

Senator HEITKAMP. So if management decides you are the troublemaker, it is pretty easy to begin to retaliate and avoid dealing directly with the complaints, no matter how legitimate. And the other thing that is striking about your discussion is not only is it legitimate, but it was office gossip, but yet nothing got done. And, unfortunately—I would like to think that this does not happen in cases of people trying to do the right thing in other agencies, but I think it probably does, and it takes enormous courage to do what you have done. It takes enormous courage to stand up. And I just want to tell you, all four of you, how much I applaud what you have done, I know it is hard to risk a family, but you guys did it, and you are really great Americans. Thank you.

Chairman CARPER. Senator Heitkamp, thank you very much for that.

Senator Baldwin, and then followed by Senator McCaskill.

OPENING STATEMENT OF SENATOR BALDWIN

Senator BALDWIN. Thank you, Mr. Chairman and Ranking Member Coburn, for holding this very revealing hearing. I also want to thank Subcommittee Chairman Levin and Ranking Member McCain for all the work that went into this investigation. It is incredibly revealing. And I look at the responsibility of this Committee and think at the very specific level of the investigation before us our responsibility is to do whatever we can to make sure that people who would abuse this program for their own personal profit or benefit are prosecuted to the fullest extent of the law; and, further, a responsibility to recognize the importance and the courage of these witnesses who have done the right thing and stepped forward and been very courageous, but others who might be similarly situated to know that we have their interests in mind and that there will be protections for those who do the right thing and speak up.

And we also as a full Committee have larger responsibilities for the integrity of the program that we are talking about in the Social Security Administration, that the right reforms and oversight need to be in place to prevent these sort of abuses. And I take all of those responsibilities very seriously. I know that my colleagues on this Committee do.

I do want to state for the record that I have certainly some initial hesitance to extrapolate beyond the case at hand based on the investigative report before us, and I think we need to dig further and figure out how widespread this is. And I do have a couple of questions in that regard, but I just wanted to start very specifically with the case before us, with Ms. Slone and Ms. Martin.

My understanding is that Judge Daugherty would contact your office roughly once a month to provide the names of 30 to 50 Social Security disability claimants that were represented by Mr. Conn. Is that correct? And how did that communication occur?

Ms. SLONE. Yes, ma'am. He would usually call around the first of the month. Our deadline to get him all the information that he

requested was by the 15th of every month. He would place a call to our office. I was usually the one who spoke with Judge Daugherty. He would give me the names of the individuals, the first five numbers of their Social Security number, and whether he wanted a mental or physical RFC evaluation performed on the clients. Then that would be handed off to another employee that would schedule the appointments for the evaluations.

Senator BALDWIN. And RFC are the residual functional capacity.

Ms. SLONE. Yes, ma'am.

Senator BALDWIN. OK. Did any other judges, administrative law judges, aside from Judge Daugherty call into the office or communicate to the office like this that you are aware of?

Ms. SLONE. No, ma'am.

Senator BALDWIN. OK. When Chairman Carper was asking his initial questions of the panel, Ms. Carver, you talked a little bit about how you first became aware of this and talked about a mass collusion. And part of what you were describing was sort of what became apparent when you looked at this ALJ's docket, if that is the right word, and the outcomes of those cases versus others. Can you just sort of walk me through what stood out when you looked at those reports and those comparisons?

Ms. CARVER. Depending on which report you would pull up, you could get the monthly dispositions of each judge, and you could see that Judge Daugherty would do the work of three judges as opposed to one judge. You could also look at the amount of favorable decisions that he had versus the amount of other judges. I mean, all judges pretty much vary in their allowance rate, but his decisions, on one report you could see that they would go all the way down, and all you would see was favorable, favorable, favorable, favorable. So not only were you able to look at the number, the amount he did each month, but you could look at the representative and you could also look at the decisions.

Senator BALDWIN. When you use the term "allowance rate," is that the percentage of favorable decisions?

Ms. CARVER. Yes.

Senator BALDWIN. And just without the documents or reports in front of you, can you give us some idea of how much Judge Daugherty stood out from the rest of the ALJs in terms of the allowance rates?

Ms. CARVER. In a monetary—I mean in a percentage or——

Senator BALDWIN. Percentage, yes. I mean, I guess what I would say is I am aware of some of the rates reported at a national scale by the Social Security Administration for favorable determinations of ALJ judges, 13 percent I have heard. I do not know if that was typical of any of the other ALJs, but how much did these stand out?

Senator COBURN. Senator Baldwin, if I might interrupt you, I would ask unanimous consent to enter into the record the caseload of Judge Daugherty from 2006 to 2011. His average was 99.7 percent.

Senator BALDWIN. And just so comparatively, can you give me any sense of the average of other ALJs in the Huntington office?

Ms. CARVER. Well, it would depend on each ALJ. I mean, usually on average, I would say probably, in my opinion, about 60 percent,

60 to 70 percent were favorable. But with Judge Daugherty and Eric Conn, what I had seen was 100 percent. He did not even have hearings at a point for several years with him. And if you look at that statistic alone, what is the likelihood that every claimant that walks in your office is disabled?

Senator BALDWIN. Right. Thank you.

Chairman CARPER. Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you, Mr. Chairman.

I, too, want to thank the witnesses for being here. I have a feeling it will not be the last time that you will be testifying somewhere. Clearly this report, it gets my heart beating a little faster, as a former prosecutor, because I guarantee you, you put some good—we have had some good investigators on it that work for this Committee, but you put some good prosecutors on these set of facts, and I think you are going to find something more than the pressure to move a docket quickly.

I do not have a lot of questions for you all. I think you have gone over it very well. I would ask you, those of you that worked in the Supplemental Security Income (SSI) offices for the Social Security Administration, didn't the other lawyers know the fix was in for Conn? Didn't the other lawyers representing people with disabilities know this?

Ms. GRIFFITH. I received numerous phone calls from other attorneys in the area while I was there, more toward the end of my time in 2007 than any other, that had complained that they were losing their clients to Mr. Conn's office because Mr. Conn's office was making the claim that they could get their case granted——

Senator MCCASKILL. And they could.

Ms. GRIFFITH [continuing]. Within 30 days.

Senator MCCASKILL. A hundred percent.

Ms. CARVER. And in response to that, that is why Judge Daugherty stopped having Eric Conn hearings because of the numerous complaints. That way he could have hearings for other representatives and move more room in his hearing schedule for other representatives.

Senator MCCASKILL. For other lawyers representing clients.

Ms. CARVER. Yes.

Senator MCCASKILL. Let me ask you this: I mean, this is a small community, the lawyers that do these cases, and make it an even smaller community because this is not a major metropolitan area. So everybody knew each other. All the judges knew each other. All the ALJs knew each other. All the lawyers knew each other. How many bar complaints were there about Eric Conn, if you know?

Ms. GRIFFITH. To my knowledge, none.

Senator MCCASKILL. And what about judicial complaints about the ALJ?

Ms. GRIFFITH. To my knowledge, none.

Senator MCCASKILL. Well, that is depressing.

First of all, did you have the staff—if this pressure to move cases accurately, which I think originally there was a desire that these cases not languish and that the cases be moved through the system

as quickly as possible but with accuracy. Did you all have sufficient staff to do that?

Ms. GRIFFITH. Not at the time that this occurred. The staff in that office has increased considerably since I left.

Senator MCCASKILL. So initially this—and it reminds me a little bit of background checks. We say we want the government to be smaller and have fewer employees, but then we have crucial functions where we do not have enough people to do the work, and that is the environment that this kind of nonsense occurs in, whether it is people pretending they are doing background checks when they are not, or judges pretend like they are making a decision on the merits when it is a pro forma decision.

Let me also say, before I turn it back to the Chairman, because I am anxious to have some questions for the other panels, I am assuming that you saw meritorious complaints, all of you, for disability.

Ms. GRIFFITH. Yes.

Ms. CARVER. Yes.

Senator MCCASKILL. And I am sure you saw lawyers that were honest that were handling those clients.

Ms. GRIFFITH. Yes.

Ms. CARVER. Yes.

Senator MCCASKILL. And I want to say that because, knowing lawyers that do this kind of work, and knowing people who have disabilities that receive a disability check that deserve it, I want to be careful that we get that on the record. I thought that Senator Coburn did a great job on television last night talking about the damage this does to the many honest, hard-working, meritorious claims and honest, hard-working ALJs, and honest, hard-working lawyers that are participating in this system across the country. Clearly this is outrageous, and we have to get to the bottom of it. And if the facts lead where they appear to look like they lead, somebody should be prosecuted for it.

But I did want to point out that there are lots of honest people representing lots of people that are in desperate need in front of good ALJs that are doing their best with the resources they have.

Ms. GRIFFITH. Yes, there are.

Senator MCCASKILL. Does anybody disagree with that?

Ms. GRIFFITH. No.

Ms. CARVER. No.

Senator MCCASKILL. Finally, for you, since you knew where Eric Conn was all the time, was there a lot of socializing with other lawyers and other judges on his schedule?

Ms. SLONE. No. Usually the only time he socialized that I knew of with judges was at the hearing office when he had hearings before them.

Senator MCCASKILL. OK. Thank you, Mr. Chairman.

Chairman CARPER. Before I yield back to Dr. Coburn—I know he has more questions—let me ask a couple of my own.

What advice would you have to others, whether they happen to work in the Social Security Administration or some other part of our government, who see things that are wrong and are inclined to say something about it? I ride the train a lot, and we have a saying on the train: If you see something, say something. And we

sort of adopted that throughout our Homeland Security operation. But what advice would you have to others who see things that ought not to be happening and that might be helpful to them, maybe encouraging to them?

Ms. CARVER. As you see these occurrences happening, I feel the most important thing to do is to document them, because without the documentation that we used, we would not have been able to prove it. And the administration, I feel, believes that we somehow may have gotten our information from—some other way, because they have since installed—I believe it is like six doors at $6,000 or $7,000 apiece that are soundproof doors in our office and soundproofed their offices, management has, and now locks their offices every time they leave, even if it is to a copier.

So it is not a matter of us stealing information off of a supervisor's desk. It is just a matter of reporting it and then following up with a simple e-mail saying this is what we discussed, I discussed this problem with you, I look forward to you resolving it in the near future. And that is what we did.

Chairman CARPER. OK. Ms. Griffith, what advice would you have to others who might see things that are untoward or wrong and might be inclined to speak up, or may be reluctant, may be fearful?

Ms. GRIFFITH. I agree with Sarah that we would not be where we are today had we not kept accurate accounts of things that went on and records. But I think that the best advice I could give to anybody is not to back down and not to be afraid to say something.

Chairman CARPER. All right. Ms. Slone.

Ms. SLONE. I agree with Ms. Carver and Ms. Griffith. The documentation is the most important thing.

Chairman CARPER. All right. Thank you.

Ms. Hicks, I called you "Ms. Martin." I apologize.

Ms. (MARTIN) HICKS. Either is fine, and I agree with all of them.

Chairman CARPER. OK. What advice do you have for us? This is a Committee that is called "Homeland Security and Governmental Affairs." It used to be just "Governmental Affairs." It historically has broad oversight responsibilities for the whole Federal Government or much of the Federal Government. What we have done here, under the leadership of Dr. Coburn and Senator Levin, is exercise our responsibilities under the governmental affairs piece of our Committee.

What advice would you have for us? What advice would you have for us given what you have been through and what you have learned and that we might be more constructive in the work that we do and more supportive, frankly, of people like you who see things that ought not to be happening?

Ms. CARVER. I feel that there should be some type of a system of accountability within each administration. I feel that for the most part managers, supervisors, ALJs, those higher up in the agency are promoted, allowed to retire, are given monetary awards that we as employees, we do not get. We are held to the same standard of conduct, but we do not get the—we would be fired, terminated, disciplined. I have never known of, up until this investigation, anybody, any judge, any manager that has been dis-

ciplined—they have been removed and promoted or a position created for them, but never held accountable for their actions.

Chairman CARPER. All right. Thank you.

Again, Ms. Griffith, advice for us, please?

Ms. GRIFFITH. I think it is important to do what you have already started to do, to take a very hard look at what is going on with Social Security, because it is not just about one judge and one attorney when you look at it, because it is not just occurring there. It is occurring everywhere. It is something that needs to have more safeguards put in place to prevent this from happening anywhere else, because look at what it has cost. Just look at what one judge and one attorney have cost the American taxpayers. It needs to be strengthened, and there needs to be more safeguards in place to protect not only the employees but to protect the American taxpayers from having this benefit system hijacked.

Chairman CARPER. Ms. Slone, Ms. Hicks, any advice for us?

Ms. (MARTIN) HICKS. I think maybe trying to make changes in the ways that the lawyers and judges actually communicate together and spending time together and allowing them to develop a personal relationship. I think that a change there would probably help.

Chairman CARPER. OK. Thank you. I would say, before I turn it over to Dr. Coburn for his remaining questions, one of the things we have sought to do in other parts of our oversight is to look at programs like Medicare and Medicaid and to see where technology can be used to put a spotlight on behavior that is questionable, untoward, where you have doctors maybe prescribing large amounts of controlled substances to a lot of people, in some cases to the same person over and over and over again, different pharmacies and that kind of thing. There is a pattern of behavior that we are able to detect using technology. Credit card companies have been doing this for some time. If I end up charging things in Nepal on my credit card and I have never been to Nepal, that just pops up, and for the credit card company, they say, well, something is going on here, and for them to give me a call, and say, "What are you doing in Nepal?" And I am not really there. But technology can be our friend here. And to the extent that we use it, we can put people like you less likely in harm's way or less likely in a position of having to face the prospect of losing your job and your standing in the community. Technology does not solve all of our problems, but it can really help.

Do you all have any comment on that? Then I will yield to Dr. Coburn.

Ms. CARVER. I feel though somebody outside of the agency needs to know how to read that technology. I mean, we have the availability to see those reports. That was published in that Oregonian article as far as the favorable rates, and anybody could look at this information, but we need somebody on the outside that knows how to look at the information and know what is going on, what the procedures are within the agency to be able to recognize, hey, this is a red flag here.

Chairman CARPER. All right. Thank you. Dr. Coburn.

Senator COBURN. Thank you. I am going to go through this fairly quickly because there are some things I want to get on the record.

Sarah, if you would look at Exhibit 22[1] and 28,[2] I am going to ask you some questions about that. And then I am going to turn to you, Ms. Slone.

This is an e-mail you sent to Mr. Hall on January 25, 2007. It was one of the times you alerted him that Judge Daugherty was assigning himself cases represented by Mr. Conn, and you wrote the following: "As you are aware, DBD has on his own initiative elected to go in and assign himself several electronic cases, all of which are Eric Conn cases."

How did you know that Judge Daugherty was assigning himself cases? It is just your e-mail.

Ms. CARVER. OK. Jennifer had came to me as the union representative and had discussed this situation, because he was one of the first judges that was trained on the electronic file. However, the electronic files, we had cases from other attorney representatives, but he was selecting only those.

Senator COBURN. Is this the first time you noticed that he was doing this?

Ms. CARVER. This is probably around the first time that Jennifer, yes, had come to me over it. Now, she may have, verbally or written, told him, but this is the first time I believe I made him aware of that.

Senator COBURN. Were you aware of any time that Judge Daugherty ever assigned himself cases represented by another lawyer?

Ms. CARVER. No.

Senator COBURN. All right. You said in your e-mail that the agency could take certain steps to put a stop to Eric Conn calling DBD and giving him a list of electronic cases. Why do you think Mr. Conn was calling Judge Daugherty to let him know his cases were on the way?

Ms. CARVER. Because he could intercept these cases before they were assigned to another administrative law judge.

Senator COBURN. Is that the only explanation, that he would know what the cases were to go into the file, unless he—if he had no knowledge of what those cases were, how would he know what cases to look for? Could he search it by the lawyer's last name?

Ms. CARVER. No, not if they had not been receipted yet.

Senator COBURN. So, therefore, he had to know the cases.

Ms. CARVER. He had to know the Social Security number.

Senator COBURN. Got you. All right.

Finally, you ended the e-mail saying, "All of this is not going unnoticed. People on the floor are beginning to talk and, if not taken care of, this could escalate into a bigger problem." What do you mean widely known? Was everybody in the office talking about this?

Ms. CARVER. Yes.

Senator COBURN. Well, I should not use the word "everybody."

Ms. CARVER. I mean——

Senator COBURN. A large number of people were aware of this.

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[1] See Exhibit No. 22, which appears in the Appendix on page 725.
[2] See Exhibit No. 28, which appears in the Appendix on page 732.

Ms. CARVER. A large number of the girls who were processing the cases.

Senator COBURN. Thank you.

Now go to Exhibit 28,[1] if you would, Sarah, please? This problem did not seem to go away after you raised it to management's attention. If you will look at Exhibit 28, it is an e-mail from March 29, 2010, from you to Judge William Gitlow, another ALJ at the Huntington office. You wrote: "For your information, someone was closing this case, and it was originally your case, and DBD took it and did an OTR on it."

Can you describe in more detail what happened and why you sent this e-mail?

Ms. CARVER. This was one of many e-mails that I began to actually send to the ALJs themselves in hopes that the ALJs would start complaining to Charlie Andrus.

Senator COBURN. And an on-the-record determination can only be made positively. If it is a denial, it has to have a hearing. Is that correct?

Ms. CARVER. Correct.

Senator COBURN. This e-mail was sent 2½ years after the 2000 e-mail from Jennifer Griffith, which we had discussed. Did you see Judge Daugherty assign himself other judges' cases after management was made aware of the problem in 2007?

Ms. CARVER. Yes.

Senator COBURN. Was there ever any followup to your e-mail, either from Judge Gitlow or from management?

Ms. CARVER. Yes. I had talked with Judge Gitlow on several occasions. He——

Senator COBURN. And?

Ms. CARVER. He said that he had e-mailed Chief ALJ Andrus on several occasions and even had told Judge Andrus that if he did not take care of the problem that he was going to take it outside of the office.

Senator COBURN. All right. Thank you.

Ms. Slone, you actually worked for Mr. Conn for a long period of time. That is correct?

Ms. SLONE. Yes, sir.

Senator COBURN. Can you describe, what did you actually do for him? I mean, were you his Miss Everything?

Ms. SLONE. I started out as a claims taker. I worked several positions within the office. When I left, I was doing managerial duties.

Senator COBURN. Were you his most senior employee?

Ms. SLONE. Yes.

Senator COBURN. In terms of responsibility?

Ms. SLONE. Yes.

Senator COBURN. All right. For the time that you worked in Mr. Conn's office, how important would you say Judge Daugherty was to the success of the law firm?

Ms. SLONE. Very successful.

Senator COBURN. OK.

Ms. SLONE. Very important.

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[1] See Exhibit No. 28, which appears in the Appendix on page 732.

Senator COBURN. When did you first grow concerned about the relationship between Mr. Conn and Judge Daugherty?

Ms. SLONE. When I first moved to the hearing department and noticed that Judge Daugherty was the only one that we did not hold hearings for, I remember asking, why it was different for him. We were just told that this is what he preferred to do.

Senator COBURN. OK. Can you tell us what a DB list was and how it was used?

Ms. SLONE. The DB list was a list of claimants that DB would call once a month——

Senator COBURN. DB being Judge Daugherty.

Ms. SLONE. Judge Daugherty would call once a month and give us a list of claimants that he wanted us to send for an evaluation and send to him for an on-the-record decision.

Senator COBURN. OK. And how were these lists created?

Ms. SLONE. I would create the list when Judge Daugherty would call and give me the information.

Senator COBURN. All right. Would you look at Exhibit 18[1]? At the top of the first document it says, "DB September 2009." Another one on the stack says, "DB June quarters due on 6/16/06." Can you describe to us what all that means?

Ms. SLONE. You have the claimant's name, their Social Security number; "physical" would mean which kind of report that Judge Daugherty requested. AOD is amended onset date. Judge Daugherty would request either if there was a prior decision or if there was an age due to the grid rules, if they had turned 50, he would require——

Senator COBURN. So he would back date it to the age grid or he would back date it to the last denial?

Ms. SLONE. Yes, sir.

Senator COBURN. All right. Some list the word "mental" next to the claimant's name and some say "physical." Why did sometimes it say either?

Ms. SLONE. He would leave that at the discretion of Eric, which report he would——

Senator COBURN. Submit?

Ms. SLONE. Yes.

Senator COBURN. All right. A lot of the claimants have what are called amended onset dates. Why would Judge Daugherty do that? I think we covered that.

Ms. SLONE. Yes, sir.

Senator COBURN. Jamie, Exhibit 18, there is a huge stack of DB lists dated from 2006 to 2010. When did they start first using DB lists?

Ms. SLONE. I do not know when they started using them. When I moved to the hearing department, they were already in place, so I do not know when they began.

Senator COBURN. So that was prior to 2006.

Ms. SLONE. No. I did not move to the hearing department until maybe late 2008.

Senator COBURN. OK. But they were there then?

Ms. SLONE. Yes.

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[1] See Exhibit No. 18, which appears in the Appendix on page 479.

Senator COBURN. All right. How often did Judge Daugherty call your office with a list of clients?

Ms. SLONE. Once a month.

Senator COBURN. All right. Who would Mr. Conn send his clients to once Judge Daugherty called to say mental or physical?

Ms. SLONE. If it was a physical, it was primarily Dr. Frederic Huffnagle until his death. If it was mental, it was Dr. Brad Adkins.

Senator COBURN. OK. And what would they get in return?

Ms. SLONE. Dr. Huffnagle was $400 per evaluation, and Dr. Brad Adkins—I am not exactly sure. He was in the $300 range.

Senator COBURN. And they would give a finding as to what Mr. Conn wanted?

Ms. SLONE. Yes, sir.

Senator COBURN. Would the doctors fill out the RFCs themselves or would someone else do that?

Ms. SLONE. Someone else did it.

Senator COBURN. Did you ever have occupational therapists in your office to determine these forms?

Ms. SLONE. Not to my knowledge.

Senator COBURN. All right. Where did Mr. Conn find doctors that he knew would give him the medical answers that he wanted?

Ms. SLONE. Dr. Huffnagle had already been there performing evaluations for several years prior to my employment. The same with Dr. Brad Adkins. When Dr. Huffnagle did pass away, he looked for some other doctors to fill his shoes, and he would look for doctors that had had prior sanctions and problems. He said that it was easier to hire them.

Senator COBURN. All right. Ms. Hicks, what did you do for Mr. Conn? And how long did you work there?

Ms. (MARTIN) HICKS. I was with the law firm for 6 years. I did a number of different things as well. I actually filed claims with the Social Security office. I assisted in managing the office at one point. I have even been the receptionist. Actually, for about a year and a half or 2 years, I mostly went to hearings with Eric.

Senator COBURN. OK. Where would Mr. Conn's clients go when they needed to be seen by a doctor?

Ms. (MARTIN) HICKS. Eric had a medical wing, but he only had that maybe the last year or 2 years that I was there. Mostly they were seen there. Dr. Ammisetty's office was actually within walking distance from Eric Conn's office, so the clients would go to his office. And for Brad Adkins, I think they mostly saw him at his own office as well.

Senator COBURN. Could you describe to me a typical day when Dr. Huffnagle was seeing patients in Eric Conn's office, the number of patients, the amount of time spent with the patient? You can generalize if not specific.

Ms. (MARTIN) HICKS. OK. When Dr. Huffnagle was in the office, he probably saw anywhere from 15 to 25 clients. He did not spend a lot of time with them at all. His wife actually saw them first. I am not exactly sure what she did. But he only saw them for maybe 20 minutes at the most, sometimes less than that.

Senator COBURN. Was there ever a time Dr. Huffnagle did not sign the pre-filled-out RFC form?

Ms. (MARTIN) HICKS. Not that I am aware of.

Senator COBURN. Was there ever a time that you were aware that he requested a change in an RFC form?

Ms. (MARTIN) HICKS. Not that I am aware of.

Senator COBURN. SSA rules prohibit claimant lawyers from charging their clients for doctor visits when additional evidence is requested. Where would Mr. Conn get the money to pay for these exams?

Ms. (MARTIN) HICKS. I am not sure where the money came from. He wrote checks to each of the doctors. I assume that that was from the office account.

Senator COBURN. Would he require all clients to sign a contract on camera promising to pay for the additional medical costs themselves?

Ms. (MARTIN) HICKS. They all signed a contract. For a while it was on camera, but that did not last very long. There were so many that came in, it was too hard and cost him too much money to keep tapes for that camera.

Senator COBURN. Jamie, I want to go back to Dr. Huffnagle. When he was finished examining someone, later you would get a brief report and then sign a form called the "Residual Functional Capacity." These forms would then be sent to Judge Daugherty to approve the cases. Please look at Exhibit 45.[1] Can you explain how Mr. Conn used this form and others like it?

Ms. SLONE. For the physical medical assessment form, during the time that I dealt with these, there were 10 different ones. They were just labeled RFC numbers 1 through 10. These would be printed out. If we had 50 claimants that came in to see Dr. Huffnagle in the course of 2 days, then 50 of these would be printed out, and someone would just handwrite the name of the individual and their Social Security number at the top attached to the medical report, and both would be signed at the same time by Dr. Huffnagle.

Senator COBURN. And these were pre-filled-out forms, correct?

Ms. SLONE. Yes, sir. The only thing that was blank was the name and Social Security number.

Senator COBURN. I would note for the record, of all the forms that Mr. Conn had prepared, every one of them, every one of the forms said "Demonstrated reliability: Poor." Every form. So that means nobody came through Mr. Conn's office and his RFCs, nobody was better than poor at demonstrating reliability. That will be important later.

How was it decided which RFC form would go with which client?

Ms. SLONE. There was no form or fashion. It was just random——

Senator COBURN. It was just random——

Ms. SLONE. Random assignment, yes, sir.

Senator COBURN. OK. Did Dr. Huffnagle ever review any of the RFC forms to ensure that they matched the claimant's limitations?

Ms. SLONE. Not that I am aware of.

Senator COBURN. Did Dr. Huffnagle ever ask for an RFC to be changed?

Ms. SLONE. Not that I am aware of.

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[1] See Exhibit No. 45, which appears in the Appendix on page 774.

Senator COBURN. Would other ALJs call Mr. Conn's office and give lists of claimants they planned to approve on the record like this?

Ms. SLONE. No, sir.

Senator COBURN. Why do you think Judge Daugherty would do this? What do you think was going on? And I am not asking you to speculate. What should common sense tell you?

Ms. SLONE. Common sense always told us and, talk of the office was that he was paid to do so.

Senator COBURN. All right. I would ask unanimous consent to enter into the record the list of RFC forms and note that they all show "Poor" on "Demonstrated reliability."

Chairman CARPER. Without objection.

Senator COBURN. Ms. Hicks, I have one other set of questions for you. In May 2011, some of the details about the arrangement with Mr. Conn and Judge Daugherty became public in an article, which you before related to. What was the reaction inside the Conn law office at that time?

Ms. (MARTIN) HICKS. Chaos.

Senator COBURN. Chaos.

Ms. (MARTIN) HICKS. Absolute chaos.

Senator COBURN. Describe that.

Ms. (MARTIN) HICKS. Everyone was in a panic. There was not a lot of work done at all. I remember actually the day that Damian Paletta came to visit our office, no one spoke to him, and he left and went to the Subway next door, and we had employees there, and Eric Conn actually told me to go get them, that they all had to come out of the Subway. He did not want anybody around him or anything.

Eric actually at the time had to get himself prescribed medication, and one of the doctors gave that to him, so he laughed and joked that when the OIG came to our office to ask him questions that he was high on the pills he was prescribed. That is the only way he was able to speak to him.

Senator COBURN. All right. Please look, if you would, Ms. Hicks, at Exhibit 75.[1] This is a receipt from Family Dollar for a throwaway cell phone. Can you explain why Mr. Conn would use these phones?

Ms. (MARTIN) HICKS. After the article came out in the Wall Street Journal, he actually purchased a lot of these. He was afraid for Judge Daugherty to call the office because he said if the phones were tapped or if anyone ever looked at the phone records, they would see that they were still communicating. So he purchased a lot of these. And the reason for that was the first time they had purchased cell phones, Judge Daugherty forgot to use his TracFone and called Eric—I do not remember if it was from his home number or from the Social Security office, but he had called the TracFone without using his TracFone, so they had to throw them away and get new ones.

Senator COBURN. All right. Ms. Slone, one of the most troubling findings of our investigation is Mr. Conn destroyed a huge volume of documents related to his disability practice once his relationship

[1] See Exhibit No. 75, which appears in the Appendix on page 1266.

with Judge Daugherty became public. Can you describe what you saw in regard to what happened in those events?

Ms. SLONE. Most of the documents that I knew that were destroyed came after his mother left the office. We went through and there was a lot of changes, of course, made in the office, there were several files that were kept in what we called the "closed building." They were closed files. Those were, depending on their age, gotten rid of. A lot of documents that were in his mother's office, he went through those himself and decided what needed to be destroyed.

Senator COBURN. Was this after the Inspector General's visit?

Ms. SLONE. Yes, sir.

Senator COBURN. So all this occurred after the Inspector General's visit?

Ms. SLONE. Yes, sir.

Senator COBURN. All right. What was unusual this time about what had happened in the past with normal document destruction?

Ms. SLONE. To my knowledge, I do not remember us having, ever having a document destruction of this size.

Senator COBURN. All right. Why do you think he wanted to destroy the DB lists?

Ms. SLONE. I guess just not to have anything that had anything to do with DB on it.

Senator COBURN. Was there conversation specifically about making sure the DB lists were destroyed?

Ms. SLONE. Yes, sir. He told us to check our offices, especially the ones in the hearing department, and make sure that we did not have any DB lists or any documents that had DB's name on it.

Senator COBURN. What did he do with the electronic files?

Ms. SLONE. The electronic files—I am sorry. Do you mean like the SSA electronic files or——

Senator COBURN. No. The electronic files, the computer files at your office.

Ms. SLONE. Oh. We had replaced several computers in our office with new ones, and he would have employees remove the hard drive from the computers and destroy them. What they would do is smash them with a hammer and then later burn those.

Senator COBURN. Did Mr. Conn ever make any statement to you about why he was destroying all of his documents?

Ms. SLONE. Just that he wanted—he called it "spring cleaning," that he just did not want to have any documents in the office pertaining to DB.

Senator COBURN. To Judge Daugherty.

Ms. SLONE. To Judge Daugherty.

Senator COBURN. All right. Thank you, Mr. Chairman. Thank you all very much.

Chairman CARPER. Thank you, Dr. Coburn. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

I just have one additional question here. Ms. Slone and Ms. Hicks, did either or both of you watch as Mr. Conn looked for doctors with disciplinary problems?

Ms. SLONE. Yes.

Ms. (MARTIN) HICKS. Yes.

Senator LEVIN. Both of you.

Ms. SLONE. Yes.

Ms. (MARTIN) HICKS. Yes.

Senator LEVIN. What did you—you say you watched. Where was he looking?

Ms. SLONE. In his office. He was looking on the computer at the Kentucky Board of Licensure, and he would look for doctors that had had sanctions or problems with their license in the past, and he would print out their information. I know that I had made several phone calls to doctors to ask if they would be interested in doing evaluations for him.

Senator LEVIN. Ms. Hicks, is this true? You also saw that?

Ms. (MARTIN) HICKS. Yes.

Senator LEVIN. And the reason is that, as I think you testified to, it would be easier—he said it would be easier to work with them if they had prior sanctions?

Ms. (MARTIN) HICKS. He actually had said before that—he referred to those as "whore doctors." He said that if they had sanctions and had their license suspended before, that he could get them to do whatever he wanted, and they were cheaper to work with.

Senator LEVIN. You heard him say that?

Ms. (MARTIN) HICKS. Yes.

Ms. SLONE. Yes, sir.

Senator LEVIN. I am done.

Chairman CARPER. Ladies, I think that concludes this part of our hearing. Do any of you want to make a brief closing remark, anything that you would like to say before you are dismissed? Please.

Ms. CARVER. No, thank you.

Ms. GRIFFITH. Thank you.

Chairman CARPER. All right. We thank you. We thank you very much.

Ms. GRIFFITH. We thank you for listening to us.

Chairman CARPER. We thank Dr. Coburn, Senator Levin, and their staffs, and particularly we thank all of you.

Senator LEVIN. I think you had to get here on your own dime as well, didn't you?

Chairman CARPER. Well, Albert Einstein used to say in adversity lies opportunity. It has been true for a long time, and there is a lot of adversity here. There has been a lot of adversity in Huntington, West Virginia, and I bet there is some opportunity here. And the opportunity is to learn from this experience and to make sure it is not happening in other places around the country where they are trying to make these difficult Social Security disability determinations, and so we can better ensure that we are not wasting money, throwing money away, at a time when we are running out of money in the trust fund. And so my hope is, my prayer is that something good is going to happen from what have been a tough couple of years.

And with that having been said, before I excuse you and bring forth our second panel, we are going to start voting. We have at least one vote at 5 or 5:30pm for the full Senate. Dr. Coburn is going to hustle over there and vote and then come back, relieve me, I will go back and vote, and we will all return shortly after that. That way we will not have to slow things down further. Dr. Coburn.

Senator COBURN. I just had one additional question.

Chairman CARPER. Please, go ahead.

Senator COBURN. We are going to have a doctor in the next panel that both made recommendations for Social Security and recommendations for Mr. Conn. Was it ever noticed in the Social Security office, the disparity of those two sets of recommendations, one by a paid attorney and one paid by the Social Security office, and that they said opposite things?

Ms. CARVER. Yes.

Ms. GRIFFITH. Yes.

Senator COBURN. Thank you.

Chairman CARPER. That is the last question. Thank you so much.

Ms. CARVER. Thank you.

Chairman CARPER. And as our first panel prepares to leave, I will ask our second panel to approach the table. I will make a brief introduction of our witnesses on the second panel, and I will ask them to take an oath and be sworn in to testify.

Gentlemen, thank you for joining us this afternoon. I will briefly introduce this panel of three witnesses, and we will begin with David P. Herr, a doctor from West Union, Ohio.

Next we have Dr. A. Bradley Adkins, a psychologist from Pikesville, Kentucky.

And, finally, Dr. Srinivas Ammisetty, a pulmonary disease specialist, who comes to us today from Stanville, Kentucky. Is that correct?

Dr. AMMISETTY. Yes, sir.

Chairman CARPER. All right. Thank you. As you may know, our standard practice in investigative hearings is to ask that our witnesses be sworn in. So at this time, I am going to ask each of you, if you would, to please stand and raise your right hand. Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Dr. HERR. Yes.

Mr. ADKINS. Yes.

Dr. AMMISETTY. Yes, sir.

Chairman CARPER. Please be seated.

Dr. Herr, do you have any opening remarks, sir?

TESTIMONY OF DAVID P. HERR, D.O., WEST UNION, OHIO

Dr. HERR. No, sir, I do not.

Chairman CARPER. All right. Dr. Herr, do you have any corrections to the statement of facts laid out in Dr. Coburn's opening statement or to the facts included in the staff report released by the Committee today?

Dr. HERR. Mr. Carper, based upon recommendation of counsel, I respectfully decline to answer based upon my Fifth Amendment rights.

Chairman CARPER. All right. We have other questions. Is it your intention to assert your Fifth Amendment right to any question that might be directed to you by the Committee today?

Dr. HERR. Yes, sir, it is.

Chairman CARPER. All right. Given the fact that you intend to assert a Fifth Amendment right against self-incrimination to all questions asked of you today by this Committee, you are excused.

Dr. HERR. Thank you.

Chairman CARPER. Dr. Adkins, you are recognized for your statement. Welcome.

TESTIMONY OF ALFRED BRADLEY ADKINS,[1] PH.D., PIKEVILLE, KENTUCKY

Mr. ADKINS. Thank you very much. Ladies and gentlemen, my statement will be relatively short.

I am here today to tell the truth. I have nothing to hide. If the ladies and gentlemen on the Committee have read my testimony, I do understand that it seems like the biggest question regarding my performance or my relationship with Mr. Eric Conn was the RFCs in question. When asked, I would be more than happy to illuminate or talk about that.

But the biggest thing you asked if I had any reaction to anything that had been said, particularly by Mr. Coburn. I would take exception to being painted with the broad brush of being someone who was recruited by Mr. Eric Conn. The fact of the matter is I have no storied or no checkered past professionally. There have been no sanctions against me, nothing of that kind. And also, I was not recruited by Mr. Conn. Actually, several years before the RFC incidents in question came about, I went to Mr. Conn. At that time I was very young in my practice. I was trying to build a practice. At that time I actually went to Mr. Conn and several other attorneys in the area and became a vendor for the State of Kentucky Department of Disability Determinations.

So the fact of the matter is that I was not recruited. I was trying to build a practice and looking for potential referral bases.

Thank you.

Chairman CARPER. You may continue if you have some other things you would like to say, and then we will hear from Dr. Ammisetty, and then ask questions of both of you. But you are welcome to continue.

Mr. ADKINS. No, sir. I believe that is all I have to say at this time. Thank you, though.

Chairman CARPER. All right. Dr. Ammisetty.

TESTIMONY OF SRINIVAS M. AMMISETTY, M.D.,[2] STANVILLE, KENTUCKY

Dr. AMMISETTY. Respectable Senators, good afternoon. I came from South India, and I trained in Chicago, and then I moved to underserved area, Stanville, Kentucky. I have five hospital active privileges, regional hospitals. I am the director for a couple of hospitals. I never had any license issues on my practice. I never had any medical-legal problems. I never had any personal legal problems. I am a physician, my practice is an honest practice. And I am happy with my wife. She is also a physician. And the place I came from, South India, ruled by the British for almost 250 years,

[1] The prepared statement of Mr. Adkins appears in the Appendix on page 115.
[2] The prepared statement of Mr. Ammisetty appears in the Appendix on page 120.

is relatively flat farming land. Three generations of my family worked on the farms under the strict rule, strict law, we have grown up, three generations, hard work, finally we became professionals.

Chairman CARPER. No. What did you raise, what did you grow?

Dr. AMMISETTY. Rice paddy lands.

Chairman CARPER. OK.

Dr. AMMISETTY. And then almost, this is a land—strict law and rule, so we moved to America. I moved to America, and my family members also moved here. Almost 20, 25 members in my close family, but physicians successfully practicing in the USA for the last 30 to 40 years.

In my home we have two girls that are medical students in a top-notch hospital in the USA. One girl is a Fulbright scholar, Marshall nominee, and my one son, he is the only one in Pike County the National Merit Scholar for this year semifinals. The parents' character reflects in the kids, and I do not have any problem. I am happy to answer any questions you have.

The reason—I am a happy practice. I built up my practice, and I am part of the community. I never give any pending bills to collection agency all my life practice. Usually physicians deal with the collection agency, but I become a part of the community.

Around 2005, Mr. Eric C. Conn was my patient. His mom also became my patient. During that time he offered me a position that, "If you come to my office, I can give you heavy business, you do not need to practice at all." But I was building my practice, pulmonary and sleep, and so I refused.

And then around 2010, December, he said that his one office physician passed away, other physician was so sick, so he asked me to do a comprehensive exam for his patients. And he is next door to me, and a good samaritan, and I accepted.

So initially comprehensive, then I said it was a good thing to come to my office so when I have a look, I can have better understanding. So he started scheduling patients to my office, and I was seeing the patients around—so December 2010. And then around May, I was so busy, I mean, he is giving—more demanding, writing a letter that I need more quick response and more deadlines or something. I already have a busy practice, pure busy practice, good practice. Even though I am board certified in addiction medicine, very few doctors in Kentucky are really board certified. If I am looking for money, I can start pain practice because Kentucky is a hotbed for the pain patients. I can get with 10 minutes $400 for a patient visit. I can see 30 to 40 patients a day. That is common practice with pain medications in Pike in Kentucky. But I never practiced pain medication—pain practice in my life, even though I am a board-certified, well-qualified addiction person.

So around that time he was more demanding. Slowly I started, I am weaning off, I am worried because he is a big attorney in the local area, find billboards around my area. So I'm delaying and slowly, and then at one time he asked me—his assistant, David Clark, can you at least do a chart review? So last 2 months, I did a chart review for him, and I stopped completely in August. In the meantime, Ms. Slone, talked about Subway. The same Subway, my girls go to the Subway. So the rumors came up, and I did not know,

even though—then 2 months ago, next door, he was raided by the agents, because that reason—I was in my own practice, I just go to hospital and see the patients, come into the office, see the patients, and if I have time, go and spend my time with my kids, my wife. That is my life.

So, finally, my girls brought me information—this is going on in the Eric C. Conn office, and then I reviewed the information, and then I stopped my practice with him completely. Once I knew, that is not good for me, I stopped that.

Chairman CARPER. Thank you for that testimony.

Dr. Coburn has offered to remain. The vote is underway on the floor simultaneous with a business committee meeting, a markup of the nomination by the President for a deputy position at the Office of Management and Budget (OMB). We are going to do both of those at the same time. Dr. Coburn is going to stay here. He has a number of questions to ask of both of you, and I will be back to join you very shortly.

Thank you. Dr. Coburn, thanks.

Senator COBURN [presiding]. All right. Thank you. Maybe I can get these finished before you get back.

Well, thank you both for being here. I appreciate you coming. Some very concerning things, if you listened to our first panel.

Dr. Ammisetty, I have a list of questions I will go through with you, but my biggest—have you ever seen the American Medical Association (AMA) guide to evaluation for physical disability?

Dr. AMMISETTY. The physical?

Senator COBURN. Have you ever seen the AMA guide for——

Dr. AMMISETTY. Yes, sir, definitely.

Senator COBURN [continuing]. Guidelines for—did you follow that as you did these exams on these patients?

Dr. AMMISETTY. The RFC I did not follow, sir.

Senator COBURN. I am sorry?

Dr. AMMISETTY. RFC I did not follow.

Senator COBURN. But you did for the rest of it? You did a mental status exam on every patient?

Dr. AMMISETTY. No, sir.

Senator COBURN. And why not?

Dr. AMMISETTY. Because it is a complete physical examination.

Senator COBURN. Well, complete physical examination includes a mental status exam.

Dr. AMMISETTY. Mental status, I did not do anything.

Senator COBURN. You did not do mental status exam. And it was your testimony and your feeling that the RFC forms were filled out by occupational therapists?

Dr. AMMISETTY. Yes, sir.

Senator COBURN. And where did you learn that from? Who told you that?

Dr. AMMISETTY. Initially, when I started working, seeing the patients, I told them I am good at physical examination and also pulmonary evaluation, because being a pulmonologist, I do the pulmonary evaluation. That is one reason——

Senator COBURN. I understand that, but my question is: Who told you that occupational therapists did the portion of the exam——

Dr. AMMISETTY. Mr. Eric C. Conn and his assistant, David Clark. The RFCs, we do not need to worry, we will take care of the patient—we will take over that——

Senator COBURN. And he assured you that they were done by occupational therapists?

Dr. AMMISETTY. Yes, sir.

Senator COBURN. That is your testimony?

Dr. AMMISETTY. Yes, sir.

Senator COBURN. And he communicated that to you?

Dr. AMMISETTY. Yes, sir.

Senator COBURN. All right. And so on your exams—I have no doubt that you are a great physician. And I did not say "doctor."

Dr. AMMISETTY. Thank you.

Senator COBURN. I said "physician" because that means you care for the whole person. And I have no doubt, your testimony, you were trying to do Mr. Conn a favor because he was in a pinch, so I do not doubt the veracity of that.

Dr. AMMISETTY. Thank you.

Senator COBURN. And you said in your opening statement, if I followed it, that you really were not aware of the size and scope of Mr. Conn's practice when you started doing these exams for him?

Dr. AMMISETTY. He had a huge practice, no doubt, sir. In the area he is the only one, and his billboards and talk, 90 percent of Social Security, he is Mr. Social Security.

Senator COBURN. OK. And it is your testimony that you quit working for Mr. Conn in October 2011 in part because of the negative news coverage he was getting?

Dr. AMMISETTY. Negative news coverage, and also I have beautiful, good practice, and suddenly Ms. Slone or somebody call, "Can you see a patient?" And I had to hold my other schedule. And also he is demanding. He wrote a letter demanding that one. So I could not tolerate and all these things——

Senator COBURN. You could not meet his demands. But your testimony to our investigators was that after the news broke and the investigation started that that is when you quit. But it actually took you 5 months after the first news story to stop seeing patients for Mr. Conn. Can you explain that?

Dr. AMMISETTY. That is—as I told you before, sir, I am busy with my practice. I go to five hospitals, and I did not know what is going on next door.

Senator COBURN. OK.

Dr. AMMISETTY. Next door. That is the one reason we are——

Senator COBURN. So you were not aware until 5 months after the major——

Dr. AMMISETTY. Yes, sir.

Senator COBURN [continuing]. News story broke what was being insinuated but not proven.

Dr. AMMISETTY. Yes, sir.

Senator COBURN. All right. That is all—let me see. And your testimony was that you saw all these patients at your office?

Dr. AMMISETTY. Yes, sir.

Senator COBURN. At no time did you see a patient in Mr. Conn's office?

Dr. AMMISETTY. He has everything in his office, and he invited me to come and do everything in his office.

Senator COBURN. But you said no?

Dr. AMMISETTY. I said no.

Senator COBURN. All right.

Dr. AMMISETTY. Because that is my professional pride.

Senator COBURN. All right. Let me go to the RFCs for a minute. If you did not perform an evaluation on the claimants' RFCs, who did?

Dr. AMMISETTY. From the Eric C. Conn's office, sir.

Senator COBURN. All right. But you have heard testimony that nobody did those today, they were randomly filled out by his office staff?

Dr. AMMISETTY. That I came to know, sir.

Senator COBURN. Yes. So why did you sign them? If you did not do them, you put your signature on them.

Dr. AMMISETTY. As we know, as being a physician for many years, we send a lot of patients for the home health care, and I did not go there, and the home health people evaluate and bring it to me, usually we sign it. That is the routine way. And also he said this is a part of the process.

Senator COBURN. Were you unaware of the importance of RFCs in determining disability?

Dr. AMMISETTY. I did not know that much about the RFCs, sir. If I knew they were important, I would not sign as a physician for so many years.

Senator COBURN. In hindsight, did you make a mistake signing those RFCs?

Dr. AMMISETTY. Definitely, sir.

Senator COBURN. You did. And I take it from your testimony also that one of the reasons—and I know the relationship here. One of the reasons you helped Mr. Conn out was he was a former patient. Is that correct?

Dr. AMMISETTY. He was a former patient. Yes, sir.

Senator COBURN. But he was not currently under your care. Is that correct?

Dr. AMMISETTY. No, sir.

Senator COBURN. All right. Thank you.

Did you ever visit the Conn law offices?

Dr. AMMISETTY. I visited a total of three times. One time when the great President Abraham Lincoln statue opened. Second time, was at Christmas and the third time, when I got the letter, I was worried that everybody know he is a powerful man, and I never had any legal problems in the country here, anywhere. And my mentality is do not make enemy, just wean him off. So I went there and that is the reason, sir.

Senator COBURN. Dr. Ammisetty, would you look at Exhibit 48[1] in that book sitting next to you? Number 48.

Dr. AMMISETTY. This is up to 45?

Senator COBURN. It should be 48. We will help you.

Dr. AMMISETTY. OK.

Senator COBURN. It is in the next book.

[1] See Exhibit No. 48, which appears in the Appendix on page 1087.

Please look at the third page of this document with the heading "Physical Medical Assessment."

Dr. AMMISETTY. Yes, sir.

Senator COBURN. Did you fill this form out?

Dr. AMMISETTY. No, sir.

Senator COBURN. All right. Do you know who did fill out this form?

Dr. AMMISETTY. His office staff, after I dictated my full comprehensive history, and it is taken by the office staff, and they brought it back to my office with this form. Then I sign it.

Senator COBURN. All right. How did you know that the information in this physical assessment form was accurate?

Dr. AMMISETTY. I trusted them, sir.

Senator COBURN. In other words, you did not know that it was accurate. You just trusted the——

Dr. AMMISETTY. I trusted them, sir.

Senator COBURN. All right. Thank you.

Dr. AMMISETTY. Because he is an attorney, he knows the law.

Senator COBURN. All right. That is all the questions I have for you. Good job.

Dr. AMMISETTY. Thank you. I really appreciate it, sir.

Senator COBURN. Dr. Adkins, thank you for being here.

Mr. ADKINS. Thank you for inviting me, sir.

Senator COBURN. You started working for Mr. Conn in 2005. Is that correct?

Mr. ADKINS. It may have been a little bit before that. I really do not remember the exact date that I——

Senator COBURN. So late 2004, 2005, or was it——

Mr. ADKINS. Maybe even 2003. I am not real sure.

Senator COBURN. All right. So possibly 2003.

Mr. ADKINS. Yes, sir.

Senator COBURN. It is true you do work for the Social Security Administration as well.

Mr. ADKINS. Yes.

Senator COBURN. All right. And how much does Social Security pay you for an evaluation?

Mr. ADKINS. Well——

Senator COBURN. Give me the range.

Mr. ADKINS. Anywhere from—there is the basic evaluation. Basically it just consists of the clinical interview that—oh, gosh, when I am under the gun.

Senator COBURN. It is OK. It is $80 to $175.

Mr. ADKINS. Yes. There you go.

Senator COBURN. I will help you out there. And how much were you paid to do evaluations by Mr. Conn?

Mr. ADKINS. Well, by Mr. Conn as well as any other attorney, the usual fee was $350.

Senator COBURN. All right. And how much time on average did you spend with the claimants for Mr. Conn versus the amount of time you spent for claimants with the agency?

Mr. ADKINS. If the agency requested just the basic clinical interview, you are looking at maybe like half an hour, something like that.

Senator COBURN. OK.

Mr. ADKINS. If the agency requested the full battery—that would be the clinical interview plus administration of an IQ test—it would have been equivalent to what it would have taken for Mr. Conn's patients, because Mr. Conn's——

Senator COBURN. OK. And that was how much time?

Mr. ADKINS [continuing]. Patients always got the full battery.

Senator COBURN. And that was how much time?

Mr. ADKINS. An hour and 15 minutes. An hour, hour and 15 minutes, 20 minutes. Something like that.

Senator COBURN. All right. Did you perform a mental status exam on every patient that came into your office?

Mr. ADKINS. The mental status exam?

Senator COBURN. Did you perform a mental status exam on the patients that were referred to you both from Social Security and from Mr. Conn?

Mr. ADKINS. The answer would be no because when you do the basic evaluation for the State of Kentucky, that included the mental status examination. It was the clinical interview plus the mental status examination. Lawyers always requested the full battery. Sometimes the State of Kentucky would request the full battery. When the full battery is administered, the administration of the IQ test goes above and beyond the mental status examination. So no.

Senator COBURN. So you did not routinely perform a mental status examination on patients?

Mr. ADKINS. I did routinely if they were the——

Senator COBURN. Full battery.

Mr. ADKINS. No, for the full battery, that was the clinical interview plus administration of the IQ test.

Senator COBURN. All right.

Mr. ADKINS. The IQ test goes above and beyond the mental status eval, so there was no need to do the mental status examination.

Senator COBURN. An IQ test demonstrates reliability or not reliability?

Mr. ADKINS. Repeat, please?

Senator COBURN. Does the IQ test that you administer—I guess it is a Wechsler?

Mr. ADKINS. Yes.

Senator COBURN. Does it demonstrate client or patient reliability?

Mr. ADKINS. Reliability. No.

Senator COBURN. So it does not demonstrate reliability. Is that your testimony?

Mr. ADKINS. I am having a hard time understanding how you are——

Senator COBURN. Well, you filled out all these forms that said every patient that you saw for Eric Conn had poor reliability. I mean, you signed every one of those forms, and every one of them had "poor reliability."

Mr. ADKINS. I think there is a misunderstanding, sir, between reliability and validity. When the RFCs were filled out, but, even for the RFCs that I did do for other entities and prior to seeing Mr. Conn's patients, reliability would be—at least the way I was understanding reliability is: Is this person going to be able to consistently be at work on time, consistently perform well at work, con-

sistently be able to finish the day out? Are they going to call in a lot?

Senator COBURN. OK, great. So if that is what that means, every patient you saw for Mr. Conn had poor reliability? Is that your testimony?

Mr. ADKINS. Yes, sir. I think anybody who has a significant mental health problem is going to have poor reliability.

Senator COBURN. And every patient that you saw for Mr. Conn had mental health problems?

Mr. ADKINS. Every single——

Senator COBURN. You did not find one that did not?

Mr. ADKINS. Every single one? I cannot say. But I will honestly say that the vast majority of them, yes, I did—in my opinion, they were——

Senator COBURN. How do you explain that on multiple occasions you would give one report to the Social Security Administration of a patient's condition and give an opposite report to Mr. Conn each on the same patient?

Mr. ADKINS. I did not know that that ever happened.

Senator COBURN. Well, we are going to demonstrate that it did. It did on multiple occasions. As a matter of fact, we had that testimony here in this first panel, that they noticed that you would get one report that would say one thing and one report that would say another.

Mr. ADKINS. OK.

Senator COBURN. Did you perform a symptom validity test on any of these patients like an MMPI?

Mr. ADKINS. When I first started out in practice, I would indeed do those. But there was at one point I was doing those with every single patient, and in discourse with the Department of Disability Determination, I was told that those were not necessary for the——

Senator COBURN. Do you remember what time you were told that, what year you were told that?

Mr. ADKINS. What year I was told that?

Senator COBURN. Yes.

Mr. ADKINS. Well——

Senator COBURN. You do not recall when that became not a requirement?

Mr. ADKINS. Exactly.

Senator COBURN. All right. Thank you.

If you would, Dr. Adkins, turn to Exhibit 47[1], the last two medical opinions in Exhibit 47.

Mr. ADKINS. OK. Do you want the last two?

Senator COBURN. Yes.

Mr. ADKINS. Would that be Adkins Number 1?

Senator COBURN. Is this document typical of the medical forms you completed for Mr. Conn's clients.

Mr. ADKINS. Can I have just a second to look through it, please?

Senator COBURN. Sure. [Pause.]

Mr. ADKINS. Yes, sir.

Senator COBURN. All right.

Mr. ADKINS. It appears to be.

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[1] See Exhibit No. 47, which appears in the Appendix on page 872.

Senator COBURN. In the background section of each of those reports, a typical patient, is this the information included in the section of the report provided by the claimant?

Mr. ADKINS. I am sorry.

Senator COBURN. Go to the background section in your report.

Mr. ADKINS. Are you talking about the portion dated September 1, 2010?

Senator COBURN. Yes.

Mr. ADKINS. OK. Now, what was your question, sir?

Senator COBURN. Is this information routinely provided by the claimant?

Mr. ADKINS. Routinely provided by the claimant.

Senator COBURN. In other words, where did you get the information?

Mr. ADKINS. OK. Where did I get this information?

Senator COBURN. Yes.

Mr. ADKINS. From Eric Conn's office.

Senator COBURN. So you did not get it from the claimant?

Mr. ADKINS. Well, let me check back here.

There is nothing showing in the actual body of the report. I did not document the actual date of onset.

Senator COBURN. Well, I am not as concerned about onset. I am asking—you put the background information in this report, and I am asking the origin of it. Did it come from the claimant or did it come from Mr. Conn?

Mr. ADKINS. This piece of paper came from Mr. Conn's office.

Senator COBURN. All right. Now, please review the section of the exam titled "Summary and Conclusions." Go on over.

Mr. ADKINS. OK. I am there.

Senator COBURN. All right. I would note, first of all, that you told Committee investigators on the first background information that it came from the claimant, not Mr. Conn. Now, in this section, the end of the report is reserved for your own conclusion, I believe. Does this represent your conclusions?

Mr. ADKINS. The summary and conclusions on——

Senator COBURN. Yes.

Mr. ADKINS. Yes, it says page 7.

Senator COBURN. All right. Now, please look at the summary section, and let me ask you the question again. The information in the background section came from Mr. Conn.

Mr. ADKINS. Yes, sir.

Senator COBURN. All right. And if you look at the summary section, it seems to be identical to the background section.

Mr. ADKINS. It seems to be identical.

Senator COBURN. As a matter of fact, in this particular one, the information in both sections is word for word identical. So that your summary matches exactly the information, according to your testimony, that you got from Mr. Conn.

Mr. ADKINS. Wait a minute. I think there is some misunderstanding here. When you say the background section, I am looking at a document that says, "To Whom It May Concern: It is my medical opinion"—blanked out—"medical conditions and limitations." Is that correct? Is that what we are referring to?

Senator COBURN. No. Go back to the first question I asked you on the background section. I asked you where that information came from in the background.

Mr. ADKINS. Oh. I apologize. I was looking at something else completely. When you said the background section, I thought you——

Senator COBURN. That is the first thing that you looked at, the first thing I had you look at.

Mr. ADKINS. Yes, the first thing I looked at was this, I believe. When you said background, I thought you meant whatever was after——

Senator COBURN. No. It says "Background Section."

Mr. ADKINS. Oh, OK. Background information, OK.

Senator COBURN. And who gave you that information, Mr. Conn or the claimant?

Mr. ADKINS. The claimant gave me that information.

Senator COBURN. All right.

Mr. ADKINS. OK. I am sorry.

Senator COBURN. So now look at the summary section, and it seems that the summary section is exactly the same as the background.

Mr. ADKINS. Oh, OK. Well——

Senator COBURN. Why is that?

Mr. ADKINS. Because it was cut and pasted.

Senator COBURN. OK. Why is it cut and pasted?

Mr. ADKINS. Well, because when the report was typed, the summary and conclusions basically said the same thing as the background information said. It was cut and pasted from my own words that the claimant—based on information that the claimant had given to me, sir.

Senator COBURN. But this is a medical conclusion. Would you agree with that?

Mr. ADKINS. It is a psychological conclusion. I do not know if it is a medical——

Senator COBURN. Well, that is part of medicine, as far as I am concerned. I think you think so, too, don't you? Psychological aspect is a part of medicine.

Mr. ADKINS. They interlap——

Senator COBURN. I mean, we are all trained to do mental status exams, treat psychiatric diseases.

Mr. ADKINS. They interlap. I think that psychiatry would be more of a medical profession.

Senator COBURN. Do you think it is appropriate as a medical professional to copy a claimant's subjective allegations word for word and pass it off as your own medical conclusions?

Mr. ADKINS. Oh, I see what you are getting at. This summary and conclusions section is—well, basically it is exactly what it says it is. It was a spot for me to summarize if somebody wanted to go and just get a quick lowdown of this report, that they could go straight to this section, and in the course of——

Senator COBURN. So you found no objective findings that were different than the subjective complaints that were given to you by the claimant?

Mr. ADKINS. There is not——

Senator COBURN. Well, let me ask another question. On page 9 of this opinion, you diagnose the claimant with a deteriorating disk in his back and neck.

Mr. ADKINS. OK. Page 9? Yes, that was reported to me by the patient.

Senator COBURN. All right. So your medical conclusion is the patient subjective information. You did not test it, you did not look at a computed tomography (CT scan) or a magnetic resonance imaging (MRI) to say that this is confirmed and, therefore, I am going to put it in the diagnosis. It is all subjective going to an objective conclusion. Is that correct?

Mr. ADKINS. That would be correct, but I think that is pretty much standard operating procedure in my field.

Senator COBURN. All right.

Mr. ADKINS. If a patient comes to me and says, you know, "Dr. Adkins, I"—he is coming to me primarily for psychological issues. If he tells me along the way, "And I have heart conditions," actually at that time I would have included heart conditions or——

Senator COBURN. I understand.

Mr. ADKINS. OK.

Senator COBURN. All right. On this opinion, you found the claimant to have an IQ of 61?

Mr. ADKINS. Mm-hmm.

Senator COBURN. Is that correct?

Mr. ADKINS. Let me take a look. [Pause.]

Full-scale IQ score, 61, yes, sir.

Senator COBURN. OK. And what is average?

Mr. ADKINS. Average IQ would run from like 80 to 120.

Senator COBURN. All right. And so how is it that you also found that this claimant with an IQ of 61, two standard deviations below low normal, had no problem managing his money?

Mr. ADKINS. Well, the intelligence scale, sir, they are based on a lot of——

Senator COBURN. I understand that. Did you ask him any questions about handling money in your interview with him?

Mr. ADKINS. Not in particular, no.

Senator COBURN. So how would you know if he had any problems handling his money if you did not ask?

Mr. ADKINS. Based on his presentation, based on his conversation, based on his IQ scores. An IQ score of 61 does not necessarily indicate that——

Senator COBURN. I did not say that. I asked you, did you ask him any questions specifically relating to your assumption that he could handle money?

Mr. ADKINS. No, sir.

Senator COBURN. And you said no.

Mr. ADKINS. No, sir.

Senator COBURN. On Exhibit 47,[1] now look at page 11 of this same document. Exhibit 47, page 11.

Mr. ADKINS. OK. This is the document that says September 1, 2010, at the top of it?

Senator COBURN. Yes, sir.

[1] See Exhibit No. 47, which appears in the Appendix on page 872.

Mr. ADKINS. OK. That is the one I was looking at earlier when I was confused.

Senator COBURN. The document is a very short signed statement in which you assert, without any explanation, that the claimant's medical conditions and limitations would not be significantly different as of February 15, 2005.

Mr. ADKINS. Yes, sir.

Senator COBURN. So you are asserting that his status is totally unchanged from 2005.

Mr. ADKINS. I did sign to that.

Senator COBURN. Yes. And did you happen to encounter this patient in 2005?

Mr. ADKINS. No, sir.

Senator COBURN. So this was your first interface with this patient?

Mr. ADKINS. The date of the examination is stated as September 1, 2010. That would have been the——

Senator COBURN. All right. Do you have any idea why you would assert that—putting this into a document like this? Were you asked to put this into the document?

Mr. ADKINS. Yes, sir, I——

Senator COBURN. And who asked you to put that into the document?

Mr. ADKINS. Somebody from Eric Conn's office.

Senator COBURN. Do you know who?

Mr. ADKINS. I do not know the particular person, sir.

Senator COBURN. And was that before you saw the patient or after you saw the patient?

Mr. ADKINS. It would have been after I saw the patient.

Senator COBURN. It was after you saw the patient?

Mr. ADKINS. Yes.

Senator COBURN. All right. And you have never seen this patient before, to your knowledge?

Mr. ADKINS. Not to my knowledge.

Senator COBURN. All right. Now turn to page 12 of this same document.

Mr. ADKINS. That would be the RFC form, correct?

Senator COBURN. Yes, sir.

Mr. ADKINS. OK, sir.

Senator COBURN. Did Mr. Conn's firm provide this to you?

Mr. ADKINS. Yes, sir.

Senator COBURN. When the form was provided to you by Mr. Conn's firm, were the X's that appear in the boxes of Sections 1, 2, and 3 already filled out?

Mr. ADKINS. I am going to say that I am quite sure that they were.

Senator COBURN. All right. And then you were asked to sign those?

Mr. ADKINS. Yes.

Senator COBURN. All right. Why did you not fill out the entire form yourself?

Mr. ADKINS. Because I did not know, No. 1, that this was to be completed only by the professional who did this. I had no idea the role that this little form played in the determination process.

Senator COBURN. Do you routinely fill out these forms for other lawyers that you do psychological evaluations for?

Mr. ADKINS. Yes, sir.

Senator COBURN. And do they ever send them to you pre-filled out?

Mr. ADKINS. No, sir.

Senator COBURN. All right. So you did not know that this was part of the evaluation process?

Mr. ADKINS. They look different from each attorney that they came from. Let us see. Mr. Conn here was one, two, three pages long. Some of them were only one page long. It seems like they asked primarily the same questions, but they were in different formats, different layouts, and none of them said anywhere, this is an official U.S. Government form, this is going to be used for this. I did not know at that time that it was used in the actual decision-making process.

Senator COBURN. You were not aware that a medical assessment of ability to do work-related activities would be used in evaluating somebody's disability?

Mr. ADKINS. No, sir, I was not aware of that at that time. I thought they were used in-office, in-house, might be a better way to say.

Senator COBURN. On all the forms we have reviewed that you signed, you checked, "The claimant demonstrated poor reliability." Every one that Mr. Conn sent you demonstrated poor reliability? Every patient that you saw from Mr. Conn demonstrated poor reliability?

Mr. ADKINS. I think that if the patient was diagnosed with a significant mental——

Senator COBURN. Well, you did not fill out the form that said it. You just admitted that you signed the form and you did not fill it out.

Mr. ADKINS. Right.

Senator COBURN. So are the forms right or wrong? Are all these forms right? You did not fill them out. You just signed them. Are they right or wrong?

Mr. ADKINS. There are some that could be better, in retro——

Senator COBURN. Are they right or are they wrong? You did not fill them out, so I am not holding you responsible for filling them out. I am asking: you signed them, but are they right or are they wrong?

Mr. ADKINS. Some of them are right and some of them are wrong.

Senator COBURN. With your signature on them?

Mr. ADKINS. Yes, sir. I cannot give you a broad, sweeping answer.

Senator COBURN. Given that the form was already completed when you received it, you did not go through to see if the forms actually reflected your exam. Is that correct?

Mr. ADKINS. There were——

Senator COBURN. I am talking about these forms.

Mr. ADKINS. These RFC forms.

Senator COBURN. Yes. You did not go through the forms to see if they actually reflected your examination.

Mr. ADKINS. I did go through them. I never saw anything that jumped out at me as something that I would disagree with.

Senator COBURN. So you just told me that some were right and some were wrong, and now you are telling me that not any of them are anything that you would disagree with.

Mr. ADKINS. No. What I am telling you is that I did not know the significance of these forms when I was signing them. If I had known the significance of them, I would have been more diligent in comparing them to my reports.

Senator COBURN. But your testimony is no other lawyer sent you a pre-filled-out form?

Mr. ADKINS. Yes, sir.

Senator COBURN. All right. Given that the form was already completed when you received it—I have covered that.

We have testimony to the Committee that you did not look at the forms at all, that you just signed them and took the check, because they were brought to you when you were paid. Is that correct or not?

Mr. ADKINS. That is not correct.

Senator COBURN. All right. Thank you.

Besides the mental assessment form that we saw in Exhibit 47,[1] the Committee reviewed 31 additional psychological evaluations that you performed for Mr. Conn between July 2007 and 2010. The mental assessment form that you filled out—or signed—you did not fill out—on Exhibit 47 was identical in all 31.

Mr. ADKINS. Yes, sir, I understand that.

Senator COBURN. Do you think there is a problem with that?

Mr. ADKINS. In retrospect, yes.

Senator COBURN. All right. This particular form had 15 questions with 5 answers each. Do you think it is likely that 31 people would end up with a form filled out the exact same way? I am not blaming you for not noticing how they were filled out. I am not trying to go there. I am just saying, do you think it is likely that 31 would end up filled out exactly the same way?

Mr. ADKINS. With this population——

Senator COBURN. Exactly the same way.

Mr. ADKINS. Exactly the same way. With this population, yes, sir, I could see that happening.

Senator COBURN. That 31 out of 31 people sent to you would have exactly the same on 75 different parameters?

Mr. ADKINS. The way the rating is set up, unlimited, good, fair, poor, none——

Senator COBURN. But you did not fill these out.

Mr. ADKINS. True.

Senator COBURN. All right. You have testified to that. Let us go to page 1 of the document on Exhibit 47. This is on a child 8 years old at the time of his assessment in 2007. Do you use a different approach when you examine a child instead of an adult? Is there a difference in your approach?

Mr. ADKINS. The difference in my approach would have been observing the child while he or she was in my office and talking with the mother, getting information from her.

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[1] See Exhibit No. 47, which appears in the Appendix on page 872.

Senator COBURN. All right. You gave a possible diagnosis or a rule-out diagnosis of possible oppositional deficit disorder.

Mr. ADKINS. That is a typo. That should say "oppositional defiant disorder."

Senator COBURN. Yes. Should this child have been tested for this before making this conclusion? Or was your assessment that it was probably likely?

Mr. ADKINS. When I make a rule-out—or when a rule-out diagnosis is made, you are not saying the child has this. You are saying there is a likely—or there is a possibility that the child has it and, possibly more testing, more formalized testing should be done.

Senator COBURN. All right. Would you please turn to page 5, which is the beginning of the medical assessment of ability to do work-related activities, mental form provided to you by Mr. Conn's employees.

Mr. ADKINS. Yes, sir.

Senator COBURN. This is identical to the forms you used and signed for adults?

Mr. ADKINS. Yes, sir.

Senator COBURN. Do you think this form is appropriate for evaluating children?

Mr. ADKINS. Well, do I think it now or did I think it then?

Senator COBURN. Answer both.

Mr. ADKINS. OK. Thank you for letting me. Now, no. You have to understand, like I have told you before, I had no idea of the significance of these forms, what they were used for. OK? Then, I thought nothing of it. I did not think that it was irregular, because I thought that the attorney who would be reviewing the forms—like I said, I thought these were used in-house. I thought that a paralegal or one of Mr. Conn's assistants filled these out and they were just for his use.

Senator COBURN. You did not fill the X's out on this form, right?

Mr. ADKINS. Correct.

Senator COBURN. You did not. Does it strike you as strange that a child 8 years of age would have poor ability to deal with work stresses?

Mr. ADKINS. The reason——

Senator COBURN. Did he have a job?

Mr. ADKINS. No, of course he did not. The reason that I went along with something like this was because, like I said, I thought the attorney was in his office, just strictly him seeing this form, nobody else, and that he would understand, for example, follow work rules—what was the one you just said? Interact with supervisors. I thought it was understood that the attorney would think, well, that means he is talking about teachers as opposed to a work supervisor.

Senator COBURN. Do they have a form for children? Does Social Security evaluate children's mental capacity different than they assess those of adults?

Mr. ADKINS. At that time I probably would not have known.

Senator COBURN. OK.

Mr. ADKINS. I do now, just from reading the report of Mr. Dockham.

Senator COBURN. I will just summarize your testimony and get you to say yes or no, if you would. You did not fill out these forms.

Mr. ADKINS. Correct.

Senator COBURN. On any of the cases.

Mr. ADKINS. I did before——

Senator COBURN. On Mr. Conn's, these cases.

Mr. ADKINS. There was a time that I did fill them out, handwritten.

Senator COBURN. And when did you stop?

Mr. ADKINS. I cannot tell you an exact date. It was after I quit working private practice full-time and made private practice more of a sideline.

Senator COBURN. OK. And you signed the forms really without evaluating them, what was in them.

Mr. ADKINS. Without evaluating the forms?

Senator COBURN. Yes. I know you evaluated the patients.

Mr. ADKINS. The short answer would be yes.

Senator COBURN. All right. And when were these forms presented to you?

Mr. ADKINS. These forms were usually presented to me—after the evaluation was done, one of Mr. Conn's employees would bring these to me, along with the report, and I would sign them after——

Senator COBURN. After your reports were finished?

Mr. ADKINS. Yes, sir.

Senator COBURN. All right. Thank you. I have no other questions.

Chairman CARPER [presiding]. Thank you, Dr. Coburn.

Senator Levin, and then I am going to come to Senator Heitkamp.

Senator LEVIN. I am sorry that I missed the previous questions, but I just want to get one thing clear, although it may have already been asked.

Dr. Adkins, you were given forms, and on these forms you, after an examination, said that the client was disabled mentally. You did your own examination.

Mr. ADKINS. Yes, sir.

Senator LEVIN. But on this form, there was a lot of information that backed up your diagnosis. Is that correct?

Mr. ADKINS. That backed up my diagnosis?

Senator LEVIN. Your conclusion.

Mr. ADKINS. Yes, sir.

Senator LEVIN. There are a bunch of pages here on most of these forms, right?

Mr. ADKINS. There is three, I think, for the average one, or for the ones that I have looked at today.

Senator LEVIN. OK. Three pages that presumably gave support for the conclusion. Is that correct?

Mr. ADKINS. Yes, sir.

Senator LEVIN. Did you ever change any of those three pages?

Mr. ADKINS. Could you elaborate just a little bit?

Senator LEVIN. Well, there are three pages on the average, right?

Mr. ADKINS. Yes, sir.

Senator LEVIN. To support the conclusion.

Mr. ADKINS. OK. Did I ever change——

Senator LEVIN. Yes.

Mr. ADKINS [continuing]. Anything on these three pages?
Senator LEVIN. Right.
Mr. ADKINS. Not that I can remember, sir.
Senator LEVIN. So how many different clients or patients did you look at as you did an evaluation?
Mr. ADKINS. How many different patients?
Senator LEVIN. Yes, from this office, Mr. Conn's office. How many of his clients did you do mental evaluations on? About.
Mr. ADKINS. During that time, the time in question, I think it is 2007 or 2006 to 2011?
Senator LEVIN. Yes.
Mr. ADKINS. I have no idea, sir.
Senator LEVIN. Well, how many hundreds?
Mr. ADKINS. How many hundreds of people did I see?
Senator LEVIN. Yes.
Mr. ADKINS. Let us take a look——
Senator LEVIN. From the Conn office.
Mr. ADKINS. Just for the Conn office?
Senator LEVIN. Yes.
Mr. ADKINS. I think I had figured it out roughly on a—give me just a second, please. [Pause.]
Here we go. On the average, what I have it boiled down to is about two a week.
Senator LEVIN. How many total? You have about 5 years there.
Mr. ADKINS. It would be a hundred and—let's see.
Senator LEVIN. You said five a week for about 250 weeks, so that is about 1,200, something like that?
Mr. ADKINS. No. If you can give me a second, I can do the math on it and give you a rough figure.
Senator LEVIN. OK. We will give you a second to do the math.
Mr. ADKINS. Thank you. [Pause.]
That comes out to 568, sir.
Senator LEVIN. All right. Now, did you ever change anything that was presented to you?
Mr. ADKINS. No, sir.
Senator LEVIN. 558 examinations.
Mr. ADKINS. 568, sir.
Senator LEVIN. I did not mean to short-change you. 568 examinations, you never changed anything on those 568 forms?
Mr. ADKINS. No, sir. Not that I can remember. I cannot remember one time ever changing them. I said I was here today to tell you the truth.
Senator LEVIN. That is an extraordinary acknowledgment. Truthful, but it is an extraordinary acknowledgment if you did not change one word of an analysis that you are depending on for—or you are signing, put it that way, you are signing your name to.
Mr. ADKINS. The reason that that was——
Senator LEVIN. Let me ask a different question. 568, how many did you find were not disabled?
Mr. ADKINS. I do not know. I am sure the vast majority of them I found that they had significant depression issues or anxiety issues or pain issues, what have you.
Senator LEVIN. Well, of the 568 examinations, how many, about? We can check it. Were there 10?

Mr. ADKINS. Probably not even 10.
Senator LEVIN. Were there five?
Mr. ADKINS. Probably not five. Probably zero.
Senator LEVIN. Zero. I have no further questions. I am done.
Chairman CARPER. Thanks, Senator Levin.
Senator Heitkamp, and then Senator McCain.
Senator HEITKAMP. Again, I am sorry I was not here for your testimony, but reviewing these documents, each one of these three-page documents that you signed your name to, you are now saying you did not prepare those documents?
Mr. ADKINS. Correct, ma'am.
Senator HEITKAMP. I am not as familiar with ethical standards for people in your profession, but how does this square with ethical standards in your profession that you would just simply rubber-stamp an analysis that somebody else did without adequately reviewing their current condition?
Mr. ADKINS. At the time that I signed——
Senator HEITKAMP. No. I just want to know, in your professional status, what are the standards of your profession in terms of the ethical obligations that you had here.
Mr. ADKINS. What are the ethical standards? It was a mistake to do it.
Senator HEITKAMP. Was it unethical to do it?
Mr. ADKINS. Looking back on it, knowing now what they were for, yes.
Senator HEITKAMP. Your testimony here, and correct me if I am wrong, is that you were not aware of what these were being used for.
Mr. ADKINS. Correct, ma'am.
Senator HEITKAMP. Do you really think that is something that has credibility here?
Mr. ADKINS. I have to be honest——
Senator HEITKAMP. Is that really a credible claim?
Mr. ADKINS. Yes, ma'am. At the time I did not know that these were going in front of administrative law judges and that decisions were being made based on these forms.
Senator HEITKAMP. What did you think these forms were for?
Mr. ADKINS. I thought these forms were used in-house at the attorney's office. Like I said——
Senator HEITKAMP. But to form the basis for what? Why would the attorney be asking for these? Were you aware——
Mr. ADKINS. I thought the attorney just kind of looked at them and used them as a quick summary, like a——
Senator HEITKAMP. No. Why do you think the attorney would even be concerned about these patients and their current mental or physical capabilities? When an attorney asked you for an evaluation and to sign your name on these documents, what did you think they were going to be used for?
Mr. ADKINS. I thought the report was going to be—the actual four-or five-page report, I thought that was actually going to be put in front of a judge and that that was going to be looked at and read in its entirety. These documents, the RFCs, I thought did not leave the attorney's office. I thought they were used by him——

Senator HEITKAMP. So it was OK to just sign your name on to them without doing the ethical—doing the appropriate investigation, so it was OK as long as they were in the attorney's office, but not OK if they were going to be used in a court of law or an administrative proceeding. Is that what you are saying?

Mr. ADKINS. That is what I thought at that time.

Senator HEITKAMP. Do you still think that?

Mr. ADKINS. Oh, no, ma'am. Not now.

Senator HEITKAMP. This is just—it is hard to believe that you credibly did not believe that these would form the basis for some kind of legal proceeding. If a lawyer asked you to do that kind of—it's kind of hard, isn't it? If you are sitting where I am sitting, wouldn't you think?

Mr. ADKINS. Yes, from outside looking in, yes, ma'am. But I testified earlier at the time I was very young in practice. I did not really—and Mr. Conn's practice was very well known. It was well known in the area.

Senator HEITKAMP. It was well known that he did disability claims, correct?

Mr. ADKINS. Yes, very well known that he was a very successful attorney. So when these were brought to me and folks said, "Oh, yes, hey, do you care to sign these?" it never dawned on me that there was anything less than legitimate about it because of the fact, you know——

Senator HEITKAMP. But yet you are saying here that your ethical standards would have told you not to do this, never mind the legal standards. I can understand and appreciate where that might be sometimes confusing to people who do not deal with the law on a regular basis. But ethically, the training that you received would suggest that you should not just rubber-stamp an evaluation that someone else did.

Mr. ADKINS. At that time it did not seem unethical to me.

Senator HEITKAMP. OK. Thank you. My time is up.

Mr. ADKINS. That is my testimony.

Chairman CARPER. Senator Heitkamp, thanks. Senator McCain.

Senator MCCAIN. Thank you.

Mr. Adkins, I understand that there was a place actually in Mr. Conn's law firm where some of this examination was done. Were you ever there?

Mr. ADKINS. Yes, sir, for a very short time, for maybe 2 months, maybe less than 2 months.

Senator MCCAIN. Months?

Mr. ADKINS. Yes, sir.

Senator MCCAIN. Dr. Ammisetty, were you there?

Dr. AMMISETTY. Never, sir. He requested me to come and do physicals in his office, and I said no because——

Senator MCCAIN. You said no?

Dr. AMMISETTY. I said no. That is my professional pride. So——

Senator MCCAIN. But, Mr. Adkins, you did some of this investigating right there in Mr. Conn's office. That in itself creates an appearance problem. Did he ever—what was your compensation for that?

Mr. ADKINS. Well, the compensation was the standard fee that we discussed a few minutes ago. It was $350, Senator.

Senator MCCAIN. And how long would you examine these people?

Mr. ADKINS. An hour, hour and 15 minutes. Something like that it would take.

Senator MCCAIN. And what was the compensation, standard compensation per patient?

Mr. ADKINS. $350.

Senator MCCAIN. Did you know Judge Daugherty?

Mr. ADKINS. No, sir.

Senator MCCAIN. You did not know him or Judge Andrus?

Mr. ADKINS. No, sir.

Senator MCCAIN. Never appeared before them?

Mr. ADKINS. No, sir.

Senator MCCAIN. Dr. Ammisetty, did you?

Dr. AMMISETTY. That judge I did not know personally, but I told the investigators one time, and while I was doing my paperwork in my office, Ms. Slone asked Jessica—or somebody came, some judge came toward—somebody came from Huntington you want to see. At 9 o'clock they called me, and then I did not go. Around lunchtime, they again—the staff came to me so they took me to their office. The judge and Eric C. Conn and David Hicks, they both at the table, they are eating Chinese food. They introduced me. I was so busy with my practice, I do not want to say no to him, so I went there. The office staff was there, whoever the girl—I still remember, the girl next to me in the—standing, and she was serving the food for the three of them. Then the judge asked me, "Where do you came from?" I told them I came from India. Then his assistant, David Hicks, and judge, they are talking about they love Indian food. A few minutes conversation, and then I said I am leaving, I have a practice. All the time, 10 minutes, the girl was standing there, and then I left. But I do not remember the judge is Daugherty or Judge Gitlow. I do not know, sir. But——

Senator MCCAIN. OK. Dr. Adkins, if you were getting $350 per patient and you spent an hour with each one, you did pretty well for an 8-hour day?

Mr. ADKINS. No. I would not see eight patients a day, sir.

Senator MCCAIN. Well, he was referring as many as 35 per tranche of them, so I do not know who else was doing the examining. How many other doctors do you know were doing these examinations in Mr. Conn's law offices?

Mr. ADKINS. To my understanding, Dr. Huffnagle did.

Senator MCCAIN. All right. Mr. Chairman, I have no additional questions.

Chairman CARPER. Let me change focus just a little bit before we excuse this panel. In your written testimony, I believe that both of you suggested some ways in which the Social Security disability program could operate more effectively with better oversight over the medical evidence that is presented, and I just want each of you to give us your single best idea, your single best recommendation to address this program so that it might be run more effectively with better oversight over the medical evidence that is presented.

Dr. Ammisetty, I am going to ask you to go first. Give us your best idea.

Dr. AMMISETTY. As a physician, I have been here many years, and I do not have any legal-medical problems. In the medical

school, residency fellowship, I spent a lot of time. They never taught about disability evaluation. And all the disability evaluation we learned during the practice. That is where physicians make mistakes. And the physician community and the legal community are completely different. We do not know what is going in the court. We do not know what process they are going on, what the RFC forms.

My impression, my recommendation, the physicians who want to do disability evaluation, they should register in the registry, and they should go through some mandatory continuous medical education, and especially disability. That is what is happening in other branches of Social Security, like a black lung evaluation. I do pulmonary evaluations, and for the last 20 years, I went to West Virginia, Princeton, Miners Association conferences. There we meet the ALJs, law judges, and miners, and the Federal Government employee directors and physician community. They all sit together and discuss what is the legal problem, what is going on, and that brings a lot of input, and where we are going wrong, where we should go. And miners also come and complain what their problems are. That is a big beneficial for whoever is evaluating the Social Security disability.

Chairman CARPER. Dr. Adkins, your best idea.

Mr. ADKINS. It is hard for me to boil it down——

Chairman CARPER. Go ahead and turn your mic on, please.

Mr. ADKINS. My apologies. It is hard to boil it down to one, sir. Can I give two or three?

Chairman CARPER. You can give two, but be fairly brief.

Mr. ADKINS. The first, I think I agree with Dr. Ammisetty, education. Anybody looking back on it, anybody who is going to be performing consultative examinations, I would highly recommend that they be educated regarding the process from beginning to end, and that that education be continued possibly in the form of continuing education (CEs).

The second one would be review by government entities of the forms and documents that are turned in on a regular basis. This went on for 5 years, 2006 to 2011. If I had known early in the process, I certainly would have been glad to have stopped and apologized and said this will not happen anymore.

Chairman CARPER. All right. Dr. Coburn has more questions.

Senator COBURN. I just have one other question for Dr. Adkins. Did at any time the Social Security system, when they asked you to evaluate a patient, send you an RFC form pre-filled out?

Mr. ADKINS. Very rarely.

Senator COBURN. Pre-filled out?

Mr. ADKINS. Oh, I am sorry. No, no. No, sir, not pre-filled out.

Senator COBURN. Did they ever send you one that was pre-filled?

Mr. ADKINS. No, sir.

Senator COBURN. All right. Thank you.

Chairman CARPER. Any more questions from our Senators? [No response.]

OK. Thank you, Governor Manchin, for joining us. And with that, this panel is excused. Thank you for joining us today.

Dr. AMMISETTY. Thank you for giving me the time. Thank you.

Chairman CARPER. You bet. And we are going to take just a very short break, a short intermission, and we will be right back. [Recess.]

I would like now to invite our third panel of witnesses to the witness table for this evening's hearing. I will just briefly introduce each of you.

Eric Conn, attorney and owner of The Conn Law Firm. Mr. Conn, welcome. Thank you for joining us.

Judge David Daugherty, a former administrative law judge with the U.S. Social Security Administration.

And Judge Charlie Andrus, an administrative law judge at the U.S. Social Security Administration, appearing in his personal capacity.

Judge Daugherty, are you in the room? [No response.]

I am told by our staff that Judge Daugherty is believed to have left the room about 2 hours ago and has not returned.

Our practice in investigative hearings is to—— [Pause.]

Before I ask our witnesses to stand and take an oath to testify, I would note that a subpoena has been served, was served to Judge Daugherty, and that it was properly served and we will be in consultation to decide what further steps to take.

With that having been said, I am going to ask our witnesses, Mr. Conn and Judge Andrus, to stand and ask you to raise your right hand. Gentlemen, do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. CONN. I do.

Judge ANDRUS. I do.

Chairman CARPER. Thank you.

Mr. Conn, do you have any opening remarks you would like to give, please?

TESTIMONY OF ERIC C. CONN, ATTORNEY AND OWNER, THE CONN LAW FIRM

Mr. CONN. No, sir, I do not.

Chairman CARPER. All right. Do you have any corrections to the statement of facts laid out in Dr. Coburn's opening statement or to the facts included in the staff report released by the Committee today?

Mr. CONN. Mr. Chairman and Members of the honorable Committee, my lawyer, Abbe Lowell, sent a letter on October 7 explaining the reasons that I am not going to testify today, and pursuant to that letter, I respectfully assert my constitutional right not to testify here today, sir.

Chairman CARPER. Let me just followup with that, Mr. Conn. Is it your intention to assert your Fifth Amendment right in response to any question that might be directed to you by the Committee today?

Mr. CONN. It is, sir.

Chairman CARPER. Well, given the fact that you intend to assert a Fifth Amendment right against self-incrimination to all questions asked of you by this Committee, you are excused.

Mr. CONN. Thank you, sir. [Pause.]

Chairman CARPER. Judge Andrus, you are recognized. Welcome. Please proceed with your statement.

TESTIMONY OF CHARLIE P. ANDRUS,[1] ADMINISTRATIVE LAW JUDGE, U.S. SOCIAL SECURITY ADMINISTRATION (APPEARING IN A PERSONAL CAPACITY)

Judge ANDRUS. Chairman Carper and Ranking Member Coburn, I just wish to state at the outset that I am here in a personal and not official capacity. The views expressed in my testimony are mine, expressed in my personal capacity as a private citizen. In this testimony I do not represent the views of the Social Security Administration or the U.S. Government. I am not acting as an agent or representative of the Social Security Administration or the U.S. Government in this activity. There is no expressed or implied endorsement of my views or activities either by the Social Security Administration or the U.S. Government. And I was asked to make that position clear to you before I testified.

Chairman CARPER. Thank you. Please proceed.

Judge ANDRUS. I have heard a lot of testimony here today about my office, and I would like to start by explaining a little bit how we changed our processes of handling cases.

We, the Social Security Administration, recently adopted an electronic business process to try and create a unified system for handling cases as they came up from the Social Security district offices. Huntington handles appeals from the Huntington, West Virginia, office; Prestonsburg, Kentucky; Pikeville, Kentucky; and Ashland, Kentucky. So most of our work is actually done with Kentucky cases.

There was some discussion about scheduling Mr. Conn's cases and why we did it the way we did. After Mr. Conn's practice grew to the point it took up quite a bit of our dockets, it became hard to schedule. He was a solo practitioner, and so we could only schedule the cases when he was available. And this started to age his cases more than cases assigned to other lawyers, that other lawyers represented people.

So what we decided to do—and I sent this up to my regional office and got permission to do it——

Chairman CARPER. Where is your regional office?

Judge ANDRUS. In Philadelphia, sir.

Chairman CARPER. All right. Thank you.

Judge ANDRUS. And at that time Judge Cristaudo was the regional chief judge. He later became the national chief judge and is still with the agency, I believe, as general counsel in Boston.

Normally what we would do is when we saw that a judge had a case, a docket of cases scheduled, we would bring from a case of what is called "worked-up cases," cases that had been exhibitized, they had been put into proper order, and we would pull the oldest from that list. That list was generated from master docket, pulling the oldest cases. What we found was that by assigning Mr. Conn's cases as they came in, in rotation, to every judge, it evened this out.

[1] The prepared statement of Mr. Andrus appears in the Appendix on page 122.

There was concern expressed to me that Mr. Conn would be available for certain weeks and not available at others, and I felt to remove the possibility of him trying to be available when certain judges were available and not when others, I felt that if we assigned the same amount to everybody and kept them with everybody, then everyone would have about the same number of his cases. And that was approved, and that is what we did.

Now, when we would schedule cases, particularly for our Prestonsburg dockets, we looked at the age of the cases, and in some weeks that I was down in Prestonsburg, Mr. Conn would have 2½, 3 days of cases, which is roughly what his percentage of our cases down there would be. Sometimes I would go the entire week, and he would not have a case down there. And that is as it varies with the age of the other cases. We always tried to do the older cases first.

Now, with regards to the on-the-records, when the Commissioner set forth a series of plans to try and reduce our backlog, one of them was to have judges review cases that were unpulled—in other words, not made ready for hearing, just raw cases that came up, so the pages may not be in order, the exhibits may not be in chronological order—to review those cases and see if there were any that could be done on the record with a view to getting the case to the claimant as soon as we can.

You have heard a lot about pressure, and some of you have talked about the pressure that we are under, and I would ask you to consider this: The administrative law judges are the only ones that see the claimants on a regular basis. We see how they are feeling. We see how this affects them. And for me personally, the major pressure was to try and get that case done so that, whether it is an allowance or a denial, they would get a decision.

So part of the process was on reviewing for on-the-records. This started back when we were still mainly a paper file system, and in conformity with that—I keep forgetting the word—process, I told all of the judges in the office that if any of them felt that they had the time, to go ahead and go to the master docket, the paper case in the master docket that had not been pulled yet, and they could review cases for on-the-record. And Judge Daugherty was the one who did this.

Now, that is how that process started. One of the things that as the hearing office chief administrative law judge is that I carried the same workload as every other judge in the office, and so I had a full docket of my own cases to handle also.

Now, Senator Coburn brought up some things about—and we talked about some things about what has happened. Shortly after the newspaper article was published, I stepped down as the chief judge. So I have no idea or no knowledge of what management had done after that time because I just was not included in that information. But Mr. Conn was one of three or four attorneys that worked with Judge Daugherty getting files to him and getting new evidence put in the files for him to review. I know the Committee and the investigation, which is very thorough, has primarily focused on that, but there were other attorneys who were submitting on-the-record decisions to Judge Daugherty also, besides Mr. Conn.

Now, the details of how Mr. Conn filled out the RFCs and so forth I had no idea existed until I read your report that you graciously furnished me a couple days ago.

As far as the reassigning of cases is concerned, that was discussed. Before we went to the electronic system that we have now of electronic files and electronic case control, we had started with what has been referred to as CPMS, which is essentially an electronic control system for all our files as they move through the office.

CPMS has gone through several iterations, with several changes to it. In the beginning, I could tell that a case file had been assigned or reassigned, but I could not tell by whom. I could tell that cases moved from one section to another, one status to another, but I could not tell who made those changes.

So when it was brought to my attention by Mr. Hall and by Judge Gitlow that Judge Daugherty or someone had moved cases to Judge Daugherty that originally had been assigned to them, I went to Judge Daugherty, and I asked him if he had been reassigning cases, and he said that he had. And I asked him, "Did you know that these were already assigned?" Because that was the program that we had set up, that they would be assigned to us from Mr. Conn and not reassigned. And he said, "Well, I did not know." So I sent out another memo, an e-mail to the office staff. I believe that is one of them in the report.

And I said, "Look, do not reassign these cases." And I emphasized to Judge Daugherty, I said, "This has to be"—"when they are assigned to a judge, that is it." He says, "All right. Fine. I understand."

Quite a bit later, again, Judge Gitlow came to me and I believe Judge Chwalibog came to me and said that they had found more. At this point I went to Judge Daugherty, and I said, "Why did you reassign these to you?" He said, "I did not think they belonged to anybody." And what had happened was, in the latest iteration of CPMS, I believe, they moved where they put that in the file. So he said, "I did not see it." I said, "All right. Fine. We will take care of this. I do not want you to reassign anything. If you have one that you are going to review on the record, go to the supervisor, have the supervisor look at it, and they will reassign it if it is appropriate." He agreed.

And then right before the story in the Wall Street Journal, Judge Gitlow came to me again and said, "No, he is still doing it." And at that time I asked him for a list, looked at it, and I talked to Judge Daugherty, and he said, "Oops. I must have done this."

So those were the steps that I took, reminding everybody not to reassign it, specifically telling Judge Daugherty not to reassign cases.

But the main purpose from——

Chairman CARPER. Judge Andrus, I am going to have to ask you to wrap it up in about 2 minutes so we can begin our questions.

Judge ANDRUS. Oh, OK. The main reason that I wanted to do that was to keep the age of the cases between Eric Conn's very large docket and the cases represented by other individuals pretty much on the same level so that we would not age any cases.

Chairman CARPER. All right. Thank you.

Let me start off by—again, thank you for coming, thank you for testifying. I want to ask you, are you married?

Judge ANDRUS. Yes, sir.

Chairman CARPER. Do you have any children?

Judge ANDRUS. Two.

Chairman CARPER. Do you have any daughters?

Judge ANDRUS. Yes, sir.

Chairman CARPER. OK. I think most of us up here have children, and I think except maybe for me, we have daughters. One of the guiding principles in my life, I suspect in the life of most of the people in this room, is to treat other people the way we would want to be treated.

As I understand it, you were the chief judge.

Judge ANDRUS. Yes, sir.

Chairman CARPER. The person in charge, the leader of this operation in Huntington. And we have listened to the first panel of witnesses talk about the way they were treated for a number of years by those in charge, those in a position to do something about it. And I just want to ask you, how would you feel if your wife or your daughter were treated that way by their employer at their place of work?

Judge ANDRUS. I would feel badly. But, Senator, I——

Chairman CARPER. Would you do anything about it?

Judge ANDRUS. I would find out if there were two sides to the story.

Chairman CARPER. What is their motivation to risk a lot to come here and really to be involved—to agree to cooperate with the Inspector General? What is their motivation?

Judge ANDRUS. On the——

Chairman CARPER. How do you square your behavior with the Golden Rule, treat other people——

Judge ANDRUS. I do not——

Chairman CARPER. How does that square——

Judge ANDRUS. I failed in a very large way on that.

Chairman CARPER. I am sorry?

Judge ANDRUS. I said I failed in a very large way on that. I do not agree with the statements made by Ms. Carver about the retaliation. As I said, I do not know what has been going on since 2011. But before, particularly the information she gave about Ms. Goforth, I would respectfully request that perhaps you get Ms. Goforth's side of that story.

Chairman CARPER. In Delaware, our Social Security disability operation is headquartered in Dover, our State capital, and it is interesting when you look at the number of cases across the country that are approved or not. The number seems to run around 50 percent, maybe a little bit over 50 percent nationwide. In Delaware, we have a couple of judges whose approval of cases is actually below 50 percent, below 40 percent, maybe as low as 30, or even 25 percent. And there has been some training in the past year or so for our administrative law judges to make sure that they are aware of all the factors that they ought to be aware of in making these determinations. I am told that the training that they have gone through might ultimately be used as a model for some other parts of the country.

But I come from a State where it is not uncommon for as few as one out of four cases to be approved. And it boggles my mind when I hear of an administrative law judge who has apparently ignored our subpoena—he was not here. We were mistaken. Someone said they thought they saw him in the audience. Apparently not. But for him to approve over 99 percent of the cases that come before him, over 99 percent, and the lion's share apparently from one lawyer, and I think the person in charge of overseeing this operation where this occurred was you. And what did you do about it?

Judge ANDRUS. Under the Administrative Procedure Act, an administrative law judge has qualified judicial independence. And in the 27 years that I have been an administrative law judge, I can honestly say that no one has ever come to me, either from my agency or even a Member of Congress, either the Senate or the House of Representatives, and asked me to decide a case a certain way. And I think that is an important concept because, as I mentioned to one of your staff, if you were, say, representing a family member and you walked into the room and sat down and a judge walks in and you had found out that someone had told him, "You are allowing too many cases," how would you feel about the hearing you are going to have?

What I have done, and did with Judge Daugherty on one end of the spectrum and another judge that was on the very low end of the spectrum, I said, "Look, I am a manager for Social Security. I am not going to tell you how to decide your cases. But if you look and you see that you are two standard deviations above the norm or below the norm, maybe it is time you take a step back, take a look at what you are doing, and see if you want to change it."

At which point Judge Daugherty turned to me and said, "Chuck, I love you like a brother, but I am going to do this because I think that is what I should do." And that is about as far as I thought I could go as——

Chairman CARPER. Thank you. Let me just interrupt you for a moment. Staff has given me an exhibit—I think it is Exhibit No. 32[1]—and it is called "Message 006." Exhibit 32, page 1 of 9, and can someone help—again, it is Exhibit 32, page 1 of 9. Let me know when you have it, please.

Judge ANDRUS. I will have to redo your book. I am sorry.

Chairman CARPER. Exhibit 32, page 1 of 9.

Judge ANDRUS. From Judge Helsper.

Chairman CARPER. That is correct. And I am looking at—it is an e-mail chain. It looks like it began at the bottom of the page, it seems it began at about 2 p.m. on Thursday, May 19, and it is from Bill Connolly, and the subject is, "Heard about this." And below that, we read, "U.S. disability claim judge has trouble saying no, near perfect approval record, Social Security program strained."

And then above that is an e-mail sent about 2 hours later from William Helsper—it is Judge Helsper? Is that correct?

Judge ANDRUS. Yes, that is correct. In fact, I was the one that replaced Judge Helsper in Huntington, so we knew each other.

Chairman CARPER. And it is an e-mail from him to you, and the subject again is, "Heard about this." And there are only three

[1] See Exhibit No. 32, which appears in the Appendix on page 739.

words in his message to you that says, "Shame on you." "Shame on you," with an exclamation point.

And your response about a minute later, it looks like, to Judge Helsper is, "What can I say? Judicial independence."

Judge ANDRUS. Yes, sir.

Chairman CARPER. For a person, for a judge that operates, serves not for you but you are this person's leader, and for you to say, in response to Judge Helsper's "Shame on you," for you to say, "What can I say? Judicial independence," I can see where judicial independence is important. I think we will all agree on that. But not when the numbers are like this. 99.5 percent of the cases that come before that judge, who is not here, to have been approved, many for the same lawyer, and for you to say, "What can I say? Judicial independence," very disappointing. Very disappointing.

Judge, let me turn to Dr. Coburn.

Senator COBURN. Mr. Chairman, I am flabbergasted at what we have heard.

I am not a lawyer, Judge, so my deference is to you and the fact that you are one. Multiple times you were notified that Judge Daugherty was taking cases. You did nothing about it. You did nothing. You did not stop it. It continued. You abdicated your responsibility as chief judge.

I am sitting here thinking, you expect us to believe that judicial independence is the reason that Judge Daugherty had a 99.7 percent approval rate? Is that judicial independence or is it fraud? And if you really think it was judicial independence—I mean, do you really think it was judicial independence? Is that your belief right now?

Judge ANDRUS. My belief right now is that there is very little that management in this agency can do about a judge's decision to allow or deny a claim.

Senator COBURN. Well, that is a great point, and that is one of the reasons we are having this hearing, because if you are telling us, you are helpless. Obviously Judge Helsper did not think he would have been helpless with that, or he would have never sent you that e-mail. And what your testimony basically is, is you were helpless to fix the system. You allowed it to run uncontrolled. You had great chances to stop this, and you did not.

I do not know your motivations. I cannot question them. But the fact is the facts are the facts. And what we have heard here today shows somebody was not minding the store.

I would like for you to go, if you would, to Exhibit 10,[1] if you can find that.

Judge ANDRUS. Yes, sir.

Senator COBURN. And this is from a rating, Steve—I guess it is Slahta.

Judge ANDRUS. Slahta, yes.

Senator COBURN. Slahta. And basically about changing case scheduling in Prestonsburg. And in the memo, you stated that you suspect Eric Conn was forum shopping. What do you mean by that?

Judge ANDRUS. When I mentioned before that he seemed to be available some weeks and not available others, at that time the

[1] See Exhibit No. 10, which appears in the Appendix on page 445.

Huntington judges were on a pretty standard schedule. We would do 1 week of hearings in Huntington, spend a week in the office, and it was always the same week. So he knew when Judge Daugherty was going to be in Prestonsburg. So when a scheduling clerk would call up and say, "I need to schedule cases for such-and-such a week," he might not be available.

Senator COBURN. You would agree we have already gotten testimony that Eric Conn was forum shopping just by the testimony that has been here today. You would agree with that, right?

Judge ANDRUS. Yes, sir.

Senator COBURN. That is a matter of fact now before this Committee.

Judge ANDRUS. Yes, sir.

Senator COBURN. There is no doubt in your mind?

Judge ANDRUS. No, sir.

Senator COBURN. All right. You developed two tracks of cases, and you set one up for his, and then you set one up for the other. And we heard what you said in your opening statement. The fact is, that was totally against agency policy, was it not?

Judge ANDRUS. I believe that is why I asked for the deviation.

Senator COBURN. Yes, but it was against policy, right?

Judge ANDRUS. Right.

Senator COBURN. And so is there any culpability on your part from what we have seen come about from what has happened in this office?

Judge ANDRUS. I do not understand.

Senator COBURN. You set up the system that allowed this to occur. I mean, you knew he was forum shopping.

Judge ANDRUS. Right.

Senator COBURN. And you ignored it once it really started happening big. I mean, once he started moving cases to his own—and how did he know those cases were in there? I mean, we have developed that fact, that the only way he could have known is that he was told by Mr. Conn the names and the Social Security numbers. That is the only way he could have gone into your system and rearranged and assigned those cases to himself. He did not know they were in there because they had not been filed and brought up to date so that you would see them on a list.

Judge ANDRUS. I believe there is a report that is sent up from the district office when they transferred an electronic case to us.

Senator COBURN. And does that go to the judges?

Judge ANDRUS. No, it does not.

Senator COBURN. No, it does not. So the only way he could have known is have the names and Social Security numbers—we have numerous e-mails to you about this problem. Nothing happened. I am just asking, Why didn't something happen? I mean, you ultimately as the chief judge were responsible for this. I am just saying, sitting back, listening to what you have had to say—you know, I am obviously not a very good attorney. I am a pretty good doctor. But I do not think it passes the smell test, your answers, in terms of how this happened and how it came about. That is opinion and that is not fact, and I am sorry to bore you with that.

My staff asked you, in early interviews, if you knew anything about trying to videotape Sarah Carver.

Judge ANDRUS. Yes, sir.

Senator COBURN. And you denied knowledge of that to my staff, did you not?

Judge ANDRUS. I said I could not recall.

Senator COBURN. OK, you could not recall. It would seem to me if you are going to videotape somebody, you would have trouble not recalling that. But after the fact, you, in fact, signed a statement saying, in fact, it did happen. Is that correct?

Judge ANDRUS. That is correct.

Senator COBURN. And you were involved in it.

Judge ANDRUS. Yes.

Senator COBURN. You do recall that.

Judge ANDRUS. Yes.

Senator COBURN. And what was the purpose for that videotaping?

Judge ANDRUS. To see if Ms. Carver was abusing Flexi-Place.

Senator COBURN. And did you have any reason to believe that she was? And is it abnormal for a chief judge to go after somebody that works under them in that regard? When Judge Daugherty abused his time all the time, nobody could ever find him in his office? What was the reason for that?

Judge ANDRUS. There are some things that are not public record that I cannot talk about in a public hearing, which is why I suggested you may want to talk with Ms. Goforth.

Senator COBURN. Well, we are going to—Social Security would have been here had it not been for legal wrangling, and they will be here, and so we will get to that.

As a judge, an administrative law judge in the United States of America, was your action proper in any way, shape, or form in terms of trying to work with the lawyer who has nothing to do with Sarah, and actually what I would say is a conspiracy between you and Mr. Conn, was there anything proper about that?

Judge ANDRUS. Not at all.

Senator COBURN. Was it ethical?

Judge ANDRUS. No.

Senator COBURN. OK. So when you tell us that you disagree with some of Ms. Carver's assertions as to the office, especially in terms of Ms. Goforth, is that based on fact or is that based on opinion?

Judge ANDRUS. That is based on discussions Ms. Goforth had with me when I was the chief judge, and she was Ms. Carver's supervisor.

Senator COBURN. And you have heard the testimony here today about perceived, if not actual, retributions against Ms. Carver?

Judge ANDRUS. Yes.

Senator COBURN. All right. And you discount those?

Judge ANDRUS. Since when I was no longer the hearing office chief judge, I do not know what the current management is doing. I was a line judge. They did not discuss it. They could not discuss it. So I do not know what the basis was for their actions.

Senator COBURN. All right. Thank you.

I want to jump back to where we were just a moment ago. A number of people in the Philadelphia regional office disagreed with your proposal when you tried to change. That is why you sought an exemption for it, back to what we were talking about before. If

you would turn to Exhibit 11,[1] page 3, at the top of that page, this e-mail states, "Your whole proposal seems to be an attempt to accommodate Mr. Conn." That is in the e-mail.

Judge ANDRUS. I am trying to find that.

Senator COBURN. It is page 3, Exhibit 11.

Judge ANDRUS. Yes, I see that.

Senator COBURN. Isn't that the case?

Judge ANDRUS. No, sir. The purpose of trying to do that was not to accommodate Mr. Conn, but was to try and make sure that he did not try and get a disproportionate number of his cases before Judge Daugherty and, say, not one of the other judges who had a lower allowance rate, and to make sure that we had the ability to schedule his cases so that they would not age more than cases that were represented by other representatives.

Senator COBURN. Wasn't it the case that Mr. Conn routinely, if he got in front of a judge or had cases assigned in front of a judge, that he would try to reschedule cases so that he could get a different judge?

Judge ANDRUS. I do not know about anyone else, but he did not do that with me.

Senator COBURN. No, but wasn't—I think our testimony that we took in our investigation showed that he tried that technique several times so that he could change what judge he was presenting in front of. Are you not aware of that?

Judge ANDRUS. I am aware that he would dismiss cases and refile them.

Senator COBURN. Yes.

Judge ANDRUS. Is that what you are speaking about, Senator?

Senator COBURN. Yes.

Judge ANDRUS. Yes, I am aware of that.

Senator COBURN. Yes. So he would dismiss cases in front of a judge that he did not think would give him a favorable outcome so that those cases could then be before Judge Daugherty.

Judge ANDRUS. Actually, those cases were supposed to have been reassigned to the same judge.

Senator COBURN. Did Mr. Conn ever withdraw a case before you during a hearing?

Judge ANDRUS. During a hearing?

Senator COBURN. Yes.

Judge ANDRUS. I believe he has.

Senator COBURN. All right. Do you remember the numbers?

Judge ANDRUS. I could estimate for you. Maybe two or three in a docket of 3 or 4 days.

Senator COBURN. All right. I will enter into the record the number of Conn withdrawals before Judge Andrus. It totals in 2005, 25; in 2006, 52; in 2007, 75; in 2008, 68; in 2009, 58; in 2010, 69; in 2011, 34. I ask unanimous consent that be made part of the record, and since Tom is not here, any objection? Thank you.

So there were a significant number of cases——

Judge ANDRUS. Yes.

Senator COBURN [continuing]. Withdrawn in front of you?

Judge ANDRUS. Yes, sir.

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[1] See Exhibit No. 11, which appears in the Appendix on page 447.

Senator COBURN. Not one or two, not three or four, but hundreds.

Judge ANDRUS. I said one or two per docket.

Senator COBURN. Per docket, and how many dockets would you typically have that Mr. Conn would be in?

Judge ANDRUS. At least once a month down in Prestonsburg, and he also had some cases in Huntington.

Senator COBURN. So maybe 18 times a year.

Judge ANDRUS. At least.

Senator COBURN. Yes, so at least sometimes as many as six——

Judge ANDRUS. On a docket.

Senator COBURN. Yes, requested dismissals that were on the docket. Is that not a waste of your time?

Judge ANDRUS. Yes and no.

Senator COBURN. All right. I am going to get to my point. Can you tell this Committee that you honestly believe that you had no inclination that there was anything nefarious going on with Judge Daugherty and Eric Conn? You had no suspicion that there was anything going on in this process where Conn would, on the record, do multiple on-the-record decisions, would rotate decisions out of the registry and put them on his own docket, Eric Conn's, take cases from other judges that were Eric Conn's and reassign them to himself, and you at no time had any suspicion that this was anything other than judicial independence?

Judge ANDRUS. No, sir, I am not saying that.

Senator COBURN. All right. So my next question is: If you are not saying that, you had to have had some suspicion that things were not going in an ethical manner in relationship to Mr. Conn and Judge Daugherty because you suspected Conn of forum shopping?

Judge ANDRUS. Yes, sir.

Senator COBURN. So do you regret now not interceding in that? I mean, there is no question administrative law judges have independence, but they do not have independence to totally flout the rules and violate the law. You would agree with that?

Judge ANDRUS. Yes, sir.

Senator COBURN. Do you think you failed as chief judge in managing Judge Daugherty?

Judge ANDRUS. I thought I had done what I was able to do as far as that is concerned. I told Judge Daugherty not to reassign the cases.

Senator COBURN. But he did anyway.

Judge ANDRUS. He did anyway.

Senator COBURN. Regardless of what you told him.

Judge ANDRUS. That is correct.

Senator COBURN. So you had no administrative capabilities that you could have used outside what you used to change that situation? A totally defiant judge going directly against your order of reassigning cases, moving cases, taking cases away from other judges who had previously decided and then take them himself, changing the onset dates——

Judge ANDRUS. Changing the onset dates——

Senator COBURN. Well, he did—when he would get the case reassigned, then he would send the information, and the cases would

go back to the date at which first denial or change the dates, he would actually manipulate the system.

Judge ANDRUS. The claimant would change the onset, yes.

Senator COBURN. Yes, at the request of Judge Daugherty, as we have heard here today.

Judge ANDRUS. Yes.

Senator COBURN. All right. So did you at any time take anything of value whatsoever from Mr. Conn, his employees, or his associates?

Judge ANDRUS. He gave me some digital video discs (DVDs) that had been movies that had been burned into recordable DVDs. Mr. Conn also on occasion brought sandwiches to the office, to the hearing office.

Senator COBURN. All right. And that is the extent of any interaction of value.

Judge ANDRUS. And the DVDs were of minimal value and well within the ethics standards as far as accepting gifts, and the——

Senator COBURN. Yes. Did——

Judge ANDRUS. Excuse me, Senator. I do not mean to interrupt you.

Senator COBURN. No, that is OK. I did not let you finish.

Judge ANDRUS. And the food is also—if we do get gifts of food from attorneys, which the office sometimes does, we make that available to the entire office or provide it to some food bank.

Senator COBURN. Yes. Well, you are not the only profession with problems with that. I was a doctor and would not allow the drug companies to bring in anything for my employees because I did not want to be seen as being complicit or bought.

I have gone way past my time. I will pass it off to Senator Levin.

Senator LEVIN. Judge, the report that we released today describes a number of instances in which Judge Daugherty's improper practice of assigning Conn cases to himself and taking Conn cases from other judges and assigning them to himself was reported to you as chief judge. This issue was brought to your attention by Judge Kemper in 2005 and again in 2006. In 2007, 2 years after it was first brought to your attention, another judge, Judge Gitlow, alerted you to the fact that Judge Daugherty was assigning cases to himself, and Judge Gitlow brought the matter to your attention again in 2009 and 2011. Ms. Carver and Ms. Griffith also reported this behavior directly to you as well.

Now, are you saying as chief judge that you had no power to discipline Judge Daugherty?

Judge ANDRUS. A hearing office chief judge has no power to discipline an administrative law judge at all.

Senator LEVIN. Do you have power to recommend?

Judge ANDRUS. Yes, I do.

Senator LEVIN. Did you?

Judge ANDRUS. On that, no, I did not send that up to the regional office.

Senator LEVIN. How many of these cases did he actually withdraw from you?

Judge ANDRUS. None that I know of.

Senator LEVIN. So he never took a case from you?

Judge ANDRUS. Right.

Senator LEVIN. But you knew that all these other judges—there were how many ALJs there?

Judge ANDRUS. It varied between five and eight others.

Senator LEVIN. And so you get complaint after complaint after complaint. You knew they were true. You told him he had to stop it—how many times? At least three times you told him. He did not stop it. In fact, all he said, I guess, was, "Oops."

Judge ANDRUS. That was the last one, yes, sir.

Senator LEVIN. Yes. "Oops."

Judge ANDRUS. Now, the last time——

Senator LEVIN. And the guy is doing forum shopping, and you are suspicious of it, and you have all these complaints from your colleagues, 2005, 2006, 2007, 2009, 2011, from your own staff, and you are sitting here and saying, well, gee whiz, you did not have power to do anything about it. But you did have power to make a recommendation, and you did not do that.

Judge ANDRUS. I did in 2011, Senator.

Senator LEVIN. After it hit the paper.

Judge ANDRUS. Before it hit the paper.

Senator LEVIN. Just before it hit the paper.

Judge ANDRUS. Right.

Senator LEVIN. You knew there was something going on by then.

Judge ANDRUS. I cannot recall that.

Senator LEVIN. I think your staff recalls it.

So 2011, when something is just about ready to pop, now you decide you are going to take some kind of action. I find this incredible. And your invocation of the term "judicial independence" I find to be, frankly, despicable. Judge, I am looking you right in the eye. I have judges in my family. I know what judicial independence is. You cannot say that somebody who is engaged, as this lawyer was, 99.9 percent of his cases, one way, after stealing cases from other dockets and you knew about it, and then you invoke—or you did invoke as an excuse judicial independence. As a lawyer and as a nephew of a Federal judge and as a cousin of another Federal judge, I find your invocation of judicial independence to be something which, frankly, you ought to be ashamed of as a lawyer. It has nothing to do with judicial independence. It has to do with whether or not you have abdicated your role as a chief judge in that area, that region, to do something about an intolerable situation. That is what it is about, an abdication on your part. And it cannot have any other name from my view.

E-mails. You sent out e-mails, this behavior cannot be allowed. But you did not stop the practice, nor did you bring into your administrative agencies in your region somebody who could do something about it.

And here is what you did, instead of acting to stamp out this activity, these misdeeds that are going on under your nose: In 2001, Greg Hall, your office supervisor, sent you a memo—this is Exhibit 55,[1] Judge, if you want to look at it. Your office supervisor sent you a memo noting that Judge Daugherty had missed three scheduled hearings. If you would take a look at Exhibit 55. [Pause.]

Judge ANDRUS. Yes, sir.

[1] See Exhibit No. 55, which appears in the Appendix on page 1180.

Senator LEVIN. This is May 10, 2001. He missed three hearings, yet he later took credit for having worked those hours.

Then in 2002, you are alerted by Judge Kemper that Judge Daugherty appeared to be signing in each morning and then immediately leaving the office for hours at a time. That is the next exhibit there, Exhibit 56.[1] So here is what Judge Kemper tells you: "When I signed in today, I noticed that Judge Showalter had signed in at 7:15, and directly under her name was Judge Daugherty's initials, reportedly showing that he had signed in at the same time. When I drove by the Third Avenue entrance at 7:35, I noticed Daugherty's car was parked in the handicapped spot, and after parking my car and coming to the front entrance, I noticed that his car was gone. I spoke to Judge Showalter about this, and she assured me that he was nowhere in sight when she signed in at 7:15. At exactly 8:10, Showalter went downstairs and informed me that his car was still gone. This is the usual procedure he follows every day. When Judge Paris is here, he usually signs in at 6:30, and if no one signs in earlier than about 7:15, Daugherty will sign in directly below Judge Paris' name at the same time of 6:30. And if you will speak to Judge Paris, I am sure he will tell you that he never sees Daugherty when he comes in."

So Daugherty is coming in at the same time as these two judges, but they never see him.

Now, he goes on: "One of us will be sending you periodic e-mails to show you this pattern of cheating"—cheating—"on time and attendance, which, by the way, Judges Gitlow, Chwalibog, and I have consistently informed you about through the years."

Is that true? Have they consistently informed you about that cheating pattern?

Judge ANDRUS. Yes.

Senator LEVIN. Can you do something about cheating? Is that judicial independence?

Judge ANDRUS. Me?

Senator LEVIN. No. Can you get somebody there to do something about cheating? This is 2002.

Judge ANDRUS. That is what I sent up to the regional chief judge.

Senator LEVIN. That he is cheating?

Judge ANDRUS. Yes.

Senator LEVIN. And the chief judge?

Judge ANDRUS. Judge Cristaudo.

Senator LEVIN. And did what?

Judge ANDRUS. I believe on that incident he talked to the people in central office, the national chief judge, and nothing was done.

Senator LEVIN. And what did they do?

Judge ANDRUS. Nothing.

Senator LEVIN. What did you hear? Did you get a reply?

Judge ANDRUS. No.

Senator LEVIN. So you wrote the chief judge——

Judge ANDRUS. I wrote my regional chief judge.

Senator LEVIN. The regional chief judge, who is still there.

Judge ANDRUS. Well, he is still in the agency. He is not——

[1] See Exhibit No. 56, which appears in the Appendix on page 1181.

Senator LEVIN. Yes, and he did nothing after being informed that your colleague, it was said by a number of your other colleagues, Judge Daugherty was said to be cheating on his time, and you never heard back.

Judge ANDRUS. Not anything specific.

Senator LEVIN. How about something general?

Judge ANDRUS. When I spoke with Judge Cristaudo, he said he had forwarded it to the national chief judge, and that is the last I——

Senator LEVIN. The last you heard of it, and you never followed up to say, "Hey, guys, I never heard back. What is going on?"

Judge ANDRUS. That is correct.

Senator LEVIN. OK. So you never followed up.

Judge ANDRUS. No.

Senator LEVIN. All right. Now, in 2002, Exhibit 59,[1] if you would take a look at that, says—this is from Frank Cristaudo.

Judge ANDRUS. Right.

Senator LEVIN. That is the same Judge Cristaudo?

Judge ANDRUS. Yes.

Senator LEVIN. You said you never heard from him. So here is Exhibit 59, 11/8/2002. "Charlie"—that is you, right?

Judge ANDRUS. Yes, sir.

Senator LEVIN. ". . . you have often mentioned that Judge Daugherty fails to comply with time and attendance rules. We ask you to monitor his compliance with the time and attendance rules and to deal with any failures to comply. Please let me know the status of his compliance with the time and attendance rules. Only by actually documenting incidents of unapproved absences will there be any opportunity to take action for such abuse. Therefore, I am asking you to monitor the time sheet and whereabouts of Judge Daugherty. If he cannot be located in his private office or elsewhere in the office environment, you should leave a note in his office asking him to see you as soon as he returns. You, of course, should keep detailed notes to document periods of absence and times you left notes for him."

This is a pretty specific response, isn't it?

Judge ANDRUS. Yes, sir.

Senator LEVIN. Did you do that?

Judge ANDRUS. Yes, sir.

Senator LEVIN. So you took all these notes and kept track of Judge Daugherty when he was not there and followed his patterns of cheating.

Judge ANDRUS. When——

Senator LEVIN. And then you sent these notes, did you, to Judge Cristaudo?

Judge ANDRUS. What I did was, when he would come—when I could not find him, I left the note.

Senator LEVIN. Left a note?

Judge ANDRUS. In his office.

Senator LEVIN. And then you kept track of all the times? Did you then tell Judge Cristaudo?

Judge ANDRUS. Right.

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[1] See Exhibit No. 59, which appears in the Appendix on page 1190.

Senator LEVIN. And you sent him all this information, "Hey, I have done what you told me to do," and——

Judge ANDRUS. No. Judge Daugherty came to me and explained where he was. He would either fill in, give me a leave slip to account for the time—we are talking, Senator, 11 years ago.

Senator LEVIN. So you are saying he did not persist with the abuse of time?

Judge ANDRUS. There were times that he would leave and not indicate it on the sign-out sheet, and I would bring that to his attention, and the time sign-out sheet would be corrected and/or he would give me a leave slip.

Senator LEVIN. And did he also sign in when he actually was not there? Did that pattern continue that he was putting his initials underneath some judges' time for showing up but really was not there? Did that continue?

Judge ANDRUS. Not that I was able to see.

Senator LEVIN. You were just told by, you said, your chief judge you were supposed to keep track of it.

Judge ANDRUS. Right. I do not get in at the same time he does.

Senator LEVIN. But you could check with all the judges who came at a time that they signed in, and then if Daugherty was not there, you could ask them did this pattern continue. You could have done that.

Judge ANDRUS. Yes, sir.

Senator LEVIN. But you did not.

Judge ANDRUS. No, sir.

Senator LEVIN. But your chief judge, who you said never even responded to your e-mail, who did respond to your e-mail——

Judge ANDRUS. That response was on a different incident.

Senator LEVIN. This is not an incident. You say—according to Cristaudo, you have often mentioned that Judge Daugherty fails to comply with time and attendance . . ." It was more than one incident. And then they ask you, they directed you what to do. "First time he is absent without approved leave, give him a leave slip and caution him further time and attendance will lead you to AWOL assessments and disciplinary action. It is very important you document each instance with notes and copies of leave slips as well as a summary of each incident and the discussion with him. If he persists with abuse of the time and attendance rules, with the record you will have created, we will seek disciplinary action against him."

Well, did you?

Judge ANDRUS. No.

Senator LEVIN. And then take a look at Exhibit 59.

Judge ANDRUS. I thought that is what we were on.

Senator LEVIN. I am sorry. Exhibit 61.[1] Now it is 3 years later. This is Frank Cristaudo to—who is Valerie Loughran?

Judge ANDRUS. She was the regional management officer.

Senator LEVIN. "Subject: Judge Kemper and complaints about leave abuse by Judge Daugherty."

[1] See Exhibit No. 61, which appears in the Appendix on page 1194.

"Thanks, Val. I agree something needs to be done. I have directed Judge Andrus on several occasions to take care of this. He is either unwilling or unable to handle the situation."

Boy, that is an understatement.

There has been some discussion—I am way over my time.

Chairman CARPER. That is OK.

Senator LEVIN. There has been some discussion today, Judge, about a plan by you and Mr. Conn to discredit a whistleblower, Ms. Carver, who we heard from earlier today, with the goal of having Ms. Carver disciplined or fired. And as part of this plan, you mentioned to Mr. Conn that Ms. Carver was probably not actually working on the days she worked from home. You mentioned it. You brought it up. Is that true?

Judge ANDRUS. Yes.

Senator LEVIN. Now, why did you bring that up? This is a woman who works for you.

Judge ANDRUS. Yes, sir.

Senator LEVIN. So now you are telling Mr. Conn that she probably is not actually working the days that she worked from home. In other words, she is allowed to work from home on certain days. But you told Conn that she probably was not actually working on those days. Why did you do that? Try again. You have had a couple seconds here now to think about why you would do that.

Judge ANDRUS. Senator, that came up in a conversation, and, quite frankly, I do not recall the specific reason that I had said that. We were discussing how Ms. Carver always seems to be wanting everyone else to follow all the rules, but——

Senator LEVIN. You were just talking about Ms. Carver, just talking to Conn about your staffer, she does not seem to be following all the rules, it just comes out of the blue.

Judge ANDRUS. But we were talking about the Wall Street Journal article and that she had met—or he had related to me, I believe, that she had met with some people and the reporter.

Senator LEVIN. Some other people who also had blown the whistle, right? Grover Arnett, Judge Kemper, along with her. Is that right?

Judge ANDRUS. I believe that is correct.

Senator LEVIN. And they met with the Wall Street Journal reporter about Judge Daugherty. And so, then you told the IG that he was not happy with Sarah Carver. Who was not happy with Sarah Carver?

Judge ANDRUS. Mr. Conn.

Senator LEVIN. Mr. Conn. So now Mr. Conn was not happy about your employee, so you say, "Hey, she is supposed to be working at home on these special days where she is allowed to work at home," and he said, "Difficult to prove that. The only way she could be disciplined is if there was a video sent to her supervisor." So Eric Conn said he would be willing to hire a private investigator to check. Is that right?

Judge ANDRUS. That is correct.

Senator LEVIN. And then you say you told him, "That sounds like an idea." And then Eric Conn gave you a note. Is that correct?

Judge ANDRUS. That is correct.

Senator LEVIN. For Sarah Nease. Does she work for you?

Judge ANDRUS. Sandy.

Senator LEVIN. I am sorry. Sandra Nease. Does she work for you?

Judge ANDRUS. Well, at that time I was not the chief judge, so it was—working for me was——

Senator LEVIN. Well, but he gave you the note.

Judge ANDRUS. Yes.

Senator LEVIN. And so that note was for you to give to Sandra Nease. Is that correct?

Judge ANDRUS. Yes.

Senator LEVIN. And you did it.

Judge ANDRUS. Yes.

Senator LEVIN. And that note had a cell number of a contact in Eric Conn's office, and you gave it to Sandra Nease, right?

Judge ANDRUS. Yes.

Senator LEVIN. And she said that she would call the person when she knew that Sarah Carver was on Flexi-Place; in other words, when she was supposed to be working at home. Right?

Judge ANDRUS. Yes.

Senator LEVIN. How do you justify——

Judge ANDRUS. I do not. It was a very stupid and wrong thing to do.

Senator LEVIN. I have more questions, but I will yield.

Chairman CARPER. I want to understand, if I can, how agencies—in this case, the agency in Huntington—could be rewarded or its employees rewarded for meeting or exceeding their goals. If Senator Levin here or Dr. Coburn or any of our other colleagues authored and passed 10 times more pieces of legislation, even good pieces of legislation, they do not get paid any more money, and their staff probably does not either.

My understanding is that when the Huntington operation—and, frankly, others like it around the country—were struggling to overcome a backlog, the word went out, "Move these cases," and one of the people who is pretty good apparently at moving cases is Judge Daugherty. And I am wondering if, how, reducing the backlog, moving a lot of cases quickly, did that make anyone in the Huntington office eligible for some kind of cash bonus? My understanding is that the judges are not eligible.

Judge ANDRUS. Judges cannot get any kind of cash award.

Chairman CARPER. But just explain to us how the system works. I just want to understand the financial incentives that might flow from this.

Judge ANDRUS. There are two contracts with the National Treasury Employee Union (NTEU), which covers the attorneys in the office. There is a contract with AFGE that covers the non-attorney staff. And then there is also a procedure for management employees, which does not include the HOCALJ, because as an administrative law judge, I can get no performance awards.

The awards for AFGE changed about 2006, I believe, when they had a new contract, and that depended on a performance rating that went from pass-fail to a numerical rating, and that was given by the group supervisors, the first-line supervisors.

The performance awards for the management team, which are the group supervisors and the hearing office director, were all handled through the regional chief judge's office.

Now, the office, I believe, 2 or 3 years in a row got a Deputy Commissioner's Team Award from Deputy Commissioner Sklar. I believe that was one of them. Maybe his predecessor. I am not sure.

Chairman CARPER. And what would trigger that performance award or that recognition?

Judge ANDRUS. The Deputy Commissioner's citation?

Chairman CARPER. That sounds like a big deal.

Judge ANDRUS. It is a plaque and a coffee mug or a plaque and a little star. That is given through the Deputy Commissioner's office. My office does not have anything to do with that.

Chairman CARPER. I understand. But give us some idea to whom the performance award—a monetary performance award might be paid, just give us some idea. Is it a couple hundred dollars? Is it——

Judge ANDRUS. Something along that, $200 to $500. I believe the exact amounts—I noticed seeing it in the report that I reviewed, and I do not remember the exact amounts. But those are, as I said, awarded by the regional chief judge's office, and I do make recommendations to them on that. As the chief judge, I made recommendations to them.

Chairman CARPER. Recommendations as to who would receive——

Judge ANDRUS. Yes.

Chairman CARPER [continuing]. The monetary performance award?

Judge ANDRUS. Just who would receive it, not how much.

Chairman CARPER. And who decides how much?

Judge ANDRUS. I believe it is either the regional management officer or the regional chief judge. I am not sure who up there made the final decision.

Chairman CARPER. So it could be a couple hundred dollars, it could be a couple thousand dollars in some cases?

Judge ANDRUS. I do not think it would be a thousand. I may be wrong, but as I said, I remember seeing something referenced to that in your report.

Chairman CARPER. OK. I am not a lawyer. I am not even a doctor like Dr. Coburn here. But I have always been interested in how financial incentives motivate behavior, and some of my friends who are lawyers, who go off to work in law firms, sometimes after serving in the Congress, go off and they become rainmakers. They go to work for these law firms, and not that they are going to go into the courtroom and be a trial lawyer, but they know folks and they are able to bring in business.

Was Judge Daugherty something of a rainmaker for the Huntington office?

Judge ANDRUS. I see your analogy. Let me try and—if Judge——

Chairman CARPER. Let me just ask, is there something to say that, but for his performance moving all these cases, more than twice the national average, even though they are at 99.5 percent in one direction, but for that, moving that many cases that fast, is

it likely that the Huntington office would not have received the kind of recognition that it did?

Judge ANDRUS. If Judge Daugherty had only done the 500 cases a year that they have asked a judge to do, except for 2 or 3 years, the Huntington office would have met all of its performance goals. So during one point of time, it was necessary that those cases get out so that the goals would be met. Most of the other times, if he had just done the normal amount that any of us did, we still would have reached our performance goals.

Chairman CARPER. But those 2 or 3 years when his throughput made a difference, did that trigger, directly or indirectly, the performance awards?

Judge ANDRUS. The monetary wards?

Chairman CARPER. Yes.

Judge ANDRUS. I do not believe so.

Chairman CARPER. OK. All right. Senator Levin, I am going to in a few minutes just turn this over to you.

Senator LEVIN. I am almost done.

Chairman CARPER. OK. Go ahead, please.

Senator LEVIN. I just wanted to see if I heard the answer to the Chairman's last question. Did the ALJs get monetary awards?

Judge ANDRUS. No, never.

Senator LEVIN. OK. Now, going back to this action that was taken against Ms. Carver, did Judge Daugherty know what you were doing?

Judge ANDRUS. I believe Judge Daugherty did not. I think he was out of the office. He had left. I believe he had retired.

Senator LEVIN. OK. When both staffs interviewed you, both PSI staffs, I guess, and now maybe our Chairman's staff. It is a little bit intermixed. But in any event, when the staffs talked to you, you said that there was no plan to have Ms. Carver followed, and yet that was within a month or two after the decision was made to follow her. Was it not? You talked to our staffs in June 2012.

Judge ANDRUS. Yes.

Senator LEVIN. When did you suggest that she be videotaped? Wasn't that in early 2012?

Judge ANDRUS. Yes.

Senator LEVIN. So in early 2012, when you participated in this scheme, you told our staffs just a few months later that there was no plan to have her followed or videotaped.

Judge ANDRUS. I remember talking about it, and from what we were talking about, I thought the question was whether I was directly, personally involved in the videotaping. And I believe what had happened was that was at the end of a very long day of going over quite a few of the things you have discussed with me. And I was not sure of the details, and I did not want to give the wrong information.

Senator LEVIN. Did you say to our staffs, "I certainly did not get involved in Sarah Carver's Flexi-Place?" Did you say that?

Judge ANDRUS. I believe I did, but that was regarding the videotaping. I did not do any of that.

Senator LEVIN. This did not say videotaping. It says, "I certainly did not get involved in Sarah Carver's Flexi-Place." Were you involved?

Judge ANDRUS. I had talked to Mr. Conn about doing that, and——

Senator LEVIN. Talked to him? You suggested it.

Judge ANDRUS. I do not believe I suggested it.

Senator LEVIN. Just a few minutes ago, you said that in order to take this matter up, we have to have a videotape.

Judge ANDRUS. Right. That was——

Senator LEVIN. How is that for a suggestion?

Judge ANDRUS. I see what you are getting at. The videotape, yes, I brought that up. The idea, we were talking and . . .

Senator LEVIN. And you passed along the phone number, too, right?

Judge ANDRUS. Yes, I did.

Senator LEVIN. How is that for involvement? The truth of the matter is, is it not, Judge Andrus, that you were involved in Sarah Carver's Flexi-Place issue and the effort to prove that she violated the rules of Flexi-Place? You were involved, is that not true?

Judge ANDRUS. Yes. But I thought the question that they were talking about was the actual videotaping itself.

Senator LEVIN. Then you also were asked the following question: "Did you ask Sandy Nease to call Conn's office and inform them of Sarah Carver's Flexi-Place?" Do you remember what you answered?

Judge ANDRUS. "Yes."

Senator LEVIN. What did you answer?

Judge ANDRUS. I said, "Yes."

Senator LEVIN. No. You said, "Not that I can recall."

Judge ANDRUS. Oh. Again, when they started talking about this, I had no idea this was coming, that this was going to be discussed.

Senator LEVIN. That is no excuse for lying.

Judge ANDRUS. I did not recall enough of the details to want to give them inaccurate information. So that is why I couched it in the way I couched it. I do not recall.

Senator LEVIN. You did give them inaccurate information. You gave them inaccurate information when you said you could not recall it when it was very recent information. And then you were specifically asked, "Did you give Nease the cell phone number of one of Conn's employees, Melinda?" Do you remember your answer?

Judge ANDRUS. No, sir. What was it?

Senator LEVIN. What is it now?

Judge ANDRUS. Oh, I did—when I went back to Huntington and was able to go through the whole process again——

Senator LEVIN. What is your answer now?

Judge ANDRUS. Yes, I did give her a phone number.

Senator LEVIN. But after a long pause, you talked to our staffs, your answer was, "Not that I remember." Much closer to the event than when you talked to the IG.

And then you were asked if you were aware of calls being made to Melinda about Sarah Carver's Flexi-Place. I mean, you were asked specifically that question. And your answer? Do you remember your answer?

Judge ANDRUS. I believe, "I do not recall."

Senator LEVIN. No. "Not that I know of." [Pause.]

I guess I am done. Thank you very much, Mr. Chairman. Thank you for holding this hearing.

Chairman CARPER. Well, we want to thank you, and we want to thank Dr. Coburn. We want to thank your staffs for 2 years worth of work that brought us to this hearing today. We want to thank our witnesses. We especially want to thank our first panel of witnesses for making the trek here and for risking a lot to be here.

Senator LEVIN. Mr. Chairman, I think probably if Dr. Coburn were here, he would ask that this matter now be adjourned. Is it recessed or adjourned if we are going to have another hearing?

Chairman CARPER. We are going to have another hearing, and with the panel that we had hoped to be panel four, the Social Security Administration, as soon as our government is up and running again, the shutdown is over, we want to convene a hearing and complete these deliberations, at least for now.

Senator LEVIN. And Judge David Daugherty as well.

Chairman CARPER. And we expect Judge Daugherty to be here at that time.

Our hearing today discusses deeply troubling findings regarding a program that, I think we would all acknowledge, is critically important in our country. It supports Americans who are unable to work and enables them not to live affluently, but to have at least a life and have access to health care through Medicare or Medicaid. It is an important program, it is a needed program, and it is a program that is running out of money. And within the next year or two, it is going to run out of money entirely. And one of the ways to best ensure that it is going to be there for folks who need it in the years to come is to look at how we are operating this program and whether it is Huntington, West Virginia, or Kentucky or anyplace else, and ask this question: If it is not perfect how do we make it better?

We in Congress have a responsibility, and it is a shared responsibility, but a responsibility to make certain that we make the efforts that we have talked about here, that are needed to prevent fraud or waste or abuse. Our efforts are joined in by a whole lot of people, not just here in Washington, not just on this Committee, but folks around the country who are actually working in the venues, who actually do the work on a daily basis, to receive the applications for disability, to decide on them, to adjudicate them, and to move on.

I really again want to thank our witnesses for joining us today and for taking the time to be here with us. This is not the end of the road. I like to quote sometimes Winston Churchill, who was asked at the end of World War II, shortly after he was a hero, saved the Brits, 6 months later they threw him out of office, and he was asked by a reporter, he said, "For you, Mr. Churchill, is this the end?" And he said, "This is not the end. This is not the beginning of the end." He said, "This is the end of the beginning." And for some of you, that is not going to be very good news.

But this is a story that has not been written in its entirety, but however this story ends up, we are going to make darn sure that the folks get a fair shake when they are applying for these disabilities awards. And we are going to make sure that the folks who are running these programs are playing by the rules and that, to the

extent that we can, people are figuring out what is the right thing to do and doing it and we have leaders in place, in Huntington and other places, to make sure that this is going to be the case.

The hearing record is going to be open for, I think, another 15 days, until October 22, 5 p.m., for the submission of statements and questions for the record.

With that, this hearing is adjourned. Thank you.

[Whereupon, at 8:05 p.m., the Committee was adjourned.]

APPENDIX

Opening Statement of Chairman Thomas R. Carper
"Social Security Disability Benefits: Did a Group of Judges, Doctors, and Lawyers Abuse Programs for the Country's Most Vulnerable?"
October 7, 2013

As prepared for delivery:

Today's hearing will focus on the results of an important investigation, led by the Committee's Ranking Member, Dr. Coburn, along with our colleagues Senators Carl Levin and John McCain, the Chairman and Ranking Member of the Permanent Subcommittee on Investigations. For the past two years, Dr. Coburn and his staff, along with the staff of Sen. Levin and – now – Sen. McCain, have examined a very troubling set of facts regarding a particular Administration Law Judge office in West Virginia, which is responsible for reviewing thousands of applications for the Social Security Administration's disability programs.

This hearing comes at an unfortunate time for the American people, for Congress, and for our democratic process. Much of our federal government remains officially closed for business, and hundreds of thousands of public servants have been directed to stay home and not come to work. That's not fair to them. It's also not fair to the people we're here to represent, who pay their taxes and – for the second straight week – aren't receiving the government services they expect and deserve.

Our current method of stop-gap, crisis governing is no way to run any government. This type of crisis governing with last minute funding measures and government shutdowns is actually the most inefficient and expensive way to govern. We simply have to do better if we're to put our country on a fiscally sustainable path for the future.

As I've oftentimes said, we basically need to do three things to get on that path and stay there. We need a comprehensive budget agreement that has three essential elements. First, we need entitlement reform that saves money, keeps these valuable programs for future generations and does so without savaging the elderly or the poor. Second, we need tax reform that produces revenues for deficit reduction, primarily by reducing tax credits, tax deductions, tax loopholes and tax shelters. And, third, we need to examine just about everything we do in the federal government and ask this question, "How do we get a better result for less money or the same amount of money in just about everything we do, from border security to Social Security?"

While much of the work of Congressional committees is suspended at this time, I believe that it is important for this Committee to meet today to learn about the investigative report we are releasing. In the midst of this very partisan time, one thing that Republicans and Democrats agree on, is that we need to make every effort to ensure our federal programs are well run and are as free as possible from abuse or wasteful practices.

So, I am pleased that we have this opportunity to hold today's hearing about possible fraud that's occurred in a large, critical government program. I am not pleased, however, that a fourth panel of witnesses from the Social Security Administration's national office is not able to testify as originally planned, because of the shutdown that's in effect for much of our government.

I have pledged to Dr. Coburn, however, that shortly after the shutdown is ended, we will schedule a second hearing so we can hear directly from the Administration about this important issue.

In addition to providing traditional Social Security benefits to tens of millions of retirees, the Social Security Administration also provides financial support to disabled Americans, ensuring that people who cannot work, and their families, have financial resources and access to health care to help meet their basic needs. Part of our responsibility as members of Congress is to ensure that people who are eligible to receive this critical safety net support receive the benefits to which they are entitled.

Nothing more, and nothing less.

And while I believe that the vast majority of recipients play by the rules, Congress must also work with the Social Security Administration to prevent any 'bad actors' who attempt to abuse the system from succeeding, while bringing to justice those who have taken advantage of the system.

Clearly, the two Social Security disability assistance programs - the Social Security Disability Insurance program and the Supplemental Security Income program - are large, complex programs that deserve vigilant Congressional oversight. These programs provide more than $200 billion in benefits to more than 14 million people each year. The number of individuals applying for these disability programs continues to grow.

The Social Security Trustees recently estimated that the Social Security Disability Trust Fund, which supports the Social Security Disability Insurance program, could be exhausted by 2016, putting the payment of benefits at risk.

Anyone who has applied for benefits knows that the disability programs have complex rules for determining eligibility. Applications are examined in an effort to verify if someone is truly disabled, and whether the level of disability of the applicant meets the established criteria. If an applicant is denied the benefit, he or she has the right to appeal the decision before a judge, called an Administrative Law Judge. More than a thousand Administrative Law Judges hear appeals from people applying to the program annually.

The judges weigh evidence from doctors and other medical professionals, review documentation, and decide whether the facts presented by the applicants conform to the government's disability rules.

Dr. Coburn's staff, working closely with that of Sen. Levin, has completed a two-year investigation regarding specific allegations of mismanagement and fraud in the Huntington, West Virginia Administrative Law Judge office. They have worked diligently and tirelessly. The report that their collectively efforts produced forms the basis for today's hearing.

The investigation focused on former Administrative Law Judge, David B. Daugherty, who we have asked to testify today. We will also hear from a West Virginia attorney who has

represented a great many applicants for disability benefits, from medical professionals who provided evidence for the reviews, as well as from others. Very notably, we will hear from several citizens, including government workers, who stepped forward at some peril to themselves, to bring attention to this situation in my native state of West Virginia.

The findings from the investigative report are deeply troubling. Most Social Security disability administrative law judges hear between 500 and 700 cases a year and extend benefits to disability claimants in approximately 60 percent of those cases. In 2009, Judge Daugherty, however, approved benefits in all but five of the 1,410 claims he reviewed that year. In 2010, he awarded disability benefits in all but four of 1,375 claims. That's a total of nine disapprovals out of nearly 2,800 claims that he reviewed, roughly one out of every 300.

The investigation conducted under the leadership of Senators Coburn, Levin and McCain has attempted to determine the reasons behind these startling numbers. Under their leadership, committee staff members spent many hours poring over documents and interviewing the individuals involved.

I want to make clear that today's hearing is not an attempt to criticize the people in this country who rely on disability payments. These are vital programs. This hearing is not a criminal trial. Rather, we are here today to examine the issues, gather facts and attempt to ascertain the truth. A key question is whether standards of fairness and effectiveness were met in this particular situation, and if they were not, why not? A second key question is how should we address any vulnerabilities that this painstaking investigation has revealed?

This case in West Virginia appears to be at least one instance where an inordinate number of disability applications were approved. In my home state of Delaware, however, we've been hearing for years about concerns with our Administrative Law Judge office in Dover, where just the opposite appears to have occurred. This led our Congressional delegation to write to the Social Security Administration. In recent years, some judges in Dover only approved cases in the low 20 percent range, where the national average is much higher.
I don't want to say that this is right or wrong, but there seem to be disparities among the many Administrative Law Judge offices across the county in both directions as far as approvals and disapprovals of benefit applications.

On top of that, there has been an ongoing problem with the backlog of cases awaiting determination in Delaware. Currently, there is an average wait time in Delaware for review of 460 days, whereas in 2011 the wait was only 327 days. Clearly, that's a trend we want to see reversed.

In response to our letters, our Congressional delegation was told that improvements for the Dover office were forthcoming. This year, the Dover Administrative Law Judges were given specialized training as part of a pilot program to improve the performance and knowledge of judges.

The success of the education pilot project in Dover is still under analysis. However, if it's successful, we're told that the Dover program could be expanded nationwide as part of ongoing reforms to these programs.

In Delaware and throughout the country, we need to find out what works and do more of that in everything we do. Not just with respect to the Social Security Disability Program. In everything our government does.

I understand that the Social Security Administration has acknowledged the need for reforms in the operation and oversight of Administrative Law Judge offices across our nation.

During the past few years, and in response to the Congressional hearings held by our Senate Permanent Subcommittee on Investigations, additional improvements are being implemented for our critical Social Security programs. We look forward to learning more about these improvements and others that are needed.

Now, I'd like to turn to our Ranking Member, Dr. Coburn, to hear a good deal more about the findings of the investigation that he and Senators Levin and McCain have led. Before doing so, though, I want once again to thank him, along with Carl and John, and the members of their staffs, for their years of effort which have led us to today's hearing.

PREPARED REMARKS OF
Tom A. Coburn, Ranking Member
U.S. Senate Homeland Security and Governmental Affairs Committee

"Social Security Disability Benefits: Did A Group of Judges, Doctors and Lawyers Abuse Programs for the Country's Most Vulnerable?"
October 7, 2013

Today's hearing is the second in a series looking at deficiencies in the Social Security Administration's handling of disability claims. Our first hearing, held in September 2012, looked broadly at the weaknesses in decisions made by the agency's administrative law judges. This afternoon we focus on the findings of our two-year investigation into the Huntington, West Virginia Social Security Office of Disability Adjudication and Review. Specifically, the investigative report we are releasing details how one lawyer, one judge, and a group of doctors financially benefited by working together to manufacture bogus, perhaps fraudulent, medical evidence to award disability benefits to over 1,800 people.

I would like to thank my Chairman Tom Carper and the Chairman and Ranking Member of the Permanent Subcommittee on Investigations, Sens. Levin, and McCain for their support and hard work on this investigation. Without their help, this work and hearing would not be possible.

Before we get to the findings of our investigation, I want to extend a thank-you to the four courageous individuals sitting in front of our Committee this afternoon. Without them, we would not be here today. These women – Jamie Slone, Melinda Martin, Sarah Carver, and Jennifer Griffith – saw the disability programs being exploited and were brave enough to bring their story to the Committee. I commend all of you and hope others take up your example to speak-up when you see wrongdoing. Congress needs to know where the problems are in our government so they can be addressed, and hopefully changed for the better. Again, thank you to each of you for traveling to Washington, D.C. to tell your story. I very much look forward to hearing from each you.

The issues we are going to discuss today, like many of our country's current problems, began with Congress. Only here could we take something as important as the Social Security disability programs and let politics hurt those most in need. By this I mean that for a long time, Congress has acted as if getting people onto the program is more important than doing oversight of the program. In practical terms, this has meant pushing SSA to eliminate its hearings backlog with little interest in how that is done.

This point was driven home clearly the last time the Senate considered a nominee to head the agency. During the 2007 confirmation process for former Commissioner, Michael Astrue, many senators used the chance to criticize how long it took for claimants to get a hearing in front of the agency's Administrative Law Judges ("ALJs"). In response, Mr. Astrue pledged to work to reduce the backlog and wait times for hearings.

Shortly after he was confirmed, the agency rolled out an aggressive plan to reduce the backlog. At bottom, the backlog plan asked agency employees to do more, faster. While the agency hired more ALJ's to carry the load, it also pressured the ALJs to decide more cases by spending less time on each case. As part of the plan, SSA pushed all ALJs to decide between 500-700 cases per year, many of which contained thousands of pages of medical evidence. The agency also went so far as to set daily goals for ALJs. In 2011 and 2012, each ALJ was to decide 2.37 cases per day. To speed the process further, judges were encouraged to skip hearings altogether and just write the opinions if felt it was warranted.

The agency made clear that moving a high volume of cases was *the* top priority. On the surface, the plan appeared to work.

Over the next few years, the agency saw an incredible improvement in the time it took to issue a decision by an ALJ. Wait times for ALJ hearings dropped from 514 days to as few as 353 days by 2012. The number of ALJ decisions likewise increased from roughly 575,000 in 2008 to more than 820,000 in 2012 – a 43 percent increase. By February 2011, Commissioner Astrue proudly announced that under his watch, the agency had "reversed a trend of declining service and an increasing backlog in our disability workloads."

With so much emphasis on the *quantity*, the agency's attention to oversight of the ALJ decisions diminished. The report the Committee is releasing today details just how much the quality of the decisions suffered in one particular office – SSA's Huntington, West Virginia Office of Disability Adjudication and Review. The report describes how one lawyer, several judges, and a group of doctors took advantage of the situation and exploited the program for their own personal benefit. Together, they moved hundreds of claimants onto the disability rolls based on manufactured medical evidence and boilerplate decisions. As a result they saw millions of dollars flow their way, promotions at work, and had bad behavior ignored.

The ALJ at the center of this mess was Judge David B. Daugherty. Over the course of his tenure with the agency he became one of most prolific ALJs for the agency in the country. During 2010, the last full year he decided cases, Judge Daugherty was the third –highest producing ALJ out of more than 1,500 at SSA. In that year alone he decided 1,375 cases and awarded benefits in 1,371 with an approval rate over 99.7 percent. He only denied four cases all year.

He was outgunned only by Frederick McGrath of Atlanta, Georgia who decided over 3,200 cases and Charles Bridges of Harrisburg, Pennsylvania who approved nearly all of his 1,855 cases.

Many of Judge Daugherty's peers, however, questioned how it was possible to decide so many cases when most others struggled to finish a third of that. When asked by a fellow ALJ how he was deciding such a high volume of cases, Judge Daugherty responded "you're just going to have to learn which corners to cut."

To cut those corners, our investigation found that Judge Daugherty focused on cases from one attorney, Eric C. Conn of The Conn Law Firm. A self-described multimillionaire, Mr. Conn's law office is located in Stanville, Kentucky; his practice focused almost entirely on clients seeking Social Security disability benefits. Early on, Mr. Conn became known for his aggressive marketing, with billboards everywhere along the highways of Stanville and throughout Eastern Kentucky. Witnesses interviewed by the committee said you could not listen to the radio or watch television without seeing his commercials.

By all accounts his marketing efforts worked. By 2010, Mr. Conn was the third highest paid disability attorney in the country, despite working in a town with only 500 people. In 2010, Mr. Conn received almost $4 million in attorney's fees from the agency. The only other attorneys receiving more from SSA were Charles Binder of the Binder & Binder firm, which received $22 million, and Thomas Nash of Chicago who received $6.3 million.

However, as our investigation uncovered, there was much more to the story than Mr. Conn's advertising. Mr. Conn, Judge Daugherty, and several doctors carried out a sophisticated plan to ensure claimants would be approved for disability, relying on questionable – and in my opinion, likely fraudulent – methods. We will turn next to the plan they carried out.

For the plan to succeed, the top priority was getting Mr. Conn's cases in front of Judge Daugherty. Generally, whenever a claimant is denied benefits and then appeals to an ALJ, SSA sends the case to

whichever office is closest to where the claimant lives. This protects claimants who might otherwise have to travel great distances, which can be difficult for someone who is disabled.

Mr. Conn, however, discovered a way to ensure his cases would always go to the Huntington Office. He would require them to sign a waiver, requesting their cases instead go to SSA's Prestonsburg, Kentucky office – a satellite of the Huntington office located near the Conn Law Offices. The Prestonsburg hearing office is staffed by Huntington ALJs who travel there once a month. And so, no matter where the claimant lived their disability claim would be assigned to a Huntington ALJ on appeal. Directing the cases from there to Judge Daugherty, however, would take additional effort.

In the normal course, agency rules require cases be assigned to ALJs on a rotational basis with the oldest cases assigned a hearing date first. Yet, at the moment a case arrived in the office, but *before* it was assigned, Judge Daugherty would at times intercept Mr. Conn's cases and assign them to himself. If cases would slip past and get assigned to another judge, Daugherty would go into the computer system and move it to his docket.

Some in the SSA office began to notice what was happening and brought it to the attention of the office's chief judge, Charlie Andrus. Only, despite having the issue brought to him repeatedly over a period of ten years, Judge Andrus never once stopped it.

By approving a large volume of Mr. Conn's cases Judge Daugherty met his agency-mandated monthly quota with very little effort.

According to documents and committee interviews, each month Judge Daugherty and Mr. Conn would coordinate on a list of his clients to approve. The key, however, was that he would only approve Mr. Conn's clients if he provided the judge with one additional piece of evidence that showed they were disabled.

And so every month, Judge Daugherty would call Mr. Conn's office to let them know just what kind of evidence he needed for each client. On the call, Judge Daugherty would start by relaying the name and Social Security number of each person he was ready to approve. He would then say whether the new piece of evidence should relate to a "mental" or "physical" problem. The lists would then be typed up and saved on computers at the Conn Law Firm. Mr. Conn's staff referred to these monthly lists as the "DB Lists" after the judge's nickname, D.B. Daugherty.

The Committee obtained DB Lists from June 2006 through July 2010. The lists contained as many as 52 claimants each month. In total, the DB Lists from that time period contained the names of 1,823 people who were approved for disability benefits.

After Judge Daugherty told Mr. Conn the kind of medical evidence he needed, the next step for Mr. Conn was to ensure a doctor provided it. Fortunately for Mr. Conn, he had a crew of paid doctors ready to provide what he needed.

To find doctors willing to go along with him, Mr. Conn searched the Internet for ones with checkered pasts. Those in his circle had histories of malpractice and some had medical licenses revoked in multiple states. Until his death in 2010, Mr. Conn's "go to doctor" for physical ailments was Dr. Frederic Huffnagle. While practicing as an orthopedic surgeon, Dr. Huffnagle was the subject of numerous malpractice lawsuits and had his medical license revoked in at least one state.

Since Dr. Huffnagle lived four hours away, Mr. Conn arranged for him to come to town for two days each month and examine his clients in a medical suite in his law office. Clients were scheduled for exams in fifteen minute blocks and the doctor would meet with up to 35 clients each day.

The medical report Dr. Huffnagle gave Mr. Conn was modest, at best. Dr. Huffnagle, as well as the others, would provide brief reports about the visit and a form describing the claimants' "residual functional capacity." This second form is commonly known as an "RFC" and is a key document used by all SSA judges. An RFC describes a claimant's limitations in performing any job in the national economy – the agency's standard in determining whether a claimant was entitled to benefits.

To understand the problem with the RFC's filled out by Dr. Huffnagle, it is important to understand what they contained. For each claimant, the RFC asked the doctor to determine a few basic things:

- the amount the claimant could lift or carry; and
- the number of hours the claimant could sit, stand or walk in an 8 hour workday

The RFC also required the doctor to determine how often the claimant could perform 22 other activities by marking one of four answers: never; occasionally; frequently; or constantly. Given the vast range of answers Dr. Huffnagle could provide on this form about the claimant, it would be nearly impossible for two claimants to be found with the exact same limitations. The chances of two RFCs being filled out the exact same way is next to impossible.

Yet, somehow, Dr. Huffnagle found that his patients almost always had the same limitations. **90 percent** of the time, Dr. Huffnagle signed one of just 15 different versions of the form. For just one version he frequently signed, Dr. Huffnagle reported **97 claimants** had the exact same limitations.

This was no coincidence. Our investigation found this was a planned step in the process for getting Mr. Conn's clients onto disability. Mr. Conn had 15 versions of the RFC completely filled out before any doctor visit took place. He cycled through them, assigning one of these 15 pre-filled RFCs to people in the order they came through his door, even if it had nothing to do with their claimed limitations. The only thing that changed was the name and Social Security number on the top of the page. Mr. Conn then forwarded the opinion and the RFC to Judge Daugherty.

While agency rules require ALJs to carefully review a claimant's entire medical file and write a comprehensive decision, Judge Daugherty did otherwise. Based on the decisions we reviewed, his opinions would routinely cite only a single piece of evidence – namely, the reports from Mr. Conn's doctors. As such, his opinions were much shorter and less detailed than those of other ALJs. Almost all of them included a boilerplate paragraph that concluded, quote:

> Having considered all the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best.

This was remarkable for two reasons. One, a claimant's case file can be hundreds of pages – if not thousands of pages – long. For a judge to say the only piece of evidence worth looking at is the one paid for by the claimant's lawyer is absurd.

Secondly, before a claimant ever gets to the ALJ level, most have already been evaluated and denied by the agency *twice*. Judge Daugherty's opinions generally ignored the hard work of other agency decision-makers.

In the opinions we reviewed, Judge Daugherty rarely strayed from a basic format. In fact, most of his decisions were identical to one another, with only small portions changed. As such, he was able to write a lot of decisions with little effort.

While Dr. Huffnagle passed away in October 2010, the same RFC forms he signed continued to be submitted by other doctors, several of whom we will hear from today.

We reviewed 102 RFCs signed by **Dr. Herr** and **94 percent** were identical to RFCs Dr. Huffnagle signed. Of the 10 RFCs we reviewed signed by **Dr. Ammisetty**, nine were identical to the prefilled forms used by Dr. Huffnagle.

Identical RFC forms were also used by doctors examining Mr. Conn's clients for mental impairments. For these, Mr. Conn often sent his clients to see Dr. Brad Adkins. Adkins would meet the clients, write up a short report and submit a mental RFC. This RFC required Dr. Adkins to rank the claimant with regard to 15 different abilities, such as "follow work rules" and "behave in an emotionally stable manner." The form required Dr. Adkins to rank each ability the following ways: unlimited; good; fair; poor; or none. Once again, finding two identical RFCs should be next to impossible. Yet, we found that 74 percent of the RFC's signed by Dr. Adkins were one of just five different forms.

These five forms came from Mr. Conn's office already filled out, but Dr. Adkins told Committee investigators he routinely signed. Only the names and Social Security numbers were changed. And just as before, Judge Daugherty would cite only these documents when awarding benefits to Mr. Conn's clients.

It would be useful now to turn back to the issue of why these individuals did what they did. The short answer is that each of them – Mr. Conn, his doctors, Judge Daugherty and Judge Andrus – benefited in different ways, both personally and financially.

Mr. Conn made millions. For claimants on the DB Lists from just 2006 to 2010, Mr. Conn was paid **over $4.5 million** by the Social Security Administration in attorney fees. In 2010 alone he earned **over $3.9 million** for all of his cases, including those from Judge Daugherty.

Mr. Conn's doctors also benefited handsomely. Mr. Conn paid his doctors up to $650 per claimant, helping them earn considerable fees. For the four years of records the committee obtained, Mr. Conn paid **Dr. Huffnagle almost $1 million** and **Dr. Herr was paid more than $600 thousand**. Dr. Adkins was paid nearly $200,000 for his work.

And Judge Daugherty took full advantage of his freedom. The running joke in the Huntington office was if you wanted to find Judge Daugherty, don't bother looking in his office. When fellow ALJs complained about Judge Daugherty taking advantage of time and attendance rules, the agency looked the other way. His big numbers effectively let Judge Daugherty do whatever he wanted.

Finally, as the Huntington office rose to be the second most productive office in the agency, office management and ALJs received salary increases. Some of the office management even received bonuses for their productivity. Judge Andrus received national recognition when he was tapped by the agency to mentor other ALJs across the country and then promoted to Assistant Regional Chief Administrative Law Judge.

While lawyers, doctors were getting rich by exploiting a broken program, the real victims were the claimants and the American taxpayer.

The *claimants* suffer because we don't do any favors when we wrongly award benefits. While the disability programs have tremendous upside, there is a real risk we needlessly sentence someone to a lifetime of dependency.

At the same time, the American taxpayer suffered. For just the claimants listed on the DB List, Judge Daugherty approved **an estimated $546 million** in lifetime federal benefits. For all of his cases, Judge Daugherty awarded $2.5 billion in lifetime benefits in his last six years. With the disability trust fund scheduled for exhaustion in just a few short years, we cannot afford to handout half of a billion dollars mistakenly.

Probably the most troubling issue our investigation uncovered, however, is what happened when details of this plan started to become public. In May 2011, a reporter named Damian Paletta with the *Wall Street Journal* ran a story about the relationship of Mr. Conn and Judge Daugherty. Along with Judge Andrus, Mr. Conn and Judge Daugherty responded by carrying out what appears to be an elaborate attempt to cover up the truth from SSA and the American people.

After the story ran, Judge Daugherty and Mr. Conn made the unusual decision to speak with each other using only pre-paid, disposable phones. We were told by Mr. Conn's former employees this was to keep their conversations from being tracked.

For his part, Judge Andrus conspired with Mr. Conn to retaliate against Ms. Carver, here to testify today, who he believed was behind the *Wall Street Journal* article. Their plan was to follow and film Ms. Carver on days she was working from home in an attempt get her fired for violating agency telecommuting rules. Despite several attempts, they were never able to find Ms. Carver doing anything wrong. Once the agency discovered what was going on, they placed Judge Andrus on administrative leave.

A final troubling finding was the systematic destruction of documents once allegations began to surface publicly. Both Mr. Conn and the agency took unusual steps to destroy documents potentially related to a known, open congressional investigation. After the Wall Street Journal article, the Committee found that Mr. Conn had hired a local shredding company to destroy over 3 million pages of documents. His former employers informed us he shredded all hard copies of the DB Lists along with a warehouse full of files. He had another employee destroy all the office computers, along with the hard drives, in a massive bonfire. Ms. Slone also noted a number of emails from Judge Daugherty to Mr. Conn mysteriously went missing. The agency, for its part, could not find any of Judge Daugherty's emails, either.

While Mr. Conn was destroying documents, the agency approved the purchase of personal shredders for the offices of Huntington management. Keep in mind, this occurred in the middle of a congressional investigation when the agency was legally obligated to preserve all relevant documents. Sen. Levin and I immediately asked the local SSA OIG agent to seize the shredders, which he did. Why Huntington management allowed an office under investigation to buy four personal shredders is a question that needs to be answered. When my staff asked the office's top judge why he approved the purchase of shredders during ongoing criminal and congressional investigations, he said he hadn't even considered that it might be a problem. That is unacceptable.

We can't lose sight of why we are here today. This bipartisan, two-year investigation shows that Congress needs to update the laws and regulations governing SSA's disability programs. Judge Daugherty, Mr. Conn and his doctors clearly stretched – and possibly broke – the agency's rules. But attorneys using doctors to provide bogus medical evidence is not just isolated to Mr. Conn or even Huntington, West Virginia. Just last year, I released a report that found much the same thing happening in three other areas of the country.

And much like I began, I will end by noting Congress continues to be the problem. With the clock ticking on the agency's trust fund, some in Congress refuse to acknowledge the disability programs are broken and are in dire need of significant oversight.

One simple reform that would make a big difference is including a professional from the Social Security Administration to represent the government (and ultimately, the American taxpayer) in decisions made by ALJs. This reform would bring a needed balance to both hearings and decisions at the ALJ level of appeal, which is especially true now that most claimants have representation. As we learned in our previous report, some claimant attorneys withhold evidence from the ALJ showing the claimant's condition improved. A government representative would help make sure no evidence is overlooked.

While the ALJ is tasked with also representing the interests of the government, he is clearly outnumbered. Then add agency management breathing down the ALJ's neck to meet monthly quotas for deciding cases. A representative for the government would bring needed balance to the ALJ's decision and ensure the ALJ considered all medical evidence in the claimant's file.

This reform has long been a recommendation by the Social Security Advisory Board and is fully supported the Association of Administrative Law Judges. This is one area where Congress can find common ground on needed reforms.

We also need to make sure these ALJs have the tools they need to render the proper decisions. The agency's recent d forbidding the purchase of symptom validity testing, like the MMPI, is ridiculous. These tests determine if an individual is malingering, or lying, about their symptoms. The SSA OIG recently determined the agency stands alone in not using the MMPI, with everyone else finding it a useful tool: other agencies; private disability insurers; academics; and the medical community at large.

I hope today's findings encourage others to take a hard look at this program and support much needed reforms for this program that last year supported almost 11 million Americans with $136.9 billion.

I also want to encourage other Americans to follow the example set by these four brave women sitting in front of me today. If you see fraud in the disability programs, go to my Senate website and let me know about it.

I appreciate the witnesses being here today and look forward to their testimony.

Testimony of

Jennifer L. Griffith and Sarah A. Carver

before the

Committee on Homeland Security and Government Affairs

United States Senate

October 7, 2013

Chairman Carper, Senator Coburn, Members of the Committee, good afternoon.

Our names our Jennifer L. Griffith and Sarah A. Carver. The testimony presented herein describes events at the Huntington, West Virginia, Social Security Administration Office of Adjudication and Review, (hereinafter referred to as Huntington ODAR), which we witnessed individually or together.

Huntington ODAR is the third step in the disability process and is responsible for processing claimants' Requests for Hearing before an Administrative Law Judge (ALJ). The Master Docket Clerk (or Case Intake Technician) is responsible for the receipt, initial review, assignment, processing, and distribution within the office of cases received. The Senior Case Technician is responsible for the preparation of cases for hearing which includes the organization and exhibiting of claimants' files as well as the scheduling of claims for hearing, processing development, preparation of dismissals and finalizing both favorable and unfavorable disability decisions for mailing purposes.

As we prepare to tell you about our experiences and disclosures within ODAR, we will first give you a brief background about ourselves.

Jennifer

Jennifer began working for the Huntington, WV ODAR office in 2001 as a Senior Case Technician. Jennifer changed positions within the office and became one of two Case Intake Technicians within that office. Prior to working for the Huntington ODAR she worked in the private sector as paralegal for approximately 6 years. She has a Bachelor of Arts in Social Science from Shawnee State University. Her career ended at ODAR with what she perceived as a forced resignation due to the constant retaliatory acts by Huntington ODAR management in response to her multiple reports of ALJ David B. Daugherty's misappropriation of claims filed by attorney representative Eric C. Conn. She shortly thereafter filed a complaint with the Office of Special Counsel and later reached a settlement with the SSA after appealing her mistreatment to the Merit Systems Protection Board.

Sarah

Sarah Carver (formally known as Sarah Randolph) began her 12-year career at the Huntington ODAR in September 2001. Over the course of her employment with the Administration she has held one position: Senior Case Technician (SCT). In 2006, in addition to her duties as a SCT, she was elected to the position of AFGE 3610 Union Steward for the Huntington ODAR. Prior to her employment there, Sarah was a paralegal in the private sector for 13 years, 8 of which primarily focused on representation of claimants seeking Social Security disability benefits. Sarah is a graduate of Marshall University with a degree in Legal Studies.

From 2001 to 2006 Sarah routinely received performance awards for the quality and production of her work in the Huntington ODAR office. However, in 2006 those awards came to an abrupt stop when Greg Hall became the Hearing Office Director (HOD). Coincidently, she had been voicing concerns about what she perceived as the improper processing of Social Security claims in the Huntington ODAR while Mr. Hall was an acting HOD, which continued as he was promoted to the HOD position. Not only did she report her concerns with Mr. Hall, she also reported them to other members of Huntington ODAR management throughout the years. She is still currently employed as an SCT at the Huntington ODAR despite many retaliatory actions against her by several members of management. One such act of retaliation was the hiring of a private investigator to have her followed during work hours and non-work hours in an attempt to put a halt on her efforts to disclose the collusion, fraud and corruption within the Huntington ODAR.

When Sarah notified the Agency that she had been invited to testify at this Hearing, she was denied the use of any Official Union or Administrative leave to attend by Debra Bice, Chief Administrative Law Judge for Disability Adjudication and Review in ODAR Headquarters. ALJ Bice issued the following statements in a September 30, 2013 letter to Sarah:

> **Even though you are not authorized to speak on behalf of the agency and you will be attending in your personal capacity, the agency would like to remind you that any obligations under the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct), Privacy Act or applicable agency policy still apply. For example, the Standards of Conduct prohibit Executive branch Employees from allowing "the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure." 5 C.F.R. 2635.703(a). The Standards of Conduct define nonpublic information, as "information that the employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public." 5 C.F.R. 2635.703(b). This definition includes information which is "routinely exempt from disclosure under 5 U.S.C. 552 or otherwise protected from disclosure by statute, Executive Order or regulation,"**

> **information the agency has designed as confidential, or information that has not been "disseminated to the general public and is not authorized to be made available to the public on request."**

Sarah was informed by ALJ Bice that she will be speaking to you in her own personal and not official capacity, and that she should include a disclaimer in any testimony, written or oral, to prevent any appearance that the agency sanctions her testimony. *See* 5 C.F.R. § 2635.702(b). ALJ Bice provided Sarah with the following disclaimer language suggested by the Designated Agency Ethics Official:

> **The views expressed in this testimony are mine, in my personal capacity as a private citizen. In this testimony, I do not represent the views of the Social Security Administration or the United States Government. I am not acting as an agent or representative of the Social Security Administration or the United States Government in this activity. There is no expressed or implied endorsement of my views or activities by either the Social Security Administration or the United States Government.**

The Events We Witnessed and Reported

In February 2006, Gregory A. Hall became the Hearing Office Director (HOD) of the Huntington ODAR, after several months of serving as its acting HOD. This was a transitioning period for SSA going from an all-paper system to an electronic processing system. At the same time, our concerns increased regarding the lack of integrity in some of the ways Huntington ODAR's cases were being processed. It is our concern that Huntington ODAR management and Judge Daugherty circumvented SSA policies, procedures and Federal law to massively approve cases. Of equal or greater concern was the symbiotic relationship between Huntington ODAR management, Judge Daugherty and attorney representative Eric C. Conn.

Although we began by voicing our concerns verbally, in 2006 our concerns of misappropriation and circumvention of process were confirmed by the implementation of the E-File process within the agency. With this process more data was available for use than with previously used tracking systems.

Because some claimant representatives, like Eric Conn, have developed large practices, the Social Security Administration through its procedural regulations, known as HALLEX, directed that cases of such representatives be assigned to ALJs within a hearing office on a rotating schedule amongst the ALJs to prevent the representative from developing an improper, biased relationship with a given ALJ. Because of HALLEX requirements and Chief ALJ Charlie Paul Andrus's directive to rotate cases, as a Case Intake Technician Jennifer routinely assigned Conn claims amongst all judges in the office.

In the course of her duties, Jennifer began to notice that both paper and electronic cases were missing from the dockets. She began to verbally inform her first-line supervisor, Kathie Goforth, and eventually voiced her concerns regarding the missing cases not only to Ms. Goforth repeatedly, but to HOD Hall, Chief ALJ Andrus, and Sarah, as her union representative. In January 2007, Jennifer sent an email regarding her concerns about Daugherty's taking possession of Conn cases before they were properly docketed in the system – a process which had caused her to receive multiple verbal warnings from her supervisor for incomplete docketing and failure to properly docket cases which was the primary function of her position. During this same time period Sarah, as the Union Steward, met with Hall to discuss Conn calling in and/or faxing lists of Social Security numbers to Daugherty, Conn bragging about "having an ALJ in his pocket," and the number of cases ALJ Daugherty was assigning himself off the docket. Hall informed Sarah that Chief ALJ Andrus was going to call a meeting with all ALJs.

As a Master Docket Clerk and a Senior Case Technician we were often presented with lists from ALJ Daugherty. As a Master Docket Clerk, Jennifer was provided with various lists of Conn cases (computer generated and hand written) requesting the transfer of ownership of Conn cases to him (Daugherty) regardless of whether or not the cases were docketed or assigned to another ALJ. When Jennifer refused to reassign cases that had already been assigned to another ALJ, Daugherty would transfer the case himself. Jennifer informed management of Daugherty's misconduct numerous times both verbally and by written correspondence.

As a Senior Case Technician, one of Sarah's responsibilities was scheduling cases for hearings. The proper procedure for scheduling cases for hearing was to obtain cases by hearing request date (i.e., the order in which we receive cases) from the master docket. However, Judge Daugherty would provide a pre-scheduled hand written list of Eric Conn cases which were out of hearing request date order and sometimes receipted by our office only a few days to some which where only hours old. There would be up to 20 cases a day at 15 minute intervals as opposed to a normal ALJ schedule which would typically consist of approximately 6 to 8 cases per day at 1 hour intervals. Not only was the request for hearing date procedure incorrectly followed, ALJ Daugherty would also remove cases from other ALJ's assignments and reassign them to himself. Ultimately all hearings held by ALJ Daugherty in which Eric Conn was the attorney of record resulted in a fully favorable finding of disability. In most instances, those claimants who did not have Eric Conn as a representative would have to wait up to a year or more for a hearing date.

Also, during the period of time Daugherty was holding Conn hearings – often up to 20 a day – Conn would have his claimants all show up at the hearing office at the same time in the morning, since he knew that the hearing would be bogus and that Daugherty would typically conclude his schedule for the day by 11:00 a.m. We often referred to this as a "cattle call" in a joking manner. Claimants would walk into the hearing room with Conn as their attorney representative and ALJ Daugherty would go on the record with a Court Reporter and Vocational Expert in order to conduct a sham proceeding to make it appear he was performing a bona fide review of the claim, and find the claimant fully disabled. For each of the up to 20 hearings, a court reporter would receive up to $75 a

hearing (times 20) and the vocational expert who did not testify would receive up to $130.00 for each claimant on that day. Both court reporter and vocational expert were paid for hearings that were bogus in nature and did not include testimony regarding the claimant's medical impairments or medical treatment history.

In May 2007 emails to HOD Hall and then-Group Supervisor Arthur Weathersby, Sarah requested justification on the hearing request dates of ALJ Daugherty's fully favorable dispositions. She informed them that only nine days into the month, Daugherty had issued 29 favorably decisions and all 29 cases were Eric Conn's. She discussed Judge Daugherty's removal of Eric Conn cases from another ALJ's assignment that had already been tentatively scheduled and she discussed the serious evidence that would substantiate the overt favoritism of Mr. Conn's claimants and management's continuous "sweeping things under the rug with regards to Daugherty and Conn." Sarah closed her email by clearly stating that "the Eric Conn situation is going to bite this office in the butt one day". She further requested management "to open their eyes to the DBD [i.e., Daugherty] and Conn issues and change the way Conn's cases were handled before it became an issue outside this office."

It was shortly thereafter that our office started receiving complaints from other representatives that their cases were not being heard as quickly as Mr. Conn's cases.

Again, in August 2007, it was brought to management's attention that Daugherty reassigned himself cases that had been previously assigned to another ALJ. However, this time, the cases had already been scheduled by another SCT in our office. Daugherty had reassigned the cases to himself, wrote favorable decisions and placed them in a status to be mailed. All of these cases belonged to Eric Conn. When brought to Mr. Hall's attention he immediately instructed the scheduling SCT in our office "not to tell anyone". The SCT immediately reported this to Sarah as the office Union Representative. Sarah immediately responded by having a meeting with Mr. Hall and sending a follow up email.

Both of us sent several emails to management in the months to follow regarding ALJ Daugherty reassigning Conn cases to himself and the scheduling of cases out of hearing request date order. It appeared that due to this constant reporting and the complaints from other claimant representatives in the community, ALJ Daugherty stopped having hearings with Eric Conn. For a period of approximately 2 years, Daugherty continued to reassign himself Conn cases; however, he awarded all Conn's claimants favorable decisions <u>without</u> a hearing, not even a "sham" one.

It appeared to both of us that Daugherty and Conn were able to circumvent the system through close communication with one another. There was no other way Daugherty could have known a request for hearing was pending, prior to the case being docketed, without being provided the claimant's Social Security number. Daugherty and Conn communicated through numerous phone calls, faxes, and emails which we, and others in the office witnessed. Again, we discussed this misconduct with management on numerous occasions. HOD Hall would justify this practice by saying, "Daugherty was

doing nothing wrong," or "Mr. Conn was providing supporting medical documentation for the ALJ's and this allowed them to justify favorable decisions." However, Sarah questioned Mr. Hall regarding the validity of the medical reports and the fact that some of the medical exams took place within the offices of Eric Conn.

After reporting to Huntington ODAR management the collusion of Daugherty and Conn for approximately 1½ years and Jennifer's multiple grievances, EEO complaints against management, and receiving repetitive retaliation from Huntington ODAR management, at the advice of her physician (due to high blood pressure caused by job-related stress), Jennifer was forced to resign effective November 2, 2007. Jennifer's supervisor, Kathy Goforth, made clear to her in her annual performance evaluation in October 2007 that it was Goforth's goal to make sure Jennifer was not employed at the Huntington ODAR by the end of the year and that there was nothing that Jennifer could do about it. HOD Hall clearly illustrated management's intention to silence us both when he wrote to SSA attorney Howard Goldberg that same month: "Jennifer we are working on and Sarah has already been suspended for 3 days."

The retaliation at this point was not centered on Jennifer alone. With each disclosure of Daugherty and Conn's collusion and fraud there were actions by management taken against Sarah in the form of threats, harassment, multiple investigations, reprimands, suspensions, no monetary awards, and lack of promotions.

Soon after Jennifer's resignation, ALJ Kemper, a judge within the Huntington ODAR office, sent a letter to the ALJ's Union President regarding Daugherty's "activities" within the Huntington ODAR office. Jennifer and Sarah provided affidavits for ALJ Kemper as to their knowledge of Daugherty and Conn. Shortly thereafter, Sarah was called into the office of Chief ALJ Andrus and questioned about her involvement with ALJ Kemper's letter. Chief ALJ Andrus told Sarah that is was none of her business and not to provide ALJ Kemper with any information.

As Daugherty and Conn continued their activities, Sarah continued reporting to management and was again was faced with multiple groundless investigations such as alternating the time clock, falsifying government records, insubordination and ultimately a 7 day suspension (which was later settled with the Agency, allowing Sarah to receive her lost pay and the suspension removed from her record). An employee reported to Sarah overhearing a conversation between supervisor Goforth and Daugherty. Daugherty said, "Have you got rid of Sarah yet"? Goforth responded, "We are working on it".

ALJ Daugherty joined in management's harassment of Sarah, by sending sarcastic emails and frequently stalking her within the office.

Throughout 2008 and 2009 Sarah continued reporting Daugherty and Conn's activities. Daugherty and Conn continued their collusion by circumventing the system in their "underground" passage of sending and receiving Conn's cases both from retrieving cases from master docket and from reassignment of cases which belonged to other ALJs. Sarah began reporting directly to the other ALJ's within the office when she noticed a

case that had been removed from the ALJ's name. Several ALJs made numerous complaints to Chief ALJ Andrus. However, the activity continued.

It was about this time when Sarah began to notice a trend with regards to Eric Conn's Motions to Dismiss. Every time she would process a motion to dismiss, she would look to see what ALJ was assigned the case. A definitive pattern was found. When Daugherty failed to intercept one of Conn's cases, and another ALJ heard the case, Conn would go off the record with two particular judges (one of which was Chief ALJ Andrus), who would inform Conn as to whether the case would be favorable or unfavorable. Issuing an unfavorable decision at the hearing is against HALLEX procedures and Agency Policy. If the claim were going to be unfavorable, Conn would have his claimant sign a Motion to Withdraw his or her Request for Hearing. This action protected the claimant from an unfavorable ruling and insured that the claimant's back pay date would revert to the Reconsideration denial once the claimant filed a new application and benefits were awarded. This is where Conn and Daugherty's collusion would once again circumvent the system: Conn would notify Daugherty that the claimant had filed another request for hearing. Even though HALLEX directs the same ALJ to be assigned to the second request for hearing in such cases, frequently Daugherty would intercept the case and issue an On the Record Decision, allowing the claimant to receive more back pay. More importantly, it allowed Conn in most cases to receive the maximum in attorney fees.

In June 2010, Sarah and Jennifer met with then-West Virginia Governor Manchin's Chief of Staff, Jim Spears, regarding their concerns and sought the assistance from Governor Manchin. Although Mr. Spears appeared to be quite interested, Sarah and Jennifer were told the Governor had no jurisdiction over this federal matter.

Sarah again reported to HOD Hall that she felt it was inappropriate for Conn to employ physicians to perform examinations within Conn's office. She told Hall of the repetitive use of the same non-treating physicians who provided independent medical reports that Conn provided for practically every one of his claimants. Mr. Hall again justified this activity by telling Sarah that these reports supported Daugherty's favorable decisions and that there was nothing illegal going on. Sarah voiced her opinion to Mr. Hall that she did not agree.

In March 2011, HOD Hall was a recipient of the Chief Administrative Law Judge Honor Citation Award.

April 29, 2011, Sarah questioned management regarding 50 complete and favorable Conn cases, written by Daugherty, that she found sitting in AWPC status (which indicates that a case is with an ALJ to be written). Even though the cases were completed in April, however, they had not been mailed by the end of the month. The cases were being "banked" for the next reporting month. Sarah and other Huntington ODAR employees had observed this practice on several occasions, Sarah had reported it to management on several occasions, and it appeared to be a common occurrence in the

Huntington ODAR. The cases had been written two weeks prior by ALJ Daugherty and held back because the office had already met their monthly disposition goal.

However, after Sarah's email, Chief ALJ Andrus sent a reminder email the same day to the entire Huntington ODAR staff reminding them of the policy to rotate all Eric Conn cases. On May 2, 2011, ALJ Daugherty sent Chief ALJ Andrus an email regarding the 50 cases and explained to Andrus that he had taken 4 cases from ALJ Buel; 6 cases from ALJ Chwalibog; 5 cases from ALJ Dunlap; 6 cases from ALJ Gitlow and 2 cases from ALJ Quinlivan. That same day, ALJ Daugherty sent a second email to Andrus regarding additional cases he had taken from other judges. Again, Huntington ODAR retaliated against Sarah. On May 3, then-Group Supervisor Stephen Hayes questioned her regarding the purpose of sending the April 29, 2011, email, and she was questioned regarding her workload assignments.

Sarah would later report to the Office of Inspector General (OIG) that of those 50 favorable Conn cases written by Daugherty, in 14 of those cases, Conn submitted medical reports signed by David Herr, M.D., who claimed to have examined and reviewed the records of 14 claimants all on a single day – March 17, 2011 – in Conn's office.

On May 5, 2011, the Huntington ODAR staff received an email from HOD Hall regarding statistics, praising the office for having the 2nd fastest processing time in the country the preceding year.

Despite exhausting efforts to bring a halt to misconduct and mismanagement at the Huntington ODAR, despite filing several grievances, EEO complaints, OSC complaints, and OIG reports, we had obtained no measurable results. We, and some past and current ODAR employees met with Damian Paletta, a reporter from the Wall Street Journal.

May 18, 2011, the Wall Street Journal published Mr. Paletta's article, "Disability-Claim Judge Has Trouble Saying 'No'," describing Daugherty's high approval rate and linking him to the Conn Claims. Jennifer was quoted in the article.

On several occasions in 2011, both of us reported our concerns to the Office of Inspector General (OIG) of the Social Security Administration. Both were contacted by and met with OIG fraud investigators several times preceding the article's publication. Following the Wall Street Journal's publication of the Paletta article, a large number of agents from the OIG arrived unannounced at the Huntington ODAR office and interviewed current and former employees. We both cooperated fully in the OIG's investigation, and have complied fully with all requests for information and documents.

Also, following the Wall Street Journal's publication, we were contacted by and met with staff of this Committee's Permanent Subcommittee on Investigations. The Subcommittee staff arrived in Huntington shortly thereafter to interview management and employees of ODAR. Four days after their arrival Sarah and other employees noticed that management had ordered and received numerous shredders which were placed in

management's offices despite having access to locked shred bins located throughout the hearing office for the use of all employees. The constant noise of shredders and the witnessing of management carrying out bags of shredded paper was reported to the Subcommittee and OIG. Subsequently OIG arrived in the ODAR office within ten minutes and confiscated all shredders.

Despite the multiple ongoing investigations at the time, Sarah continued her efforts to report ongoing misappropriation of disability cases. In June 2011, Sarah reported to management cases were still not being heard by hearing request date. At the same time she made a report to Patrick O'Carroll regarding the ongoing retaliation by management. She sent a copy of this report (i.e., she "cc'd" it) to Hall, ALJ Bice, John Allen (then-Acting Chief ALJ), and Tim Morton (OIG investigator). HOD Hall forwarded the email to SSA attorney Howard Goldberg. Sarah was called into Hall's office that same day and was questioned, criticized and harassed for sending the email. The next day, Acting Chief ALJ Allen emailed Hall stating, "when I get in this morning I'll put a call into Judge Bice to discuss the Ms. Carver activities it is becoming more clear to me that this may be our biggest problem". (Judge Allen is the same individual to whom ALJ Bice has instructed Sarah to report any ongoing acts of retaliation. When this email was brought to the attention of ALJ Bice on several occasions, by both Sarah and her counsel, ALJ Bice has failed to address her concerns.)

Huntington ODAR Managers Have Continued to Retaliate Against Sarah

Prior to 2006, when Sarah began to disclose wrongdoing at the Huntington ODAR, she received several performance awards. She is the most senior SCT in the office and, despite 12 years of service, she is the only SCT who has yet to be promoted to any higher position despite being pre-selected and placed on a best-qualified list for each job she applied for within the Huntington ODAR. With each new supervisor who has been assigned to her, Sarah has had to endure several types of retaliation. Management has ostracized her to her coworkers; they have evaluated her work as only average in order to deny her monetary awards; she has had her tires slashed; supervisors have sat directly across from her for the purposes of harassment and intimidation; she has endured multiple unfounded investigations – including two which were used as pretexts to suspend her; she has been constantly monitored (her phone conversations have been listened to, and her emails read); various activities have been timed; and she has been the subject of baseless and unfounded accusations.

Huntington ODAR management warned each new staff employee not to associate or fraternize with Sarah. HOD Greg Hall once remarked to a co-worker that "Sarah will never be promoted, I do not promote troublemakers." Once, when Sarah received a telephone call from the police informing her that her minor child had been involved in an automobile accident, and she received verbal approval from a manager to take leave, she was charged with being AWOL. Management has denied Union Official time requests she has submitted, and has investigated her for sending reports to OIG. Management has intentionally and unlawfully disclosed Sarah's personal information to her coworkers.

Worst of all, perhaps, Huntington ODAR management conspired to employ a private detective to follow Sarah outside the office – during both Flexiplace time and her personal hours – to create a pretext for management to terminate her, as well as to intimidate her as a witness and to discredit her testimony to the OIG and this Committee.

We Have Sued Conn and Daugherty Under the False Claims Act

In October 2011, a few months after ALJ Daugherty retired, we filed a *qui tam* suit against Conn, his law practice, and former ALJ Daugherty under the False Claims Act, 31 U.S.C. § 3729, *et seq.* As with every prior investigation, we and our attorneys have fully cooperated with the Department of Justice in investigating Conn and Daugherty's wrongdoing. The Department of Justice declined to intervene in our case, however, in December 2012, although it told the court then that its investigation was continuing. We are continuing to pursue that case, which offers the possibility of recovering treble damages and penalties for the government.

Conclusion

When we were hired in 2001, we had great hopes regarding our advancement opportunities within the Social Security Administration. When we witnessed wrongdoing, we thought it was in the agency's best interest to be made aware of it, and so we disclosed the inappropriate symbiotic relationship of ALJ Daugherty and Conn and the questionable medical reports Conn was submitting. We soon found out through various Huntington ODAR managers that this standard of conduct benefited the Huntington ODAR office in not only national statistics but in terms of both prestige and monetary awards. Our concerns were not only ignored but we were punished in various ways as a result of our disclosures.

Who is to be held accountable? It has been our experience that when it comes to management within the SSA ODAR there is no accountability. Every member of management from 2001 to the present involved in misconduct and mismanagement are either still employed, have been promoted, or have been allowed to retire with their full benefits intact, despite our multiple disclosures, the Senate investigation and the OIG investigation. At the direction of ODAR headquarters some of the current management team members have been providing training to other ODAR managers throughout the ODAR regions. (In addition, the current management team has purchased five new soundproof doors at the cost of approximately $6,000 each, has soundproofed their offices, and has installed video cameras within the employees' workspaces.)

Every employee in the Huntington ODAR, including management, is a public servant and should be held to a higher standard of conduct. Management officials and Judges are no exception. Agency production goals and benchmarks are important, however, they should not diminish the importance of the quality of work we perform for the American people. Changes need to be made in the SSA to allow for timely processing of claims without sacrificing quality. Equally important, a system needs to be put in place

and monitored by an outside source, to assure that SSA leaders are to be held accountable for failing to following the laws, regulations, and SSA policies.

In addition, the absence of a government advocate in the current disability appeals process leave the system vulnerable to the abuses we have witnessed. We believe that a government representative in disability appeals is necessary to protect the interest of American taxpayers and to assure the judicial process within the SSA is being followed.

We realize there is no single solution to the many problems within the SSA, however we will continue our efforts to advocate for changes and to recover public funds.

We are thankful for the opportunity to be a part of this investigation and hearing. The efforts of you and your capable staff have finally shed light on the problems we witnessed and for which we long endured abuse. We look forward to seeing changes made as a result of our continued efforts.

Testimony of Jamie Slone

U.S. Senate

Homeland Security and Governmental Affairs Committee

October 7, 2013

My name is Jamie Slone. I am 36 years old and I live in Pikeville, Kentucky. I am married and have four children. I currently work in management.

I worked for the Eric C. Conn Law Firm from September 2006 to March 16, 2012.

One of my responsibilities at the Firm was to field calls from Social Security Administration ("SSA") Administrative Law Judge David B. Daugherty. Each month, Judge Daugherty called and gave the following information for 30-50 Social Security disability claimants represented by Eric Conn: first name, last name, that claimant's Social Security number, and either "mental" of "physical."

Judge Daugherty would also call to speak with Mr. Conn on occasion. During these calls, Mr. Conn asked everyone to leave the room so he could talk to Judge Daugherty in private Mr. Conn made such a request for no other person that called to talk to him.

I created a list of these claimants, which was known throughout the office as the monthly "DB List." Once the list was created, another employee called each claimant on the DB List to schedule an exam with a doctor. During my tenure at the Firm, Jessica Newman was primarily responsible for scheduling claimants. Depending on whether Judge Daugherty indicated "mental" or "physical" for the claimant, Ms. Newman scheduled the claimant to see a certain doctor to provide an opinion on the claimant's alleged disability.

The Firm initially paid for the doctor evaluation, and each claimant was required to reimburse the Firm for the cost of the evaluation.

During my time at the Firm, a large number of the physical evaluations were performed by Dr. Frederic Huffnagle, until his death in October 2010.

The Firm used ten versions of residual functional capacity forms, also known as an RFC, to submit to Judge Daugherty and other ALJs in support of clients' cases of physical disability. These same versions were used in rotation regardless of the clients' medical condition; just the names and Social Security numbers were changed. Dr. Huffnagle did not write or edit the RFC's, but routinely signed them.

Many of the claimants where Judge Daugherty indicated "mental" were seen by Dr. Brad Adkins. Mr. Conn submitted five RFC's in rotation to Judge Daugherty and other ALJ's for claimants for allegations of mental disabilities. Dr. Adkins did not write these RFC's, but routinely signed them and never requested any edits.

When the medical opinions were completed, Judge Daugherty sent a barcode to the Firm to attach to the reports, which were used to upload the reports into the SSA electronic file system.

After six to eight weeks, Judge Daugherty issued a decision approving the claimant for disability benefits "on-the-record" without holding a hearing.

After the Wall Street Journal ran a story about Judge Daugherty on May 19, 2011 Judge Daugherty frequently called the office for several weeks requesting to speak to Mr. Conn. Mr. Conn refused to speak to Judge Daugherty on the Firm's phones. Mr. Conn told me that he and Judge Daugherty each bought prepaid cellular phones to communicate with each other. Mr. Conn used several of these phones, purchased from Family Dollar located next to the Firm offices.

Following the Wall Street Journal article, Mr. Conn stated to me and other that "there is no way I am going to jail." Mr. Conn also stated he considered leaving the United States and going to Cuba to avoid going to jail because he believed he could not be extradited back to the United States from Cuba. Mr. Conn stated "if I was paying DB I wouldn't be dumb enough to leave a paper trail."

After the same WSJ story ran, Mr. Conn destroyed certain paper documents despite the advice of his attorney. Mr. Conn destroyed, or directed the destruction of documents, after the SSA OIG interviewed Mr. Conn at his office. Mr. Conn also directed employees to destroy office computers with a hammer and later burning the hard drives. Around the same time Mr. Conn (and other employees at his direction) destroyed a number of medical records for current clients, whose disability claims were pending at SSA.

In 2010, Mr. Conn was out of the office until late in the afternoon one day that I knew he did not have hearings. I confronted Mr. Conn and said "I have a theory about you" Mr. Conn replied "What's that?" I said "I think that you meet DB once a month and I think that's where you've been today." Mr. Conn responded "well you know what they say, where there's smoke, there's fire."

Introduction:

Greetings to all those present. My name is Alfred Bradley Adkins. I am from the far eastern end of the state of Kentucky, close to a small town named Pikeville. I am the father of a twenty-year-old daughter. I am the son of Alfred Adkins, Jr. and Lois Evelyn Thacker-Adkins. My family hails from the hills of eastern Kentucky for several generations.

I would like to begin by thanking the U.S. Senate Committee on Homeland Security and Government Affairs for asking me to testify here today in the Dirksen Senate Office Building. I hope my testimony will be useful for your purposes.

I am a licensed clinical psychologist in the state of Kentucky. I have obtained, through much hard work, a doctoral degree in clinical psychology from The Union Institute and University of Cincinnati, Ohio. Prior to that, I received a Bachelor of Science degree from Pikeville College. I then obtained a Master's degree in psychology from Morehead State University in Morehead, Kentucky.

I performed my pre-doctoral and post-doctoral internships at The Carl D. Perkins Vocational Rehabilitation Center in Thelma, Kentucky. This included performing psychological evaluations of individuals with disabilities. These evaluations were made into reports that were used by field counselors to determine eligibility of patients for vocational rehabilitation benefits and for determining proper vocational rehabilitation goals for these patients.

I believe that God has blessed me to be of assistance to many people who suffer from mental health disorders and life problems and issues. My goal is to continue this, with God's help, throughout the remainder of my life.

History of involvement with disability determinations:

I began performing consultative examinations regarding disability determinations around the year 2003. At that time, I had not yet obtained autonomous licensure in Kentucky, so I performed them under the supervision of an autonomous psychologist. I began performing these examinations for private attorneys as well as for The Kentucky Department of Disability Determinations because I foresaw that I would someday become autonomous myself, and I wanted to begin to establish a private psychological practice.

I performed two types of psychological evaluations. One of these was a "full battery", which consists of a clinical interview, in which the patient is questioned regarding their personal history, mental health history, and their current mental health state. The full battery also includes administration of The Wechsler Adult Intelligence Scale (WAIS-IV). The other type of

evaluation consists of the clinical interview and a mental status examination. Attorneys always requested the full battery. The Kentucky Department of Disability Determination usually requested the clinical interview and mental status examination only.

From the information gathered, I would generate a written narrative report that included my diagnostic impressions regarding the patient as well as my opinions regarding their abilities to perform in the workforce, based on my evaluation results. These reports would then be sent to either the Kentucky Department of Disability Determination or the attorney who had requested the evaluation be performed.

Relationship with Attorney Eric C. Conn

From the questioning I underwent from Mr. Andrew Dockham, it is my understanding that my relationship with attorney Eric C. Conn is the reason I have been invited to testify today. Let me begin by saying I have never had a personal relationship with Mr. Conn. My relationship with him has always been of a business nature. The following is a synopsis of these dealings.

As previously mentioned, around 2003, I became interested in establishing the foundation of a private practice in the field of psychology. At that time, I contacted several local attorneys (one of them being Mr. Conn) and notified them that I was available to perform psychological evaluations. I also became a vendor for the Kentucky Department of Disability Determination around that time.

The process of performing these evaluations was as follows:

- A referral source would make an appointment with me for the patient to be evaluated.
- The evaluation would be performed as previously detailed.
- My notes and information, scores, etc. would be given to my secretary in Thelma, KY.
- My secretary would write up the report for my review.
- The report would be reviewed by me.
- The report would then be faxed to the attorney who made the referral or to the Kentucky Department of Disability Determination, if they had been the entity to make the referral.
- After the attorney had received the report, I would go to their office, where I would do a final review of the report, complete a Residual Functional Capacity (RFC) form, and receive payment.

Question of Residual Functioning Capacity (RFC) forms

Also during questioning from Mr. Andrew Dockham, the question of Residual Functional Capacity forms (from this point on, called RFC's) I had signed became a topic of discussion. In particular, the fact that I had signed these forms when they had been computer printed and filled out by the office of Mr. Eric C. Conn was a matter of interest.

The following is my testimony regarding this matter:

I do not now, nor have I ever, denied having signed the RFC's when they had been completed by Mr. Conn's office staff. However, when I did so, I had no idea that doing so was against any type of procedure or accepted standard.

Please recall that my background prior to beginning doing consultative examinations was primarily in the vocational rehabilitation field. When I began performing consultative examinations for disability purposes, I had no idea how the disability benefits determination process worked. I mistakenly assumed that the people who made the decisions regarding whether an individual would be awarded benefits would be reading my report in its entirety. I also thought ALL claims, whether first time or appeal, went in front of a judge and jury to be decided.

In fact, I did not know that the RFC's were even seen by the determiners. I believed that the RFC's were solely for the benefit of the attorney and were a sort of "summary" of the report I had generated, which was used solely by the attorney in preparation for arguing the individual's case. I believed that each individual case was argued by the attorney in front of a jury and judge each and every time a case was decided. I thought this was the reason that individuals hired an attorney to represent them regarding disability benefits in the first place.

Additionally, each attorney had their own format of the RFC form. They all asked pretty much the same questions, but in different formats or page layouts. There was no uniformity of the layout of the forms, so I figured they were simply a form each office used for summarization when attorneys were reviewing the case "in house". I had no idea of the ultimate destination or use of these forms.

Prior to the RFC's being completed by Mr. Conn's office staff, I would complete them myself when I went to his office to receive payment. I have testified to this earlier. However, before I began signing the forms that were completed by Mr. Conn's office staff, I had gone to work for a local hospital, and I was no longer in private practice solely. In fact, private practice had become a sideline for me at this time. I was no longer able to so easily stop by Mr. Conn's office and sign the RFC's. This is due to the fact that, when in private practice only, my office was in Thelma, Kentucky in rooms I had rented from my secretary at the time as part of a business arrangement. Mr. Conn's office in Stanville, Kentucky is about halfway between my home in Pikeville, Kentucky and Thelma, Kentucky. Therefore, it was quite convenient to stop by Mr. Conn's office and complete the RFC's and receive payment.

At some point, Mr. Conn's staff began bringing the RFC's and reports I had faxed to him to me during lunch breaks or after work at my new employment. Parking was difficult for his staff, and they needed to return to Mr. Conn's office more quickly. I was asked if it was alright if Mr. Conn's staff completed the RFC's before bringing them to me for signature with the report in order to extradite the process and improve efficiency. I said that would be fine as long as I could review the RFC's and make sure they were consistent with my written report. I understand that

there are some of those RFC's in which one small section of the RFC is inconsistent with my written report. However, to be fair, the inconsistency on the RFC's states the patients are better than I had stated in my reports. Therefore, there was indeed an error on those particular RFC's that I did not catch when reviewing them, but the error was in the favor of stating the patients were better than I actually believed them to be. In essence, the error was in the government's favor, by the RFC stating them to be less impaired in that area than I had intended to opine, per my narrative report.

Having said all of the above, I was not given reason at any time to believe there was a break in procedure by signing these RFC's in question. I never received any feedback from any government employee or agency saying this was incorrect to do. If I had received such notice, I would have stopped doing so immediately. Additionally, I do not recall there ever being anything on the RFC's I signed saying that they were for use by the determiners and to be completed by the consultant only. If there had been such an admonition, I surely would not have allowed anyone else to complete them, and then sign them myself.

Additionally, at the time, I suspected no wrong in signing the RFC's because I assumed Mr. Conn's office knew the procedures and protocols of the disability determination process and that they would operate within the prescribed boundaries of the process. I had no cause to think there was anything less than upright occurring because Mr. Conn's office and practice is very well known in my area, and is considered to be quite successful. I assumed they were operating within prescribed parameters for their own sake, if no one else's.

Again, as mentioned earlier, I was also still under the assumption that the RFC forms were for interoffice use by the attorney who had made the referral request for the psychological evaluation.

As a last note, even though I was ignorant of the process of disability determination, I was always aware that it was a program under the control of The United States government. I have also always been aware that this program was funded by United States citizens' tax dollars. Therefore, anything could be reviewed or scrutinized at any time. In addition to my own morals prohibiting me from engaging in any activity that would fleece the government, I would also never have engaged in any such activity knowingly due to the fact that there is such a transparency of records within the disability determination system. In short, since the consultative records of evaluations performed by health professionals are so easily researched, it would have been foolish indeed to knowingly perform outside of prescribed boundaries.

Recommendations and suggestions

Based on the above testimony, I would respectfully and humbly submit the following suggestions and recommendations regarding changes that could be made to clarify and make more efficacious the disability determination process and decrease the chances of inadvertent problems:

- Any professional who performs consultative examinations regarding disability determination should be educated and trained in the disability determination process, from the applicant's first request for benefits through denial or awarding of claims, and appeals.
- Any professional performing consultative examinations regarding disability determination should be required to receive continuing education regarding the aforementioned process or guidelines. This could include review of material previously learned and/or training in new procedures. It would be especially advantageous to the professional if this training and the training in the above recommendation could result in the professional receiving continuing education credits toward their professional licensure.
- There should be required uniformity of all documents used in the decision making process. In addition, all documents should bear a government seal and state fully and understandably their use as well as the parameters assigned to them.
- There should be either static or random review, by government workers, of documents presented to determiners by health professionals and attorneys to ensure they are within parameters prescribed the government. If the documents are not within these parameters, the health professional and the attorney should be notified immediately so that the document can be brought within parameters for reconsideration.
- Regarding the RFC form in particular, there should be a more effective, meaningful way of describing a level of impairment for the health care professional. Traditionally, there have been five boxes per item, only one of which could be checked by the health professional. These are "unlimited", "good", "fair", "poor", and "none". Perhaps a numerical scale of 1-100 with prescribed parameters for assigning a numerical value in a guide or handbook published by The Department of Disability Determination would be more useful.

I testify that if the above measures had been in place when I began performing consultative examinations, they would have been quite invaluable to me in my practice.

Ladies and gentlemen of this committee, thank you again for the invitation to speak today. I hope my testimony has been helpful and contributive to your goals.

May God bless The United States of America.

Alfred Bradley Adkins, Ph.D.

Licensed Clinical Psychologist

Testimony of Srini M. Ammisetty, MD
Before the Committee on Homeland Security
and Governmental Affairs
October 7, 2013

I specialize in internal, pulmonary & sleep medicine practicing in Pikeville, Kentucky since 2000. I chose to practice in rural Appalachia and I am currently on active full time staff at five regional hospitals in Pike and Floyd Counties, Kentucky.

My wife, who is a family physician, is full time at Saint Joseph Hospital, Martin, and KY & also is on contract staff with the Veterans Hospital in Huntington West Virginia. I am also board certified in Addiction Medicine but have never practiced in this area.

Attorney Eric Conn who was my patient, asked me to do social security evaluations in 2005. [My office was just down the street from his.] I was not trained specifically in social security evaluation, so I refused and referred him to a specialist in that field.

Later at the end of 2010, Mr. Conn approached me again and he requested me to help him with social security evaluations because one of his regular social security doctors had passed away and another one was sick and he had many files pending that needed to be submitted soon. He told me that without an evaluating doctor his clients would not be getting their claims processed. I then agreed to do the evaluations for his clients. I had also planned to do some work in occupational medicine because of my association with the Federal Black Lung program and this was a factor in my decision to review his client's charts. I told him that I would need to examine his clients as well as do their chart reviews.

I then began doing social security chart review and pinpoint examinations for Mr. Conn. I had limited knowledge about the functional capacity evaluation forms with regard to social security claims.

Mr. Conn then said that he would have the residual functional capacity forms done in his office since he had a specialist in occupational/physical therapy that came to his office to do these evaluations. I sent the results of my examinations or chart review to Mr. Conn's office. He then had his occupational person fill out the residual capacity forms,

which were then sent to me for my signature. I then heard some rumors about his practice that caused me to discontinue my association with him. It was known in the community that federal authorities were investigating Mr. Conn. Looking back on my experience with Mr. Conn I feel that safeguards and procedures similar to those in the Federal Black Lung program could improve the social security system.

Srini M. Ammisetty, MD., FCCP., ABSM.

WRITTEN STATEMENT
CHARLIE P. ANDRUS

Chairmen Carper, Ranking Member Coburn. I am here in a personal and not official capacity. The views expressed in my testimony are mine, expressed in my personal capacity as a private citizen. In this testimony I do not represent the views of the Social Security Administration or the United States Government. I am not acting as an agent or representative of the Social Security Administration or the United States Government in this activity. There is no expressed or implied endorsement of my views or activities by either the Social Security Administration or the United States Government.

Jennifer L. Griffith

November 27, 2013

Lauren Corcoran
Hearing Clerk
Committee on Homeland Security and Governmental Affairs
SD-340
Washington, DC 20510-6250

RE: October 7, 2013 Testimony

With regards to my testimony before the subcommittee on October 7, 2013, after my return home and upon further review of my records and testimony I concluded that my testimony needed to be clarified regarding the reports I made to the Office of Inspector General (see transcript at 41:11-15; 52:17-53:4). I filed 2 complaints with the Office of the Inspector General: the one in 2009 which was a verbal anonymous complaint made to the OIG's hotline; I also made a second complaint in 2011, using the OIG's website, and in that one, I provided my name and contact information. I have discussed both complaints at length with OIG investigator Tim Morton and have provided all documentation to both the OIG and Senate Subcommittee.

Respectfully

Jennifer L. Griffith

[redacted]



HEARING BEFORE

THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS

UNITED STATES SENATE

OCTOBER 7, 2013

STATEMENT
OF
DEBRA BICE
CHIEF ADMINISTRATIVE LAW JUDGE

Chairman Carper, Ranking Member Coburn, and Members of the Committee:

Thank you for this opportunity to discuss our hearings process. As Chief Administrative Law Judge (ALJ) for the Social Security Administration (SSA), I am responsible for overseeing the hearings operation in the Office of Disability Adjudication and Review (ODAR), including approximately 1,500 ALJs. I appreciate this opportunity to discuss our hearings process, which is now responsible for adjudicating over 800,000 cases per year, and the improvements we have made over the past decade.

I also thank the Committee for including recommendations in your recent report on the Huntington hearing office aimed at further improving the hearing process. SSA's responses to the recommendations are attached to this testimony.

Before discussing our hearings process, I will briefly discuss the vital programs that we administer.

Introduction

We administer the Old-Age, Survivors, and Disability Insurance program, commonly referred to as "Social Security," which protects against loss of earnings due to retirement, death, and disability. Social Security provides a financial safety net for millions of Americans—few programs touch as many Americans. We also administer the Supplemental Security Income (SSI) program, funded by general revenues, which provides cash assistance to persons who are aged, blind, and disabled, as defined in the Social Security Act, with very limited means.

We also handle lesser-known, but critical services that bring millions of people to our field offices or prompt them to call us each year. For example, we issue replacement Medicare cards and help administer the Medicare low-income subsidy program.

Accordingly, the responsibilities with which we have been entrusted are vast in scope. To illustrate, in fiscal year (FY) 2012, we:

- Handled over 56 million transactions on our National 800 Number Network;
- Received over 65 million calls to field offices nationwide;
- Served about 45 million visitors in over 1,200 field offices nationwide;
- Completed over 8 million claims for benefits and 820,000 hearing dispositions;
- Paid over $800 billion to almost 65 million beneficiaries;
- Handled almost 25 million changes to beneficiary records;
- Issued about 17 million new and replacement Social Security cards;
- Posted over 245 million wage reports;
- Handled over 15,000 disability cases in Federal District Courts;
- Completed over 443,000 full medical continuing disability reviews (CDR); and
- Completed over 2.6 million non-medical redeterminations of SSI eligibility.

When the American people turn to us for any of these vital services, they expect us to deliver a quality product. We take pride in delivering caring, effective service. The aging of the baby boomers, the economic downturns, additional workloads like the growing demand for verifications for other programs, and tight budgets increase our challenges to delivering quality public service.

Program Integrity Work

Further, while outside my direct scope as Chief ALJ, as Acting Commissioner Carolyn Colvin has explained, budgets also have affected our ability to conduct vital program integrity work, which helps ensure that only those persons eligible for benefits continue to receive them. It has been our agency's long standing commitment to issue the right decision to the right person at the right time. By focusing on this commitment, we demonstrate our stewardship and preserve the public's trust in our programs. Although we estimate that we save the Federal government $9 per dollar spent on continuing disability reviews (CDRs), we have a backlog of 1.3 million CDRs because we have not received annual appropriations that would allow us to conduct all of our scheduled CDRs.

The FY 2014 President's Budget includes a legislative proposal that would provide a dependable source of mandatory funding to significantly ramp up our program integrity work.[1] In FY 2014, the proposal would provide $1.227 billion, allowing us to process hundreds of thousands more CDRs.[2]

Appreciation for the Committee's Efforts

Many people with severe disabilities depend on their hard-earned Social Security benefits for life's necessities. While rare, schemes that undermine the public trust in these vital programs can hurt us all. Any attempt to compromise the disability programs is unconscionable. We want to be clear on this point. We continue to analyze and explore all possible avenues regarding the issues identified by and through the work of this Committee, the other examining organizations, and our employees.

We appreciate the Committee's interest and efforts in helping us to further improve our programs and processes through its investigation and report on the former situation in our Huntington hearing office. Hearings like this one bring to light shared concerns and help identify effective solutions. Since the beginning of this Committee's investigation, the

[1] These mandatory funds would replace the discretionary cap adjustments authorized by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act. These funds would be reflected in a new account, the Program Integrity Administrative Expenses account, which would be separate, and in addition to, our Limitation on Administrative Expenses (LAE) account. Under the proposal, the funds would be available for two years, providing us with the flexibility to aggressively hire and train staff to support the processing of more program integrity work.

[2] With this increased level of funding, the associated volume of medical CDRs is 1.047 million, although it may take us some time to reach that level. By comparison, we conducted about 430,000 CDRs in FY 2013.

agency has cooperated fully. We welcomed staff members in our offices and made dozens of employees available for interviews. When the Committee sought documents, the agency worked quickly to provide the Committee with hundreds of thousands of electronic and paper documents.

We also appreciate that the Committee's efforts have led to a positive development. With the benefit of the Committee's work, we now have reliable evidence that certain cases contained pre-completed forms without an independent review of findings, which is sufficient to show 'similar fault' under the Social Security Act[3]. Based on this new evidence, we can redetermine these cases consistent with the requirements of the Social Security Act. The agency will review the affected cases and disregard the tainted medical evidence. If the remaining evidence does not support the original allowance, we will provide the beneficiary the opportunity to submit additional medical evidence before making a final determination. Beneficiaries will receive notification if we ultimately terminate their benefits and assess an overpayment. We are in the process of identifying and reviewing those cases and will be glad to update this Committee on our re-determinations as we progress with our reviews. While we welcome any opportunity to continue our conversation about SSA's hearings operation, we hope the Committee understands that the agency is limited in sharing certain information in a public forum. As you know, the Committee's investigation is not the only investigation of the Huntington hearing office. The Department of Justice and our Office of the Inspector General (OIG) also have conducted investigations - with which we are cooperating fully - and these investigations remain open. Until they are completed, we are not able to take certain actions. While we do not condone inappropriate behavior, we must protect the integrity of the ongoing investigations and adhere to the requirements of the law.

Significant Action Following The Investigation

I want to emphasize that when the issues in the Huntington office emerged, we took significant management action to improve our hearings process to help detect and prevent future abuses. We immediately closed loopholes, strengthened our business processes, and enhanced internal controls. We implemented measures to ensure that the employees of the Huntington office complied with long-standing agency policies. Where we received clearance that our actions would not affect the ongoing investigations, we also commenced our own internal administrative investigations on several related matters.

We strengthened the agency's policy for management officials to assign cases to ALJs in rotation. Since 2006, our policy is, to the extent practicable, to assign cases on a first-in and first-out basis. We learned that there was a technical loophole in our electronic case management system that allowed an individual to assign cases to himself in violation of agency policy. Our system now prevents this practice. We also issued a series of national reminders about the importance of adhering to long-standing policies, including case assignment and case rotation.

[3] See section 205(u) of the Social Security Act.

In addition, we established a national policy capping the total number of cases assigned to an ALJ in a given year. In July 2011, we set the cap at no more than 1,200 case assignments per year. In November 2012, we reduced that number to 960 case assignments per year. Effective October 1, 2013, we reduced that cap to 840 case assignments per year.

We also went "back to basics" to refresh managers on rules about time and attendance, and leave. We held calls with all Regional Chief ALJs and managers to reinforce the importance of leave rules and to discuss how to handle situations involving employees with low leave balances. In fact, we required all managers nationwide to take leave management training.

We launched a campaign for all of our hearing office employees and managers entitled "if you see something, say something," encouraging any employee who believes that he or she has witnessed something inappropriate to report it immediately to the OIG. We also told our managers that they need to take appropriate action when employees raise concerns. In addition, we augmented our existing ethics training for all agency judges.

Comprehensive Improvements in the National Hearings Process

While we took these specific actions to address some of the alleged issues, we must emphasize that over the last ten years we have proactively implemented numerous changes to comprehensively improve our national hearings process. We have made a huge investment in modernizing the hearings process – not an easy undertaking given the size of our adjudicatory system that must decide hundreds of thousands of cases each year.[4] We have fully implemented one of the largest electronic processing and record keeping systems in the world, which moved us from a largely paper-based process to an electronic one that provides additional efficiencies and management tools. This electronic infrastructure has helped us to conduct over 150,000 video hearings annually and to ensure nationwide consistency with uniform electronic business processes for our hearings operation. The Administrative Conference of the United States (ACUS) has cited SSA's video hearings process as a best practice for all Federal agencies.

Our electronic systems allow us to monitor the flow of work through the hearings operation. Previously, we did not have the robust management information that we have today. While we continue to improve our electronic capabilities, the management information we have today has allowed us to significantly strengthen and improve the integrity and efficiency of our business processes. For example, within the last few years, we have been able to collect data on many aspects of our appeals process that we now analyze to ensure that employee training and policy clarifications are data-driven. Data also help us to identify anomalies.

[4] The Supreme Court has recognized that we are "probably the largest adjudicative agency in the western world." *Heckler v. Campbell*, 461 U.S. 458, 461 n.2 (1983).

Our move to electronic processing and record keeping systems have helped us tremendously in addressing one of the greatest challenges facing the agency over the past decade – a massive case backlog. In 2007, there was widespread discontent with backlogs and delays in the disability system. The numbers tell the story. The average wait for a person to receive a hearing decision was over 500 days. Over 63,000 people waited over 1,000 days for a hearing. Some people waited as long as 1,400 days. Congress agreed that these timeframes were unconscionable and made it clear that reducing them should be our top priority.

We decided that we could not take the easy road of short-term fixes on backlogs. We implemented a comprehensive operational plan, initially designed by former Chief ALJ Frank Cristaudo and containing over 30 initiatives, to manage our unprecedented workload. This plan addressed the many issues we must balance in the hearing process – quality, accountability, and timeliness. It included increasing the number of ALJs and support staff, increasing the number of hearing offices, establishing national hearing centers, expanding video conferencing to conduct hearings, improving information technology, standardizing business processes, and implementing quality initiatives. In moving forward with this plan, we relied significantly on the support of Congress. In fiscal years 2008 through 2010, Congress provided additional resources, which were critical to support our improvements. Those resources also allowed us to develop the quality program discussed below.

Our efforts were successful. With more employees and judges to decide cases and improved workload management that included wider use of video hearings, we reduced average processing time from an all-time high of 532 days in August 2008, to a low of 340 days in October 2011. Since 2007, we have reduced our national case processing times by approximately 30 percent. We have decided nearly a million of the cases that had been waiting the longest for a decision since FY 2007, and today, we have virtually no hearing requests over 700 days old, with the vast majority of our cases falling between 100 to 400 days old.

However, we must caution that these gains may prove temporary. Because of cutbacks in the budget, the average processing time from the request for hearing date has started trending upwards and is currently at 382 days. Further, due to reduced budgets, we may not be able to perform as many quality reviews or to initiate new quality initiatives. In short, without adequate funding, our gains may soon diminish.

Ensuring High Quality, and Policy Compliant Decisions

Part of our effort to improve the hearings process has focused on quality. Given its vital importance to agency leadership, I will describe in greater detail the steps we have taken. However, before describing our improvements in this crucial area, I first must address an issue that has historically affected the public's perception of our decisional quality.

Over the past several decades, we have been accused of sacrificing quality by reflexively denying too many disability claims or by granting them too readily. For instance, in

2007, there were prominent stories in the media about the agency's "culture of denial." Recently, the pendulum has appeared to swing to allegations that our ALJs are approving too many cases. However, these more recent allegations omit a key fact—the allowance rate at the hearing level has declined over the last several years.

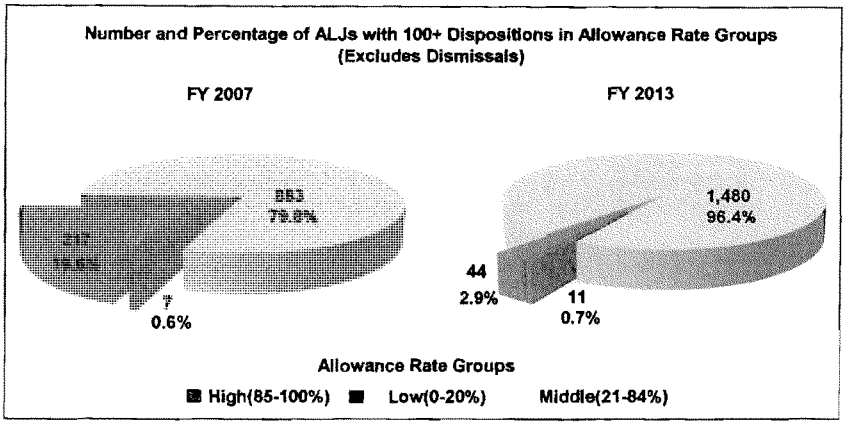
Regardless of the recent trend of lower allowance rates, our efforts to improve the hearings operation – and its quality – are not about whether we allow or deny "too many" cases. There is no predetermined or ideal allowance rate. Our focus is on improving the policy compliance of ALJ decisions across the Nation to ensure that individuals who qualify for benefits receive them, and that those who do not qualify do not receive benefits. This particular focus on quality over the past six years has helped to ensure that the right decision is made on a claim for benefits whether it is an allowance or a denial.[5] See Figure 1.

The data show that quality is improving. This improvement is not happenstance, but the result of several changes from the way we hire, to the way we train, to the way we give feedback. For denial decisions, we have seen ever-increasing concordance between ALJ decisions and the Appeals Council. We now have increasing amounts of data to detect areas of policy non-compliance on both denials and allowances, and we are using that data to provide better feedback to adjudicators to improve policy compliance.

This improved quality means that the Appeals Council is remanding fewer cases to our ALJs for possible corrective action. The percentage of cases appealed to Federal court is also decreasing. These improvements are not possible without the commitment to quality from our employees. I hope that you and the American public do not allow the bad actions of a few to sully the proven good work of the many.

[5] Some observers have raised concerns about the variations in ALJ allowance rates. Regardless of whether an ALJ's determinations fall inside or outside of the mean, we focus on the quality, timeliness, and policy compliance of the decision.

Figure 1



Another aspect of our operational plan to improve quality has been to leverage the unique vantage point that the Office of Appellate Operations (OAO), under the leadership of Judge Patricia Jonas, has at the final level of administrative review. The Appeals Council (AC) within the OAO has regulatory authority to, on its own motion, review cases before a decision is effectuated (paid). For many years, limited resources, rising backlogs, the inability to provide timely feedback, and concerns about how extensively the AC, on its initiative, could review ALJ decisions[6] caused the AC to focus solely on reviewing ALJ denial decisions appealed by claimants and its Federal court workload responsibilities.

In recent years, the AC developed better electronic case processing systems with robust management information, which has permitted the AC also to focus on giving timely feedback to adjudicators. Initially, the data were limited to case information on claimants' request for review of unfavorable or partially favorable ALJ decisions. However, without data from favorable decisions, we had an incomplete picture of the extent to which adjudicators complied with agency policy.

To address this issue, in 2010, Judge Jonas created the Division of Quality (DQ). DQ considers a random sample of unappealed hearing decisions for possible own motion review. Our regulations prohibit us from selecting cases based on individual offices or adjudicators.

[6] Our focus on reviewing ALJ denial decisions was driven, in large part, by the court's decision in *Association of Administrative Law Judges, Inc. v Heckler*, 594 F. Supp. 1132 (D.D.C. 1984). That case concerned the "Bellmon Review Program" that targeted for review individual ALJs based solely on their allowance rates. Under the program, individual ALJs with allowance rates of 70% or higher were to have 100 % of their favorable decisions reviewed for accuracy. The court found that this focus on allowance rates was untenable under the law because it could have affected an ALJ's decision in an individual case.

These reviews address concerns in particular claims, but they also support consistent, quality, and policy compliant decision-making throughout the disability adjudication process. Through these reviews, DQ collects data about recurring issues in decision making, analyzes the adjudication of each case beginning with the initial application, suggests improvements in policies and procedures, and identifies training opportunities for adjudicators and other agency employees involved in the adjudication process. [7]

In addition to this sampling, since 2011, DQ has conducted post-effectuation quality reviews focused on identifying recurrent decisional issues that can be addressed through training, policy clarification, procedural changes, and software, as well as to provide feedback to ALJs, senior attorneys, and hearing offices to improve their adjudication. Unlike the pre-effectuation reviews, we can select a specific ALJ or office.[8] Subjects of completed focused quality reviews include hearing offices, physicians, attorney advisors, claimant representatives, and abandonment dismissals of hearing requests.

This data driven approach utilizes feedback tools like "How MI Doing?," which allows ALJs to see information about their AC remands, including why the case was returned and also to see where their performance fits in relation to other ALJs in their office, their region, and the nation.

In addition, the data collected by DQ provide us with a tremendous tool to identify trends. We review our electronic records for anomalies; when we find them, we look to identify whether such anomalies can be explained or whether administrative action is appropriate. When we suspect fraud or other suspicious behavior, we refer the matter to our OIG.

Training is critical to policy compliance. We continue to improve and expand the training we provide to our ALJs and support staff to help ensure that our hearings and decisions are consistent with the law, regulations, rulings, and agency policy. For example, we are developing training modules related to each of the identified reasons for remand that we will link to the "How MI Doing?" tool. ALJs will be able to receive immediate training right at their desks that is targeted to the specific reasons for the remand.

Since FY 2007, our newly appointed ALJs have undergone a more rigorous selection process and have participated in a two-week orientation, four-week in-person training, formal mentoring, and supplemental in-person training. During my tenure, we have enhanced our continuing education program. We can now gather and analyze common adjudication issues and we provide quarterly continuing education training to all

[7] Because the AC reviews these cases before the agency effects the ALJ decisions, these reviews may affect case outcomes. Either the AC may remand the reviewed case to the hearing office for further development or issue a decision modifying the original hearing decision.

[8] This is a different type of review from the one described earlier. Unlike that review, this type of review occurs after the agency effects the ALJ decisions. Therefore, these reviews do not change case outcomes.

adjudicators to target these common issues. In addition, we have continued our training program, which we began in 2007, to provide in-person technical training for approximately 350 experienced ALJs each year, on a rotational basis. Our emphasis on data driven feedback is giving us the information we need to move from training based on anecdotal information to training on identifiable areas needing improvement.

For the past several years, our new ALJ training has included a session that explains the scope and limits of an ALJ's authority in the hearing process, including the ALJ's obligation to follow the agency's quality standards, rules and policies, and the Standards of Ethical Conduct for Employees of the Executive Branch. We also have implemented the ALJ Mentor Program, which pairs a new ALJ with an experienced ALJ, who provides advice, coaching, and expertise. Additionally, we provide regular guidance to ALJs through Chief Judge guidance, memoranda, and bulletins, Interactive Video Teletraining sessions, and in response to specific queries from the field. We have greatly improved and expanded our training of new hearing office chief ALJs, hearing office directors, and group supervisors. We have provided periodic training for more experienced hearing office ALJs and managers.

To improve quality further, we are currently piloting the Electronic Bench Book (eBB), a policy-compliant web-based tool that aids in documenting, analyzing, and adjudicating a disability case in accordance with agency policy. We designed this electronic tool to improve quality, accuracy, and consistency throughout the disability evaluation process.

To address concerns about changes to various aspects of our disability programs, we have contracted with the Administrative Conference of the United States (ACUS) to review several issues for us. ACUS has looked at challenging and potentially controversial issues that affect the hearings process, including the submission of evidence and duty of candor, the treating source rule, closing the record, and video hearings. We are actively discussing many of these issues, and we are gathering objective evidence and consider input from all stakeholders, which takes time.

Additionally, as part of a broader government-wide initiative for transparent and open government, we have taken significant steps to enhance the transparency of our hearings process. For example, beginning in 2010, we posted on our website data relating to our ALJs and our hearings operation. In this regard and as part of this government-wide initiative, we disclose publicly for each ALJ the number of case dispositions per year; the number of decisions per year; and the number of dismissals, allowances, and denials per year.

The Agency's ALJ Corps

In addition to our other efforts to improve the hearings process, we also have worked diligently to improve the quality and consistency of the service that our hearings employees, including ALJs, provide to the public. For our hearing process to operate fairly, efficiently, and effectively, our ALJs must treat members of the public and staff with dignity and respect, adhere to ethical standards and agency policy, be proficient at

working electronically, and be able to handle a high-volume workload, while maintaining quality and legal sufficiency. The vast majority of adjudicators care very much about making the right decision and being good stewards of the trust funds. We are committed to helping them do their jobs effectively.

When Judge Cristaudo became the Chief ALJ in 2006, he and other agency leaders focused on strengthening the hearings operation. Judge Cristaudo's previous experience as a line ALJ, hearing office chief ALJ, and regional chief ALJ provided him significant insight on the importance of holding ALJs accountable to the agency and the American public. Under his leadership, and with the support of other agency executives, the Office of the Chief ALJ made great strides in improving the quality of ALJ decision making and correctly holding ALJs accountable for failure to adhere to agency policy or for engaging in misconduct.

To enhance ALJ accountability, Judge Cristaudo delegated authority to the Regional Chief ALJs to reprimand ALJs – thus giving Regional Chief ALJs an important management tool to address personnel issues that Judge Cristaudo did not have when he held that position. He also established a new office, the Division of Quality Service, to facilitate consistency and accountability nationally. Additionally, recognizing the critical need for hiring outstanding judges, Judge Cristaudo was instrumental in modifying the ALJ hiring process to better identify candidates with exceptional qualities and to eliminate those candidates who lacked the temperament, ability, or character to serve in the critical role of ALJ.

Further, Judge Cristaudo and agency leadership took significant steps to ensure that ALJs who refused to do their jobs properly or who otherwise betrayed the public trust would be held accountable. To this end, he worked closely with other agency components, including the Office of the General Counsel, to pursue appropriate actions. Generally, an informal feedback process worked, but in those cases where the ALJ did not comply and where appropriate, we pursued corrective action.

In the past several years, it has been necessary to seek removal or suspension of a number of ALJs. The agency strives to ensure that our ALJs adhere to the high standards expected of them, recognizing at the same time that we cannot and would not influence their decision in any particular case. Through the actions the agency brought to the Merit Systems Protection Board, we confirmed, among other issues, that when management addresses case processing it does not interfere with an ALJ's qualified decisional independence. We also confirmed that ALJs must adhere to the same standards of conduct as other federal employees. To date, the agency appropriately has sought the suspension or removal of over 20 ALJs through final MSPB decisions or resolution agreements resulting in separation from the agency. When it is necessary to remove an ALJ from service, the agency must complete a lengthy MSPB administrative process that lasts years and can consume over a million taxpayer dollars. Unlike disciplinary action for other civil servants, the law requires that ALJs receive their full salary and benefits until the case is decided finally by the full MSPB—even though the ALJ's conduct made it impossible for the agency to allow the ALJ to continue deciding and hearing cases or to

interact with the public. We remain open to exploring options to address these matters, while continuing to provide the best service to the American public.

Conclusion

Over fifty years ago, Congress created the disability program to help some of our most vulnerable citizens. The program has served the American public well, and we would caution against calling its integrity into question based on the actions of a few individuals. The vast majority of our adjudicators care very much about making the right decision and being good stewards of the trust funds, and we are committed to helping them do their jobs effectively.

We deeply abhor any wrongdoing that detracts from confidence in our critical programs. As we have discussed, we have taken many actions to improve the integrity of our hearing process, and we remain committed to preventing and correcting issues that lessen our public service.

Some people seek to connect the former situation in Huntington to overarching concerns about the growth in the disability program. Despite the many opinions about the cause of the growth, as our Chief Actuary has repeatedly explained, the increased size and changed age distribution of the population under 65 is the main driver of long-term disability insurance (DI) program growth and was predicted many years ago.[9] For example, the aging of the baby boomer generation accounts for a large portion of the growth in DI awards, as does the fact that more women have joined the labor force and have become eligible for benefits.

We thank you for your interest in helping us improve our service and ensure ongoing confidence in our programs. We also ask for your support for the President's budget request, which will provide us with funding to continue to improve our hearings process, to improve the integrity of our disability programs, and to reduce improper payments by allowing us to conduct more continuing disability reviews and Supplemental Security Income redeterminations. With past support from Congress, we have made progress in both the administrative and program integrity arenas.

[9] See Statement of Stephen C. Goss, Chief Actuary, SSA, before the House Committee on Ways and Means, Subcommittee on Social Security (Mar. 14, 2013), available at http://www.ssa.gov/legislation/testimony_031413a.html

SSA RESPONSE TO RECOMMENDATIONS
How Some Legal, Medical, and Judicial Professionals Abused Social Security Disability Programs for the Country's Most Vulnerable: A Case Study of the Conn Law Firm
Staff Report
Committee on Homeland Security and Governmental Affairs
United States Senate
October 7, 2013

ALJ Consideration of Prior Agency Decision. Judge Daugherty ignored information provided in prior decisions denying benefits and overturned those decisions by relying on information provided by Mr. Conn and his network of doctors that the claimant was disabled. The agency should ensure initial decisions made by the Department of Disability Services ("DDS") to deny benefits are well documented, with specific evidence on why the claimant did not meet the agency's definition of disability. The agency should consider allowing the ALJ to contact the DDS examiner who made the prior decision in the presence of the claimant's representative to ask about the reasons for the prior denial. The ALJ would remain responsible for providing a *de novo* review of the claim.

Response: We agree that all disability decisions should be well documented, with specific evidence supporting the decision. We require adjudicators at all levels to clearly document and rationalize the evidentiary basis of their adverse decisions. All State DDSs now document initial and reconsideration determinations with eCAT, our electronic case analysis tool that provides a detailed disability determination explanation that is retained in the case file. We think it would be far more expedient for ALJs to review the eCAT than to contact DDS adjudicators directly, and we will issue reminders to ALJs to review the eCAT DDS explanation.

Strengthen ALJ Quality Review Process. Judge Daugherty's approved decisions were not subject to further review or the scrutiny of the appellate process, since his awards of benefits were not appealed by the claimant. It is important the agency strengthen and expand the review of ALJ award decisions by the Quality Division of the Office of Appellate Operations, and that Congress provide adequate funding for that effort. The agency should conduct more reviews during the year and improve ways of measuring the quality of disability decisions. Such information should be made available to Congress.

Response: We agree. For many years, the Appeals Council was not adequately funded to perform its oversight responsibilities. In 2007, when we committed to reducing the hearings backlog, we did not want to sacrifice quality in the process. Therefore, we provided some resources for the Appeals Council to implement quality assurance initiatives and improve ALJ training. Our first step was to collect meaningful data that are the foundation of our reviews. As such, we created the Division of Quality in the Appeals Council that began quality reviews in September 2010. In fiscal year (FY) 2012, we reviewed a random sample of about 7,000 hearing decisions, which is up from nearly 3,700 reviews in FY 2011. In FY 2013, having lost staff in DQ, we did fewer own motion reviews—about 6,100 –but maintained post-effectuation focused

reviews, which help us to delve into potential problematic areas like those in the Huntington Hearing Office.

Without adequate funding or hiring capability, it is projected that overall staffing levels at the Appeals Council will decrease by 10-20 percent in the next few years. At the same time, we expect the number of filings with the Appeals Council on our mandated workloads—handling Federal court work and claimant appeals of ALJ decisions—will increase. We must provide timely responses to claimants on requests for review and respond to courts within mandatory deadlines. Additionally, processing appeals is an important feedback tool for ALJs and is the means of collecting invaluable data used by the DQ.

We remain committed to our quality assurance initiatives and strengthening the DQ. We plan to demonstrate our commitment to the maximum extent possible, despite the significant staffing cut in OAO caused by a lack of funding.

Reform the Medical-Vocational Guidelines. Almost all of Judge Daugherty's cases reviewed by the Committee were decided based on the outdated medical-vocational guidelines, which have not been changed since 1980. Those guidelines should be reviewed to determine the reforms needed to update the guidelines to reflect current life expectancy and related ability. Additional studies should be conducted to evaluate whether the current guidelines utilize the proper factors and if they appropriately reflect a person's ability to work.

Response: The medical-vocational rules found in our regulations are rooted in the statutory definition of disability and its requirement that we consider age, education, and work experience in conjunction with residual functional capacity.

We constantly strive to improve our ALJ hearings and are guided by the principles that they must be fair, accurate, and efficient. We are continuing to evaluate if any changes to the medical-vocational rules would enable us to better to meet these goals.

Prohibit Claimant Use of Doctors with Revoked or Suspended Licenses. In some cases, the Conn law firm provided medical opinions from a doctor whose licenses had been suspended or revoked in another state. The agency should prohibit claimants from submitting opinions by doctors whose services, under its existing rules, the agency itself could not accept.

Response: The Social Security Act (Section 223(d)(5)(B)) requires us to "consider all evidence available" in determining if an individual qualifies for disability benefits. Existing law does not permit us to reject existing evidence submitted by a claimant on the basis of the provider's suspended or revoked license. We are continuing to evaluate the issue of medical source licensure and how any potential changes to the current approach would impact the integrity and efficiency of disability decisions.

Strengthen ALJ Analysis of Medical Opinions. Almost all of Judge Daugherty's decisions were based on a medical opinion provided by an attorney-procured medical professional. Many times those opinions were in direct conflict with other evidence in the claimants` files.

SSA should provide specific training with regard to how ALJs should use these types of opinions.

Response: We agree that our adjudicators could always use additional training in knowing how to evaluate potentially conflicting evidence. Such evidence could include medical evidence the claimant provides or we gather from treating sources, a report that the claimant submits from an examining source, a report that we request from an examining source, a medical source statement, or the testimony from a medical or vocational expert. Resolving discrepancies in medical evidence can be challenging, and some adjudicators overdevelop or under-develop the record. In 2012, we trained ALJs on how to evaluate and weigh "medical source statements" from "acceptable medical sources." We defined these terms and discussed the proper approach in weighing medical source statements. We provided ways to articulate the reasons for the weight given to these statements, emphasizing the need to do so in clear, concise, and accurate language and the need to avoid stock phrases in applying analysis.

Also in 2012, we trained ALJs on how to articulate the rationale in the written decision for every part of the residual functional capacity (RFC) finding, including articulating RFC findings function by function. In addition, we trained ALJs on how to consider not only the objective medical evidence but also how to treat history, opinions, and other factors described in 20 CFR 404.1529, 416.929, and SSR 96-7p. We will consider how we can involve ALJs in determining how to improve tools in this area, such as consulting with ALJs who are currently on detail to the Office of Appellate Operations' Division of Quality.

Focused Training for ALJs. The Office of Appellate Operations, Quality Division, should provide training to all ALJs regarding adequate articulation in opinions of legal determinations. This training should emphasize the proper way to analyze and address these issues as required by law, regulation and agency guidance, including how to address obesity and drug and alcohol abuse.

Response: We agree. We conduct reviews to identify common errors in hearing decisions. The results of these reviews thus far show that common errors include the failure to adequately develop the record, lack of supporting rationale, and improper evaluation of opinion evidence. We use this information to develop and implement focused mandatory training for our ALJs and to provide feedback on policy guidance and litigation issues. Since 2012, we have provided training on residual functional capacity, evaluating medical source statements, assessing credibility, effective questioning and writing, dismissals, vocational expert evidence, and overpayments. We have training on childhood disability and drug addiction and alcoholism scheduled for 2014.

SOCIAL SECURITY
Office of Disability Adjudication and Review

MAR 25 2014

The Honorable Thomas R. Carper
Chairman, Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your December 20, 2013 request for additional information to complete the record for the hearing on our disability hearing process. Enclosed you will find the answers to your question and Senator Coburn's questions.

I hope this information is helpful. If I may be of further assistance, please do not hesitate to contact me, or your staff may contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

Sincerely,

Debra L. Bice

Judge Debra L. Bice
Chief Administrative Law Judge

Enclosure

Questions for the Record
Submitted to Hon. Debra L. Bice
For the October 7, 2013 Hearing
On the Disability Hearing Process

Question from Chairman Thomas R. Carper

1. **Investigations Into Huntington, West Virginia Situation**

   Four members of the Committee released an investigative staff report in October ("How Some Legal, Medical, and Judicial Professionals Abused Social Security Disability Programs for the Country's Most Vulnerable: A Case Study of the Conn Law Firm"). The report, released in conjunction with a Committee hearing on October 7th, details the incidents associated with the Social Security Administration (SSA) disabilities programs Administrative Law Judge office in Huntington, West Virginia.

   Has either the SSA Office of Inspector General or Department of Justice launched a criminal investigation into the Huntington, West Virginia case, as described by the October 9th hearing? Has SSA taken administrative action, or launched an administrative investigation, in response to the situation in Huntington West Virginia?

   Yes. The Office of the Inspector General (OIG) opened an official investigation in 2011. That investigation remains open. I am aware that the OIG has been working in conjunction with the U.S. Attorney's Office in West Virginia.

   Also, the agency has taken administrative action where appropriate. For example, the agency has made personnel changes, taken steps to redress claims of retaliation, and initiated the process for redetermining specific cases. The agency believes other actions are necessary. Regretfully, the agency cannot take those actions until the criminal investigations are complete or necessary clearances received.

Questions from Senator Tom Coburn

1. **The Committee's Report found misconduct in the Huntington Office of Disability and Review ("ODAR"), including problems with case management and self-assignment of cases, was well known within the office for at least the last ten years, and for at least five years these problems were raised to the regional level without resolution.**

   a. **Please explain why questions raised about Mr. Conn, Administrative Law Judge ("ALJ") Daugherty, and Judge Andrus were not addressed.**

      I assumed the responsibilities of Chief Administrative Law Judge (CALJ) in January 2011. Prior to that time, I worked in the Kansas City, Missouri Hearing Office as the Hearing Office Chief Administrative Law Judge.

      Allegations regarding Eric Conn came to my attention after I became CALJ. Specifically, in the middle of January 2011, I became aware that an online newspaper, West Virginia News, printed a story alleging collusion between Eric C. Conn and ALJ Daugherty. My office promptly took steps to determine the merit of those allegations. Associate Chief Administrative Law Judge, Paul Lillios, directed the Regional Office to conduct an investigation into the allegations.

      Not long after the Regional Office began to review the allegations, the OIG opened an official investigation and directed the agency to stop its internal investigations. Thereafter, the Committee began its investigation. Since that time, my office has fully cooperated in not only the OIG investigation, but also this Committee's investigation.

   b. **Please explain whether, and if so how, the fact the Huntington ODAR was one of the top producing offices in the nation affected the way the Social Security Administration (the "Agency") handled these problems.**

      The production level of the Huntington Hearing Office, or any other office, does not play a factor in how I address allegations of wrongdoing.

2. **Please explain what, if anything, top agency officials, such as Judge Cristaudo, should have done differently after he was told repeatedly of Judge Daugherty's misconduct in the early 2000s. Evidence of Judge Cristaudo's knowledge can be found at Committee Report Exhibits 12, 38, and 61.**

   I have read the Committee's Report as well as the exhibits to that Report. The Report and exhibits demonstrate that Judge Cristaudo took action when he became aware of potential time and attendance violations by Judge Daugherty during his tenure as a Regional Chief ALJ. Specifically, he instructed the HOCALJ to hold Judge Daugherty accountable. With regard to Judge Daugherty cancelling hearings, he reported his

concerns and requested action, including discipline. (Exhibit 35) At that time, Judge Cristaudo did not have the authority to initiate any discipline against an ALJ.

3. **Please describe in detail the change you assert was made to close a "technical loophole in [y]our electronic case management system that allowed [Judge Daugherty] to assign cases to himself in violation of agency policy," including how it will prevent an ALJ from assigning cases to themselves in the future.**

   The change involved restricting permissions based on unique personal identifiers, as well as monitoring. Accordingly, line ALJs do not have the electronic ability to assign or reassign a case to themselves or any other line ALJ consistent with our long standing policy.

4. **Other instances of ALJ misconduct also appear to go without redress by the agency. According to public reports, Scranton, Pennsylvania ALJ Sridhar Boini was accused in 2011 of indecently assaulting a woman. His employment, however, was not terminated until he assaulted a second woman – a security guard at the office - and was charged in 2012. The ALJ attempted to justify his actions by claiming he was drunk at the time in the middle of the workday.**

   a. **Please provide an update on whether ALJ Bioni has been reprimanded, suspended, or removed as a result of this conduct.**

      I appreciate that instances of employee misconduct may appear to go without redress to the public or to other agency employees. Such matters, however, are subject to the disclosure protections of the Privacy Act. Accordingly, both I and other management officials only may discuss these matters under specific circumstances.

      I am able to provide you with information regarding this employee, because the Chairperson of the Committee has requested that I complete these questions. Accordingly, I can inform you that I executed a Complaint seeking the removal of ALJ Boini with the Merit Systems Protection Board. Currently, the agency is litigating that Complaint.

   b. **If the Agency has not reprimanded or otherwise sanctioned ALJ Bioni, please explain why.**

      Please see my answer above.

5. The agency asserts the Administrative Procedures Act ("APA"), which gives ALJs "qualified judicial independence," can be an impediment to disciplining ALJs.

a. Please explain qualified judicial independence, and whether misinterpretation by certain ALJs allowed them to believe they had the authority to disregard or break laws and regulations.

ALJs "do not exercise the broadly independent authority of an Article III judge, but rather operate as subordinate executive branch officials who perform quasi-judicial functions with their agencies." *Authority of Education Department Administrative Law Judges in Conducting Hearings*, 14 Op. Off. Legal Counsel 1, 2 (1990), *see also Nash v. Bowen*, 869 F.2d 675, 680 (2d Cir.), *cert. denied*, 493 U.S. 812 (1989) ("An ALJ is a creature of statute and, as such, is subordinate to the [Commissioner] in matters of policy and interpretation of law.").

Because ALJs are subject to the policies and regulations of their employing agencies, courts refer to an ALJ's decision-making authority as "qualified decisional independence." *See, e.g.*, *Nash v. Califano*, 613 F.2d 10, 15 (2d Cir. 1980) ("It is clear that these provisions confer a qualified right of decisional independence upon ALJs.").

"Qualified decisional independence" means that ALJs must be impartial when conducting hearings. *See* Final Rules for Setting the Time and Place for Hearing Before an Administrative Law Judge, 75 F3d. Reg. 39154, 39156 (July 9, 2010). ALJs must decide cases based "on the facts in each case and in accordance with agency policy as laid out in regulations, rulings, and other policy statements." *Id.* The decisions of ALJs are "free from agency pressure or pressure by a party to decide a particular case, or a particular percentage of cases, in a particular way." *Id.*

Notwithstanding the clarity of the law, some ALJs believe that, among other things, they are not required to follow agency policy because of "judicial independence." When we become aware that an ALJ holds this mistaken belief, we take appropriate steps to correct the ALJ's understanding. Such steps vary based on the particular facts, and can include training, directives or disciplinary action.

b. Was qualified judicial independence a barrier to address concerns raised about Judges Daugherty and Andrus, including Judge Andrus's practice of assigning cases to himself and falsifying time and attendance?

Qualified decisional independence does not prevent appropriate management oversight of SSA's hearings operation or prevent SSA from establishing administrative practices and programmatic policies that ALJs must follow. *See Brennan v. Dep't of Health & Human Servs.*, 787 F.2d 1559 (Fed. Cir. 1986).

c. In your statement, you described the Merit Systems Protection Board ("MSPB") process for reprimanding or terminating an ALJ. Do you believe this process too onerous?

Should the agency believe that an ALJ's behavior requires disciplinary action beyond a reprimand, the agency must petition the Merit Systems Protection Board (MSPB) for a finding of good cause. *See* 5 U.S.C. § 7521.

In my written statement, I noted that the process of seeking the removal of an ALJ spans years and consumes significant resources. *See* page 10. Not only must the agency dedicate resources to litigating the disciplinary action, but also, in removal cases where the agency has determined that the ALJ cannot remain in the office, the agency must pay the ALJ's full salary and benefits.

By way of example, in the summer of July 2011, I signed a complaint seeking the removal of an ALJ. Following a lengthy discovery period and hearing, the presiding ALJ appointed by the MSPB issued the Initial Decision finding good cause to remove the ALJ in October 2012. As of January 2014, the MSPB has not yet issued a final decision on this case. That particular ALJ has been on administrative leave and has collected a full salary and benefits, although performing no work on behalf of the American public, since July 2011.

d. Please explain what improvements can be made to the discipline process for ALJs to ensure that ALJs, like Judge Daugherty, are held accountable for misconduct.

As I noted above, the time and resources required to process a disciplinary action against an ALJ is a concern for the agency. The agency is open to exploring options to reduce the processing time and necessary resources.

6. In your statement you praise Judge Cristaudo for taking "significant steps to ensure that ALJs who refused to do their jobs properly or who otherwise betrayed the public trust would be held accountable." Please explain how this statement squares with the findings of the Committee's Report that Judge Cristaudo knew of Judge Daugherty's misconduct and did not seek disciplinary action.

In my statement, I note that when Judge Cristaudo became Chief Judge, he focused on strengthening the hearings operation. *See* page 10. I then highlighted a few of the significant initiatives Judge Cristaudo undertook to manage the ALJ corps.

I have read the Committee's Report as well as the exhibits to that Report. The Report and exhibits demonstrate that Judge Cristaudo, during his tenure as a Regional Chief ALJ, took action when he became aware of potential time and attendance violations by Judge Daugherty. Specifically, he instructed the HOCALJ to hold Judge Daugherty accountable. With regard to Judge Daugherty cancelling hearings, Judge Cristaudo

reported his concerns and requested action, including discipline. (Exhibit 35). At that time, Judge Cristaudo did not have the authority to initiate any discipline against an ALJ.

7. **In your statement you note that "[w]e also issued a series of national reminders about the importance of adhering to long-standing policies, including case assignment and case rotation." As the Committee's Report details, Judge Andrus also sent reminders when Judge Daugherty's actions came to light, but the Agency continued to turn a blind eye. Please explain what the Agency has done to ensure that the case assignment and rotation policies are not just publicized, but also enforced.**

   Issuing national reminders to all staff within the hearings operations is an important step for enforcing all agency policies, including the policies regarding case assignment. When employees are reminded repeatedly of the policies, they can more easily spot policy deviations. The "See Something, Say Something" campaign complements these reminders, by encouraging employees to raise policy deviations to the attention of the appropriate officials.

   Additionally, with specific regard to case assignment, the agency made technical changes to its electronic case processing system. Those changes further enforce the case assignment policies. The agency also monitors data on case assignments and dispositions. When the data suggests that there may be a violation of agency policy, we take appropriate steps to ensure compliance.

8. **Our investigation found that Mr. Conn sought doctors with suspended or revoked licenses in other states to provide medical opinions to the Agency. Under existing rules, the Agency could not use a medical doctor with a suspended or revoked license. However, the agency does not require the same standard for medical doctors hired by claimants. Please explain what steps the Agency will take to review this policy.**

   The Social Security Act requires agency adjudicators to "consider all evidence available" in determining whether an individual qualifies for disability benefits. *See* 42 U.S.C §423(d)(5)(B). Existing law does not permit us to reject existing evidence submitted by a claimant on the basis of the provider's suspended or revoked license. The agency is continuing to evaluate the issue of medical source licensure and how any potential changes to the current approach would affect the integrity and efficiency of disability decisions.

9. **The Agency also does not bar attorneys with past disciplinary problems from representing claimants. For example, public news articles assert Eric Conn was removed by a state court judge from representing a murder suspect in 1997 for breaking Tennessee rules of professional responsibility; he was reported to the Board of Professional Responsibility in Tennessee; and in 2002 he was investigated for professional misconduct in the United States Veterans Appeals Court and later submitted his resignation to that Court's bar. Yet, Mr. Conn is still allowed to represent clients before the Agency.**

   a. **Please explain whether the Agency should have stricter standards for representatives who practice before it.**

      The Social Security Act establishes the standards for recognizing attorneys as claimant representatives. *See* 42 U.S.C. §406 (a)(1). "An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants" before the agency. *Id.* Accordingly, pursuant to statute, the agency must recognize an attorney who meets those standards as a claimant representative.

      Because the standards for recognizing claimant representatives are statutory, only Congress can change them. In the past, Congress has taken this route. For example, the Social Security Protection Act of 2004 gave the agency the authority, after due notice and the opportunity for a hearing, to refuse to recognize those attorneys who have been disbarred from any court or bar to which he or she was previously admitted to practice. *Id.* at §406 (a)(1)(A)(B).

   b. **Please explain whether the Agency would be aided by having a lawyer representing the government before the ALJ who could ensure that a case is ready for hearing and point out problems with medical and legal professionals submitting evidence to the court.**

      In August 1982, the agency published regulations establishing the Social Security Administration Representation Project, following extensive consultation with Congress. *See* 47 Fed. Reg. 36117-01 (August 19, 1982). The Project established the position of SSA representative to, among other things, review disability cases before a hearing in select offices, to initiate any necessary development of evidence, and to present the agency's view at disability hearings, if the claimant had representation. The purpose of the Project was to determine whether the participation of SSA representatives in the hearing process would: 1) help improve the overall disability adjudicatory process; 2) reduce delays in conducting hearings and issuing hearing decisions; 3) improve the quality of hearing decisions; 4) increase the productivity of ALJs; 5) achieve more uniformity and consistency in hearing decisions; and 6) reduce hearing costs. *Id.*, at 36123.

While Congress originally supported the Project, the agency received significant Congressional opposition once it began. Additionally, a United States District Court enjoined the Project. Among other things, the court held that it violated the Social Security Act by creating an adversarial proceeding in contravention of Congressional intent. *See Salling v. Bowen*, 641 F. Supp. 1046, 1072 (W.D. Va. 1986). Due to Congressional opposition, general fiscal constraints, and the District Court injunction, the agency discontinued the Project. Based on this prior history, the agency believes that specific authorizing legislation is necessary in order to explore whether the participation of agency representatives is beneficial to the process.

10. Our investigation found the Agency put tremendous pressure on ALJs to write decisions, including the so-called quota in which ALJs were to decide 500-700 cases per year, and even overlooked bad behavior if an ALJ was a high producer. For example, the Committee Report documents that in Huntington ODAR, Judge Daugherty decided almost 1,500 cases each year and his misconduct was overlooked, while Judge Tinsley decided 300 and was pushed out.

a. Do you think emphasis on reducing the backlog contributed to the lack of oversight demonstrated at the Huntington ODAR?

As I noted, I assumed the responsibilities of CALJ in January 2011. After the OIG made public its investigation in May 2011, I had clearance to address the current structure of management within the Huntington Hearing Office. My review led to significant changes.

Further, the agency does not have a "quota." We expect that among other things, agency adjudicators will provide quality, timely and policy compliant decisions. We make it clear that agency adjudicators may not disregard these expectations simply to "pay down the backlog."

b. In your statement, you describe capping the total number of cases assigned to a single judge in order to monitor performance. Please describe other steps the Agency is taking to evaluate individual judges on their performance.

In my statement, I note that the agency has capped the number of cases assigned to an ALJ during a fiscal year. *See* page 4. I further noted that we have made several changes focusing on the quality of the hearings operation. *See* page 5-9. To ensure quality, timely and policy compliant decisions from agency adjudicators, we provide numerous resources and detailed feedback to employees in the hearings operation. We also review data and information from available resources to evaluate whether agency adjudicators are meeting the agency's expectations. Shortcomings are addressed through appropriate corrective action. Sometimes an individualized training regimen is necessary. Other times management directives, counseling or disciplinary action is necessary.

We monitor the effectiveness of the corrective action through various means, including discussions with individual adjudicators and post-effectuation reviews of cases.

11. Our investigation also found that the ability to add medical records to the hearing record at any time damaged the integrity of the hearing process. Lawyers often waited until just before the hearing to submit hundreds of pages of records, or even waited until the appeals process and therefore received a higher fee for their representation. Please explain whether you support a proposal to close the record a few days prior to the hearing to prevent these abuses.

In 2005, the agency proposed to amend various aspects of the administrative review process to improve accuracy, consistency and timeliness of decision making throughout the disability determination process. *See* 70 Fed. Reg. 43590-01 (July 27, 2005). One amendment involved closing the record 20 days prior to the hearing, subject to two exceptions. *Id.* at 43596. The agency received many comments to this proposed amendment. In 2006, the agency issued a Final Rule implementing new regulations, providing, in the relevant part, the record would close five days prior to the hearing, subject to several exceptions. *See* 71 Fed. Reg. 16424-01, 16428 (March 31, 2006). The agency has referred to this process as a "soft closure" and implemented it in the Boston Region. In 2012, the agency contracted with the Administrative Conference of the United States (ACUS) to study and provide recommendations regarding closing the record at the hearing level. The agency currently is reviewing ACUS' findings and recommendations on this issue.

12. In your statement, you note that ALJs should be held to the same standards as "other federal employees." Please explain why ALJs should not be held to a higher standard, such as that outlined in the Code of Conduct for United States Judges.

In my statement, I explained that the agency strives to ensure that our ALJs adhere to "the high standards" expected of them by the agency. *See* page 10. The ALJ position is unquestionably a position of "prominence, whose incumbents usually engender great respect and whose cooperation within the office should be taken for granted." *SSA v. Steverson*, 111 M.S.P.R. 649 (2009). *See also SSA v. Manion*, 19 M.S.P.R. 298, 302 (observing Initial Decision's conclusion that ALJs "occup[y] a high and prominent Federal office"). Because of the high standards associated with the ALJ position, the agency will address any conduct that "undermines public confidence in the administrative adjudicatory process." *See Long v. Soc. Sec. Admin.*, 635 F.3d 526, 535 (Fed. Cir. 2011).

I then explained that through litigation, the agency confirmed ALJs must adhere to the same standards of conduct as other employees. For example, the agency confirmed that ALJs were required to follow agency policies, including policies regarding working at home, use of government equipment and participation in EEO complaints. *See, e.g., SSA v. White*, 113 L.R.P. 17261, CB-7521-07-002-T-1 (April 22, 2013) (initial decision), *aff'd* 119 M.S.P.R. 390 (2013) (Table) (unbecoming conduct and failure to follow work at home procedures); *SSA v. Steverson*, 111 M.S.P.R. 649 (2009) (lack of candor, misuse of

agency title, and misuse of equipment); *SSA v. Adams,* 108 L.R.P. 30679, CB-7521-07-002-T-1 (May 9, 2008) (initial decision), *aff'd* 344 Fed. Appx. 619, 2009 WL 2952182 (Fed. Cir.) (EEO participation).

Further, ALJs, as executive branch employees, are subject to the strict ethical provisions articulated in Standards of Ethical Conduct for Employees of the Executive Branch. *See* 5 C.F.R. Part 2635. These Standards require, among other things, that ALJs shall place their loyalty to the Constitution, the laws and ethical principles above private gain, and avoid impropriety or the appearance of impropriety. They also require that ALJs shall act impartially and not give preferential treatment to any private organization or individual, and that ALJs shall not, directly or indirectly, solicit or accept a gift from a prohibited source or given because of the employee's official position unless excepted by regulation. ALJs are also subject to the Hatch Act, which relates to the partisan political activities of Federal employees, and required to file Financial Disclosures.

13. **In your statement you note that you launched a campaign called "if you see something, say something" and have encouraged employees to come forward to report abuse. However, the Committee's Report made troubling findings of retaliation by Agency officials against those who report misconduct. My office continues to receive calls and e-mails of concern from Agency employees who believe they cannot come forward for fear of retaliation. Please explain how the Agency will ensure that retaliation – such as that experienced by members of our first panel – will be prevented and, if it occurs, swiftly corrected.**

The agency has strong anti-discrimination and anti-harassment policies that specifically address retaliation and reprisal. As directed by those policies, management officials take appropriate action to address any known retaliation. To the extent individuals contact you with claims of retaliation, please feel free to provide me or OIG with such information. I have personally taken corrective action in the Huntington Hearing Office to protect employees.

Further, the "See Something, Say Something" program launched by Deputy Commissioner Glenn Sklar encourages employees within the Office of Disability Adjudication and Review to raise concerns about fraud, waste or abuse to the OIG. Complaints to OIG can be anonymous.

14. **For years, the Agency continued to deny a number of allegations made by whistleblowers that were eventually proven in the Committee's Report. It was not until the Committee started investigating that the Agency began to address the problems. Please explain how you can assure the American public this type of misconduct and failure of management to punish it will not happen again?**

As I explained above, my office began to investigate this matter prior to the Committee's involvement. Moving forward, the agency will continue to review data and information from available sources for anomalies or other issues. The agency then will continue to investigate any anomalies or allegations of wrongdoing, and take any necessary action.

15. Please explain what Congress can do to help the Agency strengthen its program integrity efforts.

We are best able to accomplish our program mission and provide excellent stewardship when Congress invests in us with sufficient funding. The Consolidated Appropriations Act, 2014, which the President signed on January 17, will provide us with $11.697 billion for our Limitation on Administrative Expenses account, including $1.197 billion for program integrity work. The $1.197 billion for program integrity is the same level authorized by the Budget Control Act of 2011 (BCA). This funding will give us the ability to complete more CDRs, allowing us to save billions of taxpayer dollars, and set the stage to complete even more CDRs in FY 2015.

Moreover, the FY 2015 President's Budget includes full funding of the BCA level of program integrity work in FY 2015. Additionally, beginning in FY 2016, the budget includes a legislative proposal that would provide a dependable source of mandatory funding to significantly ramp up our program integrity work. These mandatory funds would replace the discretionary cap adjustments authorized by the BCA. These funds would be reflected in a new account, the Program Integrity Administrative Expenses account, which would be separate, and in addition to, our Limitation on Administrative Expenses account. The program integrity funds would be available for two years, providing us with the flexibility to aggressively hire and train staff to support the processing of more program integrity work. We encourage you to support this proposal.

SOCIAL SECURITY
Office of the General Counsel

MAR 2 5 2014

The Honorable Thomas R. Carper
Chairman, Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your December 20, 2013 request for additional information to complete the record for the hearing on our disability hearing process. Enclosed you will find the answers to Senator Coburn's questions.

I hope this information is helpful. If I may be of further assistance, please do not hesitate to contact me, or your staff may contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

Sincerely,

Frank Cristaudo
Acting Regional Chief Counsel
Boston Region

Enclosure

Questions for the Record
Submitted to the Hon. Frank A. Cristaudo
For the October 7, 2013 Hearing
On the Disability Hearing Process

Questions from Senator Tom Coburn

1. **Exhibit No. 12 to the Committee's Report is an email exchange between you and Judge Andrus from June 2002 regarding Judge Daugherty's inappropriate approval of Mr. Conn's cases. That email also documents an inappropriate personal friendship between the two men.**

Exhibit No. 12 to the Committee's Report is an email exchange between Judge Andrus and me regarding Judge Daugherty canceling hearings in Prestonburg, and about the potential appearance of a conflict of interest between Judge Andrus and Eric Conn.

   a. **Please explain when you first learned of Judge Daugherty's practice of assigning Mr. Conn's cases to himself for approval.**

I was not aware that Judge Daugherty was assigning cases to himself. I believe the first time I learned of Judge Daugherty assigning cases to himself was after the Wall Street Journal article.

   b. **Please explain when you first learned that Judge Andrus and Mr. Conn were socializing outside of the hearing room.**

I do not recall the specific time when I first learned that Judge Andrus might have been socializing with Eric Conn. According to the exhibits to the Committee's Report, Judge Daugherty informed me of potential socialization between Judge Andrus and Eric Conn in June 2002. I counseled Judge Andrus about socializing with Eric Conn and, after that instance, I do not recall receiving any complaints about a potential improper relationship between Judge Andrus and Eric Conn.

   c. **Were you surprised to find yourself having problems not only with Judge Daugherty, but also his supervisor, Judge Andrus, at the same time?**

I was not surprised that a potential issue with Judge Daugherty and a potential issue with Judge Andrus arose in close proximity, as at times we deal with more than one issue at a time in the same office.

2. **Exhibit No. 38 to the Committee's Report is an email exchange between you and Valerie Loughran, nearly a year later in May 2003. Ms. Loughran, a colleague of yours at the regional level, asked you, "[w]hy does Andrus keep bringing stuff up on Daugherty and never follow through on any of it?"**

Exhibit No. 38 to the Committee's Report is an email chain that contains the following: 1) a lengthy email from Judge Andrus to me; 2) an email from me to Ms. Loughran and other employees in the Philadelphia Regional Office forwarding Judge Andrus' email; and 3) an email from Ms. Loughran to me asking why Judge Andrus "keep[s] bringing up stuff on Daugherty and never follow[ing] through on any of it" and expressing her thought that she was "getting tired of" Judge Andrus.

a. **Please explain the basis for Ms. Loughran's frustration with Judge Andrus. She appears to be referencing a long history of similar problems with Judge Andrus.**

I cannot explain the exact basis for Ms. Loughran's frustration with Judge Andrus. To the best of my recollection, the first time Judge Andrus brought to my attention the issue of Judge Daugherty canceling hearings was in June 2002. I reported the matter through my chain of command and formally sought discipline for Judge Daugherty's conduct. Thereafter, the Deputy Chief Administrative Law Judge directed me to conduct a "bias and unfair hearing inquiry" regarding this matter. Following the process in place, I then directed Judge Andrus to investigate the matter and to explore the reasons behind Judge Daugherty canceling his hearings. Exhibit No. 38 was Judge Andrus' report to me outlining the results of his investigation.

b. **Did you have any other conversations with Ms. Loughran regarding Judge Andrus and his handling of Judge Daugherty?**

I do not recall specifically, but I likely did have other conversations with Ms. Loughran regarding Judge Andrus' handling of potential time and attendance problems with Judge Daugherty. Weekly, she and I met with our Regional Attorney, the Office of the General Counsel, and the Regional Commissioner's Labor-Management and Employee Relations expert, to discuss these kinds of issues and the course of action we would take.

c. **Please explain when you first received complaints about the way Judge Andrus was handling allegations regarding Judge Daugherty's misconduct.**

Other than perhaps in our weekly discussions noted above, I do not recall receiving specific "complaints about the way Judge Andrus was handling allegations regarding Judge Daugherty's misconduct." I likely did discuss Judge Andrus' handling of the allegations of Judge Daugherty's time and attendance issues with Ms. Loughran and the others noted above in our weekly discussions.

d. Please explain whether other Administrative Law Judges ("ALJs") complained to you about Judge Andrus's handling of Judge Daugherty.

I do not recall any administrative law judges complaining to me about "Judge Andrus's handling of Judge Daugherty." However, I believe one or more of the other ALJs in the office did complain about Judge Daugherty's compliance with the time and attendance rules. I took these complaints seriously and asked Judge Andrus to investigate them.

3. **Exhibit No. 61 to the Committee's Report is an email from April 2005 regarding Judge Daugherty's time and attendance problems. You wrote, "I have directed Judge Andrus on several occasions to take care of this. He is either unwilling or unable to handle the situation." This email is dated three years after serious problems were known about Judge Daugherty.**

In June 2002, I became aware of allegations that Judge Daugherty was signing in and then leaving the hearing office without accounting for his absence. I instructed Judge Andrus to investigate these allegations. After another allegation that Judge Daugherty was signing in and leaving the hearing office, I directed Judge Andrus to speak with Judge Daugherty about his potential violation of the time and attendance rules. In November 2002, I directed Judge Andrus to advise me of Judge Daugherty's compliance with the time and attendance rules and reminded him that the agency could take action only if there were documented instances of time and attendance abuse.

a. Please explain why you did not take any action to suspend or fire Judge Daugherty during those three years, even after you knew Judge Andrus was not "handl[ing] the situation."

As Regional Chief ALJ, I did not have authority to "suspend or fire" an ALJ, or to seek authorization from the Merit Systems Protection Board (MSPB) to do so. Nor could those with the authority to seek authorization from the MSPB to "suspend or fire" do so without supporting documentation. After my instructions to Judge Andrus in 2002, I was not aware of any further allegations regarding potential time and attendance abuse by Judge Daugherty until 2005.

b. Please explain what more, if anything, you believe could have been done from 2002-2005 to address Judge Daugherty and Judge Andrus's actions.

I directed Judge Andrus to investigate allegations of misconduct by Judge Daugherty and reminded him that Judge Daugherty could not be disciplined without adequate documentation. I also advised my chain of command about the allegations of Judge Daugherty's misconduct including his canceling of hearings and alleged time and attendance abuse. In April 2005, I again learned of allegations regarding Judge Daugherty signing in and then leaving the hearing office. I again directed Judge Andrus to investigate these allegations and to report his findings. In June 2005, Judge Andrus reported that he had conducted an investigation and determined that Judge Daugherty had forgotten to sign in and then went back to the sign in sheet and signed in for the time he

arrived at the office. Judge Andrus advised me that he reminded Judge Daugherty about the importance of accurately signing in and out on the time sheet. After 2005, I did not learn of any further issues with regard to Judge Daugherty's time and attendance.

When I learned of potential misconduct by Judge Daugherty, I followed agency policy and took steps to address it. When I learned that Judge Daugherty had cancelled hearings and instead issued on-the-record decisions, I requested, through my chain of command, that Judge Daugherty be disciplined. When I learned of allegations regarding Judge Daugherty signing in and then leaving the hearing office, I directed Judge Andrus to look into those allegations and to document his findings. If the allegations were confirmed, I would have requested that Judge Daugherty be disciplined, like I did when I learned that Judge Daugherty had inappropriately cancelled hearings. I advised my chain of command of the allegations of time and attendance abuse by Judge Daugherty. I also asked the Office of the Inspector General to investigate the allegations but they declined because of lack of resources.

With regard to Judge Andrus, I was not aware that he engaged in any misconduct. While I believed he could have been more proactive with regard to the allegations about Judge Daugherty's time and attendance, I could not recommend his removal from his position as Hearing Office Chief ALJ (HOCALJ) without substantial justification. At that time, if an RCALJ wanted to have a HOCALJ removed, the RCALJ would have to recommend removal to the Chief ALJ who could either adopt or deny the recommendation.

c. Please explain what more if anything, the Agency could have done from 2002-2005 to address Judge Daugherty and Judge Andrus's actions.

Please see my response to 3b.

4. I understand the Administrative Procedure Act, which gives ALJ's "qualified judicial independence" can be an impediment to disciplining ALJs. How did qualified judicial independence create a barrier for you in dealing with Judges Daugherty and Andrus?

In my opinion, qualified decisional independence did not create "a barrier" for dealing with Judges Daugherty and Andrus in regard to the issues noted above about canceling hearings or alleged time and attendance abuse. Qualified decisional independence does not allow an ALJ to ignore the agency's policies or to engage in misconduct. Under the Administrative Procedure Act, however, in order to suspend or remove an ALJ (unlike other Federal employees), the agency must file a formal complaint with the MSPB and prove, after a full adversarial hearing, that there is good cause for taking the action. I have testified at a number of these hearings in support of the agency's disciplinary charges.

5. **Please explain what Congress can do to help the Agency strengthen its program integrity efforts.**

We are best able to accomplish our program mission and provide excellent stewardship when Congress invests in us with sufficient funding. I understand that the Consolidated Appropriations Act of 2014 fully funded program integrity work at the level established in the Budget Control Act of 2011 (BCA). The FY 2015 President's Budget proposes additional funding at the BCA level in FY 2015, as well as a legislative proposal creating mandatory funding for the agency's program integrity work beginning in FY 2016. I concur in Chief Administrative Law Judge Bice's response regarding those matters.

SOCIAL SECURITY
Office of Disability Adjudication and Review

MAR 2 6 2014

The Honorable Thomas R. Carper
Chairman, Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your December 20, 2013 request for additional information to complete the record for the hearing on our disability hearing process. Enclosed you will find the answers to Senator Coburn's questions.

I hope this information is helpful. If I may be of further assistance, please do not hesitate to contact me, or your staff may contact Scott Frey, our Deputy Commissioner for Legislation and Congressional Affairs, at (202) 358-6030.

Sincerely,

Patricia A. Jonas

Judge Patricia A. Jonas
Executive Director
Office of Appellate Operations
Deputy Chair
Appeals Council

Enclosure

Questions for the Record
Submitted to Hon. Patricia A. Jonas
For the October 7, 2013 Hearing
On the Disability Hearing Process

Questions from Senator Tom Coburn

1. **You testified in front of the Committee last year regarding the report released by the Minority Staff of the Permanent Subcommittee on Investigations. That investigation reviewed 300 randomly selected case files for claimants in three different counties. In both the 2012 Report and the recent Huntington Office of Disability and Review ("ODAR") Report, we found that Administrative Law Judges ("ALJs") relied on questionable medical evidence.**

a. **Please explain whether you believe problems with reliance on questionable medical evidence are more widespread than people realize.**

The fundamental rules of the Social Security program provide that individuals applying for a benefit must establish by a preponderance of the evidence that they are eligible for those benefits. In order to prove that they are disabled, the individual must bring to the agency's attention any information the agency can use to reach conclusions about the impairment and its effect on the ability to work on a sustained basis. The information that the claimant submits may be supplemented by other relevant evidence that is developed by the agency. A variety of medical evidence types are considered in determining whether an individual is disabled. This includes objective medical evidence, other evidence from medical sources, statements regarding the claimants' activities, impairments and restrictions, and opinions from State Agency medical and psychological consultants based on their review of the evidence. Testimony from medical and vocational experts who have reviewed the record may also be considered. In addition, if the evidence that the individual submits appears incomplete or inconsistent, the agency may obtain an examination in order to gather more information to assist in making a determination or decision on the claim. While agency rules permit all evidence provided or obtained, including incomplete or inconsistent evidence, to be considered in making the decision, such evidence must be evaluated pursuant to agency rules. An adjudicator when making a disability decision should rely upon no single piece of evidence, but rather, should rely upon the record as a whole. For example, Exhibit A-2 of the October 7, 2013 Senate Report (Decision by ALJ Andrew Chwalibog) provides a good example of how an ALJ followed Social Security policy when evaluating a medical report and opinion submitted by the representative (report from Dr. Herr) along with other information. Similar examples in which the medical evidence was properly evaluated were cited in the September 2012 Minority Staff Report (pages 127 – 132).

In contrast to cases in which incomplete or inconsistent evidence is submitted, there are circumstances in which a document is of questionable validity that potentially may result in a finding of fraud or similar fault. Guidance is provided to our employees to look for

signs of these types of "questionable medical evidence," and all employees receive annual fraud awareness reminders. Additionally, there is an established process to forward fraud allegations to the Office of the Inspector General (OIG), which is responsible for fraud investigations and recommending cases to the United States Attorney's Office for possible prosecution. Our employees have been key to the identification and referral of possible fraud or similar fault in recent highly publicized OIG investigations.

We take assertions of fraud or similar fault very seriously, and continue to make important strides in protecting the program and taxpayers from these problems. The incidence of fraud tied to ALJs who willfully do not follow policy is minimal in terms of the scope of the program.

In my experience, most claimant representatives try to do their best for their clients within the scope of the law and our rules. As an example, in the June 2013 hearing before the House Oversight & Government Reform Subcommittee on Energy Policy, Healthcare and Entitlements, National Organization of Social Security Claimants' Representative's Tom Sutton commented that in their role as fiduciaries for their clients, he and his firm encourage those claimants who can work to do so because they are better off financially when employed. Also in my experience, most agency employees follow our rules and those who do not, do so because the rules and case scenarios can be complex and expertise must be developed, not because they desire to defraud the program. For this reason, the Office of Appellate Operations works closely with our colleagues to identify error reasons and deliver relevant training.

With a program of this size, we realize there will always be individuals who try to perpetrate fraud, and we have zero tolerance for fraud, as even a small amount can result in big dollars. Therefore, when my staff identifies any potentially fraudulent situations, they refer them to the OIG. The agency also studied the report from the Administrative Conference of the United States and developed a proposal to require that claimants submit all evidence, not just evidence in support of a claim. After carefully studying the report and conducting internal analyses, on February 20, 2014, we published a Notice of Proposed Rulemaking that proposed to revise our regulations to require claimants to inform us about or to submit all medical evidence known to them that relates to their disability claim--both favorable and unfavorable. This requirement would be subject to two exceptions, which are for attorney-client privilege and attorney work product. We would also extend the protections afforded by these privileges to non-attorney representatives.

b. Please explain how you believe pressure from the Social Security Administration (the "Agency") to produce 500-700 cases per year was a contributing factor in what happened in the Huntington ODAR.

ALJs are senior-level employees receiving compensation consistent with an expectation that they can handle complex work in a productive environment with support from four

or five hearing office employees. It is reasonable for the American public to expect ALJs to be fully engaged.

The former situation in the Huntington hearing office was the product of fraud or similar fault centered on an individual ALJ and cannot be attributed to the 500 – 700 case disposition request. Our data reflect that there are a large percentage of ALJs who issue more than 500 legally sufficient, policy compliant decisions per year.

2. **You were in the unique position of working directly with Judge Daugherty in the Huntington ODAR before being promoted to agency leadership at which point you referred to Judge Daugherty as "intellectually lazy." See Committee Report Ex. 5. Please explain your impression of Judge Daugherty from your experience working with him in the Huntington ODAR.**

I was the supervisory attorney advisor in the Huntington hearing office when Judge Daugherty was assigned there in 1990 after he completed new ALJ training. He appropriately cooperated with management in scheduling and holding hearings, preparing written instructions for the decision writers and reviewing cases. He attended training conducted within the hearing office. The disability program rules, however, are complex, encompassing the Social Security Act, regulations, Rulings, and policies. My experience was that even after training, new ALJs would have numerous discussions with other ALJs and with the decision writers in the office regarding the application of these various, governing mandates. My observation was that once Judge Daugherty was aware of the broad agency policy he did not demonstrate similar interest in discussing the details about the application of these mandates in individual cases. My impression was that he was satisfied with the minimum information necessary. During my tenure in the Huntington hearing office, it did not appear to me that he deliberately failed to follow agency mandates in the preparation or issuance of his decisions.

3. **Please explain what actions you could have taken to stop Judge Daugherty or other ALJs like him when you were promoted to your current position.**

My current position is Executive Director of the Office of Appellate Operations (OAO) and the Deputy Chair of the Appeals Council (AC). When a claimant disagrees with an ALJ decision (generally a denial or a partially favorable allowance), the claimant may file a request for review with the AC. The AC appropriately may decide to deny the request for review, dismiss the request for review, or grant the request for review. If the AC grants a claimant's request for review, after such review the AC will either remand the case for further development/proceedings at the ALJ level or issue a decision.

The Social Security regulations also authorize the AC to review certain cases on our own-motion, before a claimant is paid benefits. However, the regulations prohibit the AC from selecting a case for own-motion review based either on the identity of the ALJ or the hearing office. If a case is selected for own-motion review, the AC also can either remand the case for further development or issue a decision. In 2010, we began the operation of the Division of Quality (DQ) in the AC and began to randomly select

favorable decisions for possible own-motion review pursuant to agency regulations. Several of ALJ Daugherty's decisions came to us from this random sample review, and our staff began to identify a pattern that would warrant further review. Ultimately, we conducted a focused review of the decisions from several of the Huntington ALJs that allowed us to identify anomalies (duplications, copy and paste language) in the medical reports that were provided and in the repeated boilerplate language used by ALJ Daugherty in his decisions.

Under agency regulations, a focused review may be conducted after effectuation of the decision. The information collected and assessed during a focused review appropriately varies from review to review. When conducting a focused review of an individual ALJ, the DQ uses survey protocols to collect information during its review of a random sample of cases and to obtain an overall picture of the cases under review. If DQ identifies a concern, it conducts a more in-depth review. DQ reports its concerns from focused reviews to an executive management board that determines a course of action, including training and mentoring for an ALJ. The focused review information is later shared with the individual ALJ, and an individualized training plan is developed to address the specific area of policy non-compliance.

When the AC identifies a pattern that suggests misunderstanding or misapplication of a policy by a number of ALJs, we work with our colleagues to develop training for all ALJs. Since 2012, ODAR adjudicators have received training in complex areas including assessing credibility, evaluating medical source statements, Residual Functional Capacities (RFCs), and dismissals. We will continue training in FY 2014 to cover topics such as drug addiction and alcoholism, child disability, and articulating the RFC.

In addition to training, ALJs receive individual feedback about their remanded decisions and how they are doing compared to other ALJs via a tool called "How MI Doing?". The "How MI Doing?" tool gives adjudicators extensive information about remands, including the reasons for remand and information on performance in relation to other ALJs in the office, region, and nation. We currently are developing training modules related to each of the identified reasons for remands that we will link to the "How MI Doing?" tool. This will allow an ALJ immediate access to training materials regarding the issues set forth in a remand order.

Additionally, when a review identifies a policy related issue that is applied inconsistently by a significant number of adjudicators or by the Federal courts, we evaluate whether there is a misunderstanding of the policy or whether a policy clarification is needed. When errors appear to be based on a misunderstanding of the policy, we will recommend focused training on the issue or will make the necessary policy clarifications in sub-regulatory guidance. When the policy itself appears to be the issue, we will work with other components to address the necessary policy change.

Moreover, if AC review reveals issues of possible fraud or similar fault, the AC appropriately refers those matters to the OIG for further investigation. Regarding ALJ

Daugherty, when AC review revealed anomalies in decisions he issued, I appropriately referred the matter to OIG.

For many years, OAO did not receive enough resources to handle these types of quality reviews. Rather, OAO by necessity had to focus on mandatory, claimant-driven workloads like requests for AC review and Federal court cases. OAO's remands on claimants' requests for review do provide feedback to ALJs. However, the quality reviews described above are essential to identifying anomalies that may alert us to circumstances such as the former situation in the Huntington hearing office, including situations where our adjudicators inadvertently misapply policy and are in need of focused training. Quality reviews like those described above identified anomalies in ALJ Daugherty's decisions, and these anomalies were reported to the Office of the Inspector General. With continued funding, the agency will be able to maintain and enhance quality review initiatives.

4. **In all of Judge Daugherty's opinions, he would use boilerplate language to dismiss the opinion of every doctor but those provided by Mr. Conn. Nor did Judge Daugherty ever consider the previous two cases the Agency decided unfavorably at significant expense.**

   a. **What steps should the Agency take to ensure proper review by ALJs of prior Agency decisions?**

When the agency receives a new disability claim, it generally is sent to a State disability determination service (DDS) to develop the record regarding the claim and make an initial determination of whether the individual is disabled. We rely upon the 54 State and territorial DDSs to develop medical evidence and initially determine whether claimants are disabled (or whether program beneficiaries continue to be disabled). If the claimant is dissatisfied with the initial disability determination, agency regulations provide for up to three levels of administrative review. Generally, a claimant can ask the DDS to reconsider the claim. If denied at the reconsideration level, then the claimant may seek a hearing before an ALJ. If denied again at the ALJ level, then a claimant may request a review by our AC. If the AC denies the request for review (or if the AC grants the request and issues a decision), the claimant may appeal to Federal district court. Social Security policy requires ALJs and the AC to consider the medical opinions of the DDS physicians who participated in making the initial and reconsideration determinations.

However, under agency regulations, ALJs conduct *de novo* hearings; in other words, they may consider or develop new evidence, and they are not bound by DDS decisions. Additionally, in most cases the ALJ has received additional medical evidence and has heard testimony from the claimant and possibly one or more expert witnesses before issuing a decision. Quality reviews identify ALJs who do not follow agency policies, with or without intent.

b. Please explain whether the Agency should be required to provide a more robust written decision for its denials at the initial level and at DDS.

As an ongoing effort to improve our service to the American public, we took steps at the DDS level to improve the quality and consistency of our disability claims process. For example, we developed the electronic Claims Analysis Tool, or eCAT. eCAT is a policy compliant, web-based application designed to assist DDS adjudicators in their decision-making process. The tool aids in documenting, analyzing, and adjudicating the disability claim according to agency regulations. All DDS adjudicators must use eCAT. The eCAT tool also produces the "Disability Determination Explanation" (DDE), which is a detailed record of the pertinent documentation and analysis necessary to support the determination. This record, which is uploaded to the claimant's electronic folder, enables the ALJ to understand the DDS examiners' actions and conclusions throughout the development and adjudication of the claim at the first two administrative levels. This DDE, consequently, is a part of the record considered by the ALJ.

c. Please describe any other changes the Agency has implemented since the misconduct at Huntington ODAR came to light that will ensure previous Agency decisions are not ignored.

In addition to other changes and improvements, in the past several years the agency has developed a robust and sophisticated data analysis and feedback process. This process captures key claims data, visualizes the results, and delivers feedback for further analysis. This data-based feedback has helped the agency and adjudicators increase policy compliance, dramatically reducing errors in claim determinations. At the end of my answers, I have attached a report that elaborates on the ways we use these data.

Further, in 2010, we established the DQ within OAO. In its first three years, the DQ implemented the random sample case selection provisions of the regulations which permitted the DQ to consider a random sample of unappealed hearing decisions for possible own-motion review. These reviews address concerns in particular claims, but they also support consistent, legally sufficient, and policy compliant decision-making throughout the disability adjudication process. This is possible by analyzing the adjudication of each case beginning with the initial application, collecting concrete data about recurrent issues in decision-making, making suggestions for improvements in policies and procedures, and identifying training opportunities for adjudicators and other agency employees involved in the adjudication process.

While we did not implement DQ in response to the former situation in the Huntington hearing office, I raise it in answer to your question because the work we are doing uncovered anomalies in that office, and we appropriately conveyed that information to the OIG. Although DQ's work is a relatively new process, it is evolving as we hoped it would. As is the case with any major implementation, we are continuing to refine and improve how we handle this work.

Additionally, Deputy Commissioner Glenn Sklar is emphasizing the message to employees who see something to say or do something about it. As an example of this reinforced message, I sent an email to employees explaining what the New York DDS employees observed regarding specific anomalies on disability applications from former New York City firefighters and police officers, and how these observations led to the OIG investigation and the current legal actions. The more we empower our employees to know what to look for and what to do about concerns, the stronger our program becomes.

5. **It is my understanding the Agency's Division of Quality was created in 2010.**

   a. **Please explain whether the Agency's past policy to review only unfavorable cases at the appellate level created an incentive to approve cases, since approved cases are not reviewed.**

The agency has never had a policy to review only unfavorable cases. In fact, the agency has reviewed favorable decisions consistently over the years, but in much smaller numbers than the review of unfavorable cases. This was necessary because agency regulations accord each claimant the right to request AC review of an unfavorable decision, and the agency usually devoted most of our resources to that workload. Thus, the claimant's request for review has always been a mandatory workload for purposes of the agency's budget. The pre-effectuation review of favorable cases, except in rare circumstances, has been discretionary insofar as the number of cases reviewed. Although more unfavorable cases, by necessity, are reviewed by the AC, it does not appear that AC review created an incentive to approve cases.

   b. **Please explain why the Division of Quality was created and provide an update on the program's effectiveness.**

The DQ was created to provide a more extensive quality review of hearing decisions without regard to whether the claimant wished to file an appeal. Thus far, the reviews have centered on favorable decisions. The chief purposes of the reviews are to correct decisions that are unsupported, to provide quality feedback through individual remand orders, and to provide improved training and policy guidance for all adjudicators. The reviews also enable the agency to uncover and address anomalies in adjudication determinations.

DQ's work gives a more in-depth and detailed insight into whether adjudicators and offices are making policy compliant determinations and also reveals information about third party participants that informs the agency about how our polices are working. DQ's work also uncovers anomalies that we appropriately report to the OIG.

c. Since the Division of Quality's inception, how many quality reviews has the Division of Quality performed on cases that were grants or partial grants of disability benefits and accordingly not appealed by a claimant?

In fiscal year (FY) 2011, the DQ reviewed 3,692 favorable or partially favorable cases under our regulatory random sample authority (20 CFR 404.969(b)(1)/416.1496(b)(1); in FY 2012 DQ reviewed 7,009 favorable or partially favorable cases under this authority; and in FY 2013, DQ reviewed 6,167 favorable or partially favorable cases under this authority.

6. Please explain what Congress can do to help the Agency strengthen its program integrity efforts.

We are best able to accomplish our program mission and provide excellent stewardship when Congress invests in us with sufficient funding. I understand that the Consolidated Appropriations Act of 2014 fully funded program integrity work at the level established in the Budget Control Act of 2011 (BCA). The FY 2015 President's Budget proposes additional funding at the BCA level in FY 2015, as well as a legislative proposal creating mandatory funding for the agency's program integrity work beginning in FY 2016. I concur in Chief Administrative Law Judge Bice's response regarding those matters.

NATIONAL ORGANIZATION OF SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES (NOSSCR)

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Written Statement for the Record
on behalf of the
National Organization of Social Security Claimants' Representatives

Hearing on:

Social Security Disability Benefits: Did a Group of Judges, Doctors, and Lawyers Abuse Programs for the Country's Most Vulnerable?

U.S. Senate Committee on Homeland Security & Governmental Affairs

October 7, 2013

* * *

Founded in 1979, NOSSCR is a professional association of attorneys and other advocates who represent individuals seeking Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability benefits. NOSSCR members represent individuals with disabilities in proceedings at all SSA administrative levels, but primarily at the hearing level, and also in Federal court. NOSSCR is a national organization with a current membership of more than 4,000 members from the private and public sectors and is committed to the highest quality legal representation for claimants.

Our Social Security system provides peace of mind for all Americans. Not only does it provide the foundation for a secure retirement -- it also protects nearly all American workers and their families against the eventuality of a severe disability or illness that prevents substantial work. This peace of mind is all the more important because the alternatives are limited: fewer than 1 in 3 private sector workers has long term disability insurance through their employer, and such plans are often less adequate than under Social Security.[1] Social Security's disability programs provide vital economic security, as

well as access to health care for individuals whose impairments are so severe that they preclude substantial, gainful work. These income support programs are an integral component of our nation's Social Security system, reflecting the core American value of assisting those in need. We appreciate your interest in and attention to these critical programs.

* * *

The allegations examined in the October 7, 2013, hearing and detailed in the Committee's report released in conjunction with that hearing, regarding alleged concerted fraudulent actions by an attorney and a former Administrative Law Judge (ALJ), are extremely troubling and should be vigorously pursued. If true, we condemn the alleged actions and encourage that all individuals involved be brought to justice.

It is important to emphasize that the Committee found no evidence that what was uncovered in Huntington is more than an isolated incident. As noted by Committee Chairman Tom Carper, "While we don't have any evidence that this is more than an isolated case, one example of inappropriate actions of this nature is one too many. I am encouraged that the Social Security Administration has already acknowledged many of the issues raised by the investigation, and I understand that it has begun to implement stronger reviews and other solutions."

We believe that these allegations represent the actions of outliers and are not representative of the thousands of claimants' representatives and hundreds of ALJs who work diligently and ethically to provide high quality service to claimants for disability benefits. We join the Chairman in urging caution not to let an egregious case of potentially unlawful behavior jeopardize the vital benefits of the millions of Americans with significant disabilities and severe illnesses for whom these benefits are a vital lifeline.

We condemn any misuse of the Social Security disability programs. We hold our members to high ethical standards and enforce an annual ethics education requirement. Any individual who seeks to abuse vital programs like the Social Security disability programs does so at the expense of the millions of vulnerable beneficiaries for whom benefits are a vital lifeline. We encourage anyone who suspects abuse of the Social Security disability programs to report it to the Social Security Administration (SSA) Office of Inspector General.

* * *

The Social Security Administration works hard to ensure program integrity, but it requires adequate resources to do so. It has been deprived of the administrative resources required to conduct necessary program integrity work for several years – and the recent government shutdown has only stymied the agency further. Congress must provide SSA with sufficient administrative resources to ensure that benefits are paid to the right person, in the right amount, and at the right time — and to implement the array of critical safeguards that exist in current law.

SSA's administrative budget is only about 1.4 percent of benefits paid out each year. With the baby boomers entering retirement and their disability-prone years, SSA is experiencing dramatic workload increases at a time of diminished funding and staff. Over the last two years, Congress has appropriated $421 million less for SSA's program integrity efforts (such as medical and work Continuing Disability Reviews and Title XVI redeterminations) than the Budget Control Act of 2011 authorized. Over the last three years, SSA has received nearly $1 billion less for its Limitation on Administrative Expenses (LAE) than the President's request, and by the end of FY 2013 is expected to lose over 11,000 employees since FY 2011.

Adequate LAE is essential to preventing service degradation and ensuring that SSA can provide timely and accurate payments and perform necessary program integrity work, including:

- **Disability claims processing.** Adequate resources support claims processing and disability determinations at the initial levels so that the correct decision can be made at the earliest point possible and unnecessary appeals can be avoided. Inadequate staffing at field offices and state Disability Determination Services (DDS) leads to increased workload at the hearing level. Disability claims may be less thoroughly developed, leading to incorrect denials of benefits and more appeals. Additionally, the significant progress made in recent years at the hearing level in reducing average wait times until hearings and shrinking the disability claims backlog, will be eroded due to the lack of needed resources.

- **Pre-effectuation and continuance reviews[ii] of DDS determinations**. As required by the Social Security Act, SSA conducts pre-effectuation reviews of at least half of all DDS initial and reconsideration allowances for Title II (Social Security) and Title XVI (Supplemental Security Income) adult disability benefits. SSA also reviews a number of DDS Title II Continuing Disability Review (CDR) determinations that result in continuation of benefits. For every dollar spent in FY 2011 on these reviews SSA estimates a lifetime savings of about $11 in Title II and Title XVI benefits.[iii]

- **Disability Determination Services quality review**. SSA has implemented multiple levels of quality review at the DDS level. For example, SSA requires all DDSs to have an internal quality assurance function, and also operates an Office of Quality Performance (OQP) which conducts quality assurance reviews of samples of initial and reconsideration determinations of the DDSs.

- **Review of Administrative Law Judge (ALJ) decisions in a manner consistent with law.** While ALJs have qualified decisional independence, they are required to follow SSA laws, regulations and policies. SSA has implemented a quality review process for ALJ decisions. In FY 2011, the SSA Office of Disability Adjudication and Review (ODAR) established a new Quality Review (QR) initiative and opened four new Branches in the Office of Appellate Operations.

The QR Branches review a computer-generated sample of unappealed favorable ALJ decisions (over 7,000 in FY 2012), pre-effectuation, and then refer cases to the Appeals Council for possible review. If the Appeals Council accepts review, it can remand or issue "corrective" decisions, which may involve changing the favorable ALJ decision to a "partially" favorable decision or to an unfavorable decision. There is also some post-effectuation review of ALJ decisions. While these ALJ decisions cannot be changed, post-effectuation review enables targeted examination of compliance with agency policies and policy guidance and additional training as needed to ensure high quality decision-making.

- **CDRs and redeterminations**. To ensure that benefits are paid only as long as the individual remains eligible, SSA is required by law to conduct continuing disability reviews (CDR) in all cases where the beneficiary's condition is expected to improve, or where improvement is considered possible, to ensure that benefits are paid only as long as the individual remains eligible. SSA estimates that every $1 spent on medical CDRs saves the federal government $9, but reports a current backlog of 1.3 million CDRs.[iv] SSA also requires resources to conduct work CDRs for beneficiaries whose earnings suggest that they may no longer be eligible for benefits, as well as annual redeterminations for all Title XVI beneficiaries to ensure continued income and resource eligibility.

- **Cooperative Disability Investigations (CDI)**. SSA and the Office of the Inspector General (OIG) jointly established the CDI Program in 1998. Twenty-five CDI units across the U.S. investigate individual disability applicants and beneficiaries, as well as potential third parties who are alleged to facilitate disability fraud. SSA or DDS personnel make referrals to a CDI unit for investigation, and CDI units also accept reports from the public via a toll-free telephone hotline and an online web form. Investigations uncovering fraud or attempted fraud can result in a denial, suspension, or termination of benefits, civil or criminal prosecution, and/or imposition of civil monetary penalties, and/or sanctions on claimant representatives for violation of SSA's ethical standards. Since the program's inception in FY 1998, CDI efforts have resulted in $2.2 billion in projected savings to SSA's disability programs.[v]

- **Disability Fraud Pilot.** In July 2013, SSA and the OIG established a pilot project to detect and investigate allegations of "facilitator fraud." Operating as an extension of the CDI program, the pilot includes an SSA Associate Chief Administrative Law Judge, a Deputy Assistant Inspector General for Investigations, and additional OIG investigative and audit personnel. The program employs a variety of means, including data mining, to identify and root out any potential efforts involving doctors, lawyers, judges, and/or other middlemen to defraud SSA.

* * *

In conclusion, the Social Security disability programs provide vital and much-needed economic security and access to healthcare for millions of Americans whose impairments are so severe that they preclude substantial work. We appreciate the Committee's interest in and attention to these vital programs.

---

[i] Department of Labor Bureau of Labor Statistics, Employee Benefits Survey, Table 16. Insurance benefits: Access, participation, and takeup rates, civilian workers, National Compensation Survey, March 2012; http://www.bls.gov/ncs/ebs/benefits/2012/ownership/civilian/table12a.htm.

[ii] "Pre-effectuation" refers to reviews conducted before benefits are authorized to be paid. Accordingly, "continuance reviews" and "post-effectuation reviews" are conducted after benefit authorization.

[iii] Social Security Administration, June 27, 2013, Annual Report on Social Security Pre-Effectuation Reviews of Favorable State Disability Determinations, Fiscal Year 2011.

[iv] Beatrice Disman, Regional Commissioner, New York Region, Social Security Administration, Statement for the Record, September 19, 2013, House of Representatives, Committee on Ways and Means, Social Security Subcommittee.

[v] The Hon. Patrick O'Carroll, Inspector General, Social Security Administration, Statement for the Record, "Challenges Facing the Next SSA Commissioner," April 26, 2013, before the House of Representatives, Committee on Ways and Means, Social Security Subcommittee.

United States Senate
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

HOW SOME LEGAL, MEDICAL, AND JUDICIAL PROFESSIONALS ABUSED SOCIAL SECURITY DISABILITY PROGRAMS FOR THE COUNTRY'S MOST VULNERABLE: A CASE STUDY OF THE CONN LAW FIRM

STAFF REPORT

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

RELEASED IN CONJUNCTION WITH THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS OCTOBER 7, 2013 HEARING

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SENATOR TOM COBURN, M.D.
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Committee on Homeland Security & Governmental Affairs
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How Some Legal, Medical, and Judicial Professionals Abused Social Security Disability Programs for the Country's Most Vulnerable: A Case Study of the Conn Law Firm

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HOW SOME LEGAL, MEDICAL, AND JUDICIAL PROFESSIONALS ABUSED SOCIAL SECURITY DISABILITY PROGRAMS FOR THE COUNTRY'S MOST VULNERABLE: A CASE STUDY OF THE CONN LAW FIRM

I. EXECUTIVE SUMMARY

In 1993, Eric Christopher Conn opened a legal practice in a small trailer next door to his boyhood home in rural Eastern Kentucky. Located in Stanville, Kentucky, along Highway 23, his office was two hours from the closest major city and over an hour from the Social Security's main regional office in Huntington, West Virginia. Despite operating in a sparsely populated town of 500, Mr. Conn would go on to build one of the largest and most lucrative disability practices in the nation. A two-year investigation of his actions representing claimants applying for Social Security Disability Insurance ("SSDI") and Supplemental Security Income ("SSI") benefits uncovered a raft of improper practices by the Conn law firm to obtain disability benefits, inappropriate collusion between Mr. Conn and a Social Security Administrative Law Judge, and inept agency oversight which enabled the misconduct to continue for years.

From the beginning, Mr. Conn focused his efforts primarily – and later exclusively – on helping people onto the Social Security Administration's ("SSA") disability program rolls. His knack for navigating the program's arcane rules, along with an aggressive approach to marketing that included television, radio, and online advertisements, drew thousands of clients to his office looking to obtain benefits. At the height of his success in 2010, Mr. Conn employed nearly 40 people and obtained more than $3.9 million in legal fees from SSA, making him the agency's third highest paid disability lawyer that year. Today, the Eric C. Conn Law Complex is significantly larger than the single trailer used twenty years earlier. Several interconnected trailers now surround a main office building. A prominent feature of the complex is a large replica of the Abraham Lincoln statute in the Lincoln Memorial in Washington, D.C., which has become a local tourist attraction used to recruit clients. Mr. Conn, referred to in some of his advertisements as "Mr. Social Security," used his law practice to exploit key vulnerabilities in a critical federal safety net program and became wealthy in the process.

Concern about Mr. Conn's methods first surfaced publicly in May 2011, when *The Wall Street Journal* published an article about his relationship with David B. Daugherty, an Administrative Law Judge ("ALJ") in the

SSA's regional Huntington, West Virginia Office of Disability Adjudication and Review. In the years leading up to 2011, Judge Daugherty had become one of the agency's highest producing judges, issuing more decisions each year than nearly all 1,500 of SSA's other judges. In some years, 40 percent of his caseload consisted of cases represented by Mr. Conn – nearly all of which he approved for benefits. Public airing of the details surrounding the unusual arrangement between Judge Daugherty and Mr. Conn prompted top SSA officials to request an investigation by the SSA Inspector General. Judge Daugherty was also placed on administrative leave, after which he quickly resigned.

Unease with the relationship between Judge Daugherty and Mr. Conn had begun years earlier, however, among those who worked with both men on a day-to-day basis. Inside SSA's Huntington Office of Disability Adjudication and Review ("Huntington ODAR"), some noticed how Judge Daugherty gave Mr. Conn's cases special treatment. Whereas most judges held 15 to 20 randomly assigned hearings in a week, each lasting an hour or more, Judge Daugherty scheduled as many as 20 hearings for Mr. Conn's clients in a single day, moving them through in 15 minute increments. To ensure most of Mr. Conn's cases ended up before him, Judge Daugherty ignored the office's rotational assignment policy for new cases and personally assigned Mr. Conn's cases to himself. Where Conn cases had already been assigned to other judges, the judge sometimes quietly reassigned them to his own docket without mentioning the reassignments to others. Eventually, Judge Daugherty stopped holding hearings for Mr. Conn's cases altogether, instead deciding them "on the record" in large numbers – and always favorably. These troubling practices were brought to the attention of Huntington's Chief Administrative Law Judge, Charles Paul Andrus, but he failed to stop them.

Inside Mr. Conn's office, some of his employees grew increasingly uncomfortable with his relationship to Judge Daugherty – also known to many as "DB" – who assumed a central role in the law firm's operations and revenues. By 2011, Mr. Conn and Judge Daugherty had collaborated on a scheme that enabled the judge to approve, in assembly-line fashion, hundreds of clients for disability benefits using manufactured medical evidence.

Since at least 2006, Judge Daugherty had a practice of coordinating with Mr. Conn to create what was referred to as a "DB List," which was a list of Mr. Conn's clients that the judge planned to approve for benefits that month. After deciding which claimants would be on the month's DB List, Judge Daugherty personally telephoned Mr. Conn's office, provided the claimant list to one of Mr. Conn's employees, and indicated whether the claimants needed to provide additional medical evidence of

a "mental" or "physical" ailment. Within days, Mr. Conn scheduled the listed claimants to see one of the several doctors he paid to provide medical assessments. These doctors almost invariably concluded that the claimant was disabled. In most cases, the doctors simply signed and dated a medical form which had been filled out ahead of time by Mr. Conn's office.

After receiving the medical forms he had requested, Judge Daugherty overturned earlier agency denials and issued favorable decisions awarding Mr. Conn's clients disability benefits. The evidence indicates that the entire process, from the time a Conn claimant requested a hearing before an ALJ on a denied claim to the issuing of a favorable decision by Judge Daugherty, took as little as 30 days. During the same period, waiting times for claimants nationally, as well as others with cases before the Huntington ODAR, averaged well over one year. According to Mr. Conn's former employees, word about the special treatment of his cases spread far enough that prospective clients would come to his office asking how they could get their cases heard by Judge Daugherty.

After publication of the *Wall Street Journal* article in May 2011, SSA instituted a number of reforms to correct the situation in Huntington, including reinstituting the assignment of cases to all ALJ's on a strict rotational basis.

Mr. Conn, Judge Daugherty and Chief Judge Andrus also took steps in reaction to the article. According to the testimony of former employees, and corroborated by documentary evidence, Mr. Conn's office purchased several disposable prepaid cellular phones for the purpose of allowing Mr. Conn and Judge Daugherty to talk. Mr. Conn systematically destroyed several dozen of the Conn Law Office's computers, and hired a local shredding company to clear out a large warehouse full of documents. Mr. Conn's use of a shredding company was the first time he had shredded such a large amount of firm documents at one time, according to former employees and documents reviewed by the Committee.

Additional evidence indicates that Mr. Conn and Judge Andrus devised a plan to discredit an SSA employee suspected of blowing the whistle on the Huntington office problems, Sarah Carver. According to former Conn and SSA employees as well as a recorded SSA IG interview in which Judge Andrus admitted his part, he and Mr. Conn worked together to have video surveillance conducted of Ms. Carver on days when she worked from home in an attempt to catch her violating the office's telework policies. After several unsuccessful attempts, according to the

employees, Mr. Conn, together with Judge Andrus, fabricated evidence and sent it to her superiors.

In 2011, SSA placed Judge Daugherty on administrative leave, and he later retired. The same year, SSA removed Judge Andrus from his position as Chief ALJ, but allowed him to remain in the Huntington office. In September 2013, SSA placed him on administrative leave pending a removal action. Mr. Conn has continued to represent claimants seeking disability benefits and has even opened a new office in California.

While the events that unfolded at SSA's Huntington ODAR paint an unappealing picture of corruption, fraud, and favoritism in that office, they also call attention to the need for specific steps to be taken by the Social Security disability programs to prevent this type of wrongdoing from recurring.

a. Investigation Overview

In May 2013, the Social Security Trustees estimated the Social Security Disability Trust Fund, which supports the SSDI program would be exhausted by 2016 and only able to pay 80 percent of scheduled SSDI benefits.[1] As such, the Trustees "recommend[ed] that lawmakers address the projected trust fund shortfalls in a timely way in order to phase in necessary changes and give workers and beneficiaries time to adjust to them."[2]

This report is the second in a series examining problems within the Social Security SSDI and SSI disability programs and recommending workable solutions for fixing and saving them. In September 2012, the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations issued the first report finding more than a quarter, or 25 percent, of 300 Social Security Administration ("SSA") disability decisions had "failed to properly address insufficient, contradictory, or incomplete evidence."[3] Problems with the agency's decision process were particularly acute at the Administrative Law Judge ("ALJ") level of appeal. The Report's findings corroborated a 2011 internal quality review conducted by SSA that found on average nationwide, disability decisions made by agency ALJs had errors or were insufficient 22

[1] The 2013 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, http://www.ssa.gov/oact/tr/2013/tr2013.pdf.
[2] *Id.*
[3] Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/subcommittees/investigations/hearings/social-security-administrations-disability-programs.

percent of the time.[4] The Report also made a number of recommendations to improve the agency's decision-making process.[5]

In the course of reviewing a broad spectrum of disability decisions for the first report, information emerged that a few ALJs issued and approved cases at levels far higher than their peers. One ALJ stood out. Judge Daugherty in the Huntington office awarded disability benefits in all but four of the 1,375 claims he decided in 2010.[6] The year before he approved benefits in 1,410 cases, denying benefits in only five.[7] While other ALJs issued an average of 500-700 decisions and approved 60 percent of them for benefits on average,[8] Judge Daugherty issued nearly three times as many and approved almost all of them.

The Committee initiated an investigation to evaluate how Judge Daugherty was able to process so many cases and why, contrary to other ALJs, he awarded disability benefits in almost every case before him. During the course of its work, the Committee also investigated the allegations that Judge Daugherty had engaged in an improper partnership with Mr. Conn. In conducting its two-year investigation, the Committee obtained and reviewed thousands of pages of documents from the Social Security Administration, the Conn law firm, and other entities. It also interviewed current and former Social Security Administration employees and ALJs as well as former employees of the Conn Law Firm. Through his attorney, the Committee requested an interview of Mr. Conn, but he declined to cooperate.

b. Findings

The Report makes the following findings of fact.

- **Agency Backlog Plan Created Pressure for ALJs to Complete Cases.** In 2007, due to long wait times at the ALJ level of appeal, the Social Security Administration instituted an ALJ hearing backlog reduction plan. The plan focused on moving high volumes of cases through the ALJ level quickly. Numerous ALJs and other SSA employees told the Committee that this plan created significant pressure to move cases as fast as possible.

- **Daugherty Awarded More Than $2.5 Billion in Benefits in the Last Years of His Career.** Judge Daugherty moved an unusually

[4] *Id.*
[5] *Id.* at 5-6.
[6] Information provided by the Social Security Administration.
[7] *Id.*
[8] See generally, Social Security Administration, ALJ Disposition Data, http://www.socialsecurity.gov/appeals/DataSets/archive/03_FY2010/03_September_ALJ_Disp_Data_FY2010.pdf

large number of disability cases through the agency and awarded an unusually high percentage of disability benefits. Over a nearly seven year period, from 2005 to his retirement in mid-2011, Judge Daugherty awarded disability benefits to 8,413 individuals, which translates into about 1,200 cases per year and an estimated total award of federal lifetime benefits exceeding $2.5 billion.[9]

- **Judge Daugherty and Mr. Conn Engaged in Inappropriate Collusive Efforts to Approve Benefits.** Judge Daugherty worked with Mr. Conn in inappropriate ways to approve a high volume of cases submitted by the Conn Law Firm.

- **Judge Provided "DB Lists" to Conn Law Firm.** From at least June 2006 to July 2010, Judge Daugherty telephoned the Conn law firm each month and identified a list of Mr. Conn's disability claimants to whom the judge planned to award benefits. Judge Daugherty also indicated, for each listed claimant, whether he needed a "physical" or "mental" opinion from a medical professional indicating the claimant was disabled. Over the four year period reviewed, from 2006 to 2010, the monthly list identified between 14 and 52 disability claimants each time for at least 1,823 claimants. Conn Law Firm personnel referred to the monthly list as the "DB List" for David B. Daugherty.

- **Daugherty Assigned Himself Mr. Conn's Cases.** Judge Daugherty assigned cases submitted by the Conn law firm to himself to decide, at times awarding benefits in cases that had been officially assigned to other ALJs in the Huntington ODAR.

- **Daugherty Relied on Conn's Doctors to Generate Medical Evidence.** After receiving the DB List, Mr. Conn's office scheduled appointments for the identified claimants with certain doctors favored by the law firm. The Conn law firm provided several of those doctors with physical or mental residual functional capacity ("RFC") forms in which the medical information was already filled out, and the doctors signed the forms without making any changes. Frequently, these pre-filled forms contained information that conflicted with other information in the claimant's case file.

- **Identical Medical Evidence Used for Multiple Claimants.** A review of the RFC forms found that the Conn law firm supplied certain doctors with 15 pre-filled versions of the physical RFC form

[9] This estimate based upon the Social Security Office of Inspector General's determination that each award of disability benefits costs $300,000 in federal lifetime benefits. See Social Security Administration, Office of Inspector General, "Disability Fraud Probe Leads to Arrests in Puerto Rico," http://oig.ssa.gov/audits-and-investigations/investigations/disability-fraud-probe-leads-arrests-puerto-rico.

and five pre-filled versions of the mental RFC form for hundreds of claimants. In almost all cases, only the names and Social Security numbers on the forms differed. Of the forms reviewed, 97 described the claimants as having the exact same limitations and contained no unique medical or employment information specific to the claimant. Because each individual has different abilities and ailments, and the forms require a complex set of data, finding two RFCs exactly alike should have statistically been an extremely rare occurrence.

- **Doctors Processed a Large Number of Patients in a Short Period of Time**. Some of the doctors examined the claimants in a "medical suite" in the Conn law firm, spending as little as 15 minutes per claimant and seeing up to 35 claimants in a day.

- **Key Doctors Had Suspect Credentials**. Of the doctors used by the Conn law firm to produce medical opinions for disability claimants, two had their medical license suspended or revoked in another state. Under SSA rules, a doctor with a suspended or revoked license could not be used by the Social Security Administration to review a disability case, but could still examine claimants at the request of a claimant or outside attorney.

- **Judge Daugherty Wrote Questionable Decisions Relying on Mr. Conn's Doctors**. A review of 110 case files for disability claimants listed on the DB Lists found the vast majority to contain highly questionable decisions. In all 110 cases, Judge Daugherty's decisions justified reversing the agency's prior denial of disability benefits by relying solely on the medical forms provided by the doctors procured by the Conn law firm. All but two of the 110 cases used the agency's Medical-Vocational grid guidelines to award benefits.

- **Mr. Conn Obtained Millions in Attorney Fees Paid by SSA**. From cases on the DB Lists alone, over the four year period from 2006 to 2010, the Social Security Administration paid Mr. Conn over $4.5 million in attorney fees.[10] Social Security records show that, altogether in 2010, Mr. Conn was the third highest paid disability law firm in the country due to its receipt of over $3.9 million in attorney fees from the Social Security Administration. In 2009, Mr. Conn received a total of $3.5 million in attorney fees from the agency.

- **Mr. Conn Paid Doctors Substantial Fees for Evaluations**. The doctors used by Mr. Conn to evaluate his claimants were also paid

[10] Under SSA rules, attorney and claimant representatives may be awarded fees by the agency using funds taken from back-pay benefits awarded to a claimant. An attorney or representative can currently obtain as much as 25 percent of the back-pay awarded to a claimant, with a maximum of $6,000 per claimant.

substantial fees. A review of records found that, over the past six years, Mr. Conn paid five doctors almost $2 million to provide disability opinions for his claimants. Mr. Conn contracted with his claimants to repay the fees given to the doctors to perform their medical evaluations.

- **Daugherty Bank Records Show $96,000 in Unexplained Cash Deposits.** From 2003 to 2011, Judge Daugherty's bank records contain regularly occurring cash deposits totaling $69,800, the source of which is unexplained in the judge's financial disclosure forms. From 2007 to 2011, his daughter's bank records list similar cash deposits totaling another $26,200. When asked about the $96,000 in cash deposits, Judge Daugherty refused to explain their origin or the source of the funds.

- **Huntington ODAR Became One of the Top Producing Offices.** During Judge Daugherty's tenure, Huntington ODAR became one of the fastest offices in the country in deciding disability cases. In 2010, it had the second shortest average processing time at just 263 days. The office ranked 12th out of 149 hearing offices in ALJ Dispositions per day per ALJ with each Huntington ODAR ALJ recorded as processing 2.93 cases per day.

- **Judge Daugherty Violated Agency Attendance Policy**. Judge Daugherty was on several occasions found by SSA officials to have violated the time and attendance policy in place for ALJs. On a regular basis, over a period of many years, he would arrive at work and sign in, leave for the entire workday and then return at the end of the day only to sign out. SSA never disciplined him for these absences.

- **SSA Whistleblower Targeted by Huntington Chief Judge Andrus and Eric Conn.** Following the public disclosure of Mr. Conn's relationship with Judge Daugherty, Huntington Chief ALJ Andrus worked with Mr. Conn to discredit and retaliate against an SSA employee suspected of leaking the information.

- **Judge Daugherty and Mr. Conn Communicated Using Disposable Phones.** Following the initiation of an investigation by the SSA Office of Inspector General ("OIG") and a news article on Judge Daugherty approving a large number of Mr. Conn's claimants, Mr. Conn purchased disposable prepaid cellular phones to communicate with Judge Daugherty.

- **Mr. Conn Destroyed Documents during an Investigation**. After talking with SSA OIG investigators, Mr. Conn contracted with a local

shredding company to destroy over 26,000 pounds of documents, the equivalent of 2.6 million sheets of paper. Former Conn law firm personnel asserted that he destroyed all hard copies of the DB Lists as well as computer hard drives in his office.

- **Huntington ODAR may have Destroyed Key Documents.** Also subsequent to initiation of the SSA OIG investigation, the Huntington ODAR purchased four personal paper shredders for management and Chief ALJ Andrus, even though it already had a contract in place with a local company to routinely shred documents containing protected information. The SSA Inspector General's office interviewed the individuals in possession of the shredders and concluded "the office was not inappropriately destroying documents." However, one of those same individuals was later determined to have misled the OIG on matters related to the broader investigation of the Huntington office, and the agency appears to have later been unable to recover numerous documents and emails requested by the Committee.

c. Recommendations

The Report makes the following recommendations:

- **ALJ Consideration of Prior Agency Decision.** Judge Daugherty ignored information provided in prior decisions denying benefits and overturned those decisions by relying on information provided by Mr. Conn and his network of doctors that the claimant was disabled. The agency should ensure initial decisions made by the Department of Disability Services ("DDS") to deny benefits are well documented, with specific evidence on why the claimant did not meet the agency's definition of disability. The agency should consider allowing the ALJ to contact the DDS examiner who made the prior decision in the presence of the claimant's representative to ask about the reasons for the prior denial. The ALJ would remain responsible for providing a *de novo* review of the claim.

- **Strengthen ALJ Quality Review Process.** Judge Daugherty's approved decisions were not subject to further review or the scrutiny of the appellate process, since his awards of benefits were not appealed by the claimant. It is important the agency strengthen and expand the review of ALJ award decisions by the Quality Division of the Office of Appellate Operations, and that Congress provide adequate funding for that effort. The agency should conduct more reviews during the year and improve ways of measuring the quality of disability decisions. Such information should be made available to Congress.

- **Reform the Medical-Vocational Guidelines.** Almost all of Judge Daugherty's cases reviewed by the Committee were decided based on the outdated medical-vocational guidelines, which have not been changed since 1980. Those guidelines should be reviewed to determine the reforms needed to update the guidelines to reflect current life expectancy and related ability. Additional studies should be conducted to evaluate whether the current guidelines utilize the proper factors and if they appropriately reflect a person's ability to work.

- **Prohibit Claimant Use of Doctors with Revoked or Suspended Licenses.** In some cases, the Conn law firm provided medical opinions from a doctor whose licenses had been suspended or revoked in another state. The agency should prohibit claimants from submitting opinions by doctors whose services, under its existing rules, the agency itself could not accept.

- **Strengthen ALJ Analysis of Medical Opinions.** Almost all of Judge Daugherty's decisions were based on a medical opinion provided by an attorney-procured medical professional. Many times those opinions were in direct conflict with other evidence in the claimants' files. SSA should provide specific training with regard to how ALJs should use these types of opinions.

- **Focused Training for ALJs.** The Office of Appellate Operations, Quality Division, should provide training to all ALJs regarding adequate articulation in opinions of legal determinations. This training should emphasize the proper way to analyze and address these issues as required by law, regulation and agency guidance, including how to address obesity and drug and alcohol abuse.

- **OIG Review of Top Attorney Fee Awards.** The SSA Inspector General should conduct an annual review of the practices of the law firms earning the most attorney fees from processing disability cases to detect any abusive conduct. The review could include examining a sample of RFC forms from the firm's claimants to detect repetitive language, reviewing the licensing history of the doctors used by the law firm to provide medical opinions, and seeing if a disproportionate number of the claimants represented by the firm had their cases decided by a particular judge.

II. INTRODUCTION

The Social Security Disability Insurance and Supplemental Security Income programs were created to provide a level of financial security to Americans who become too disabled to work. The programs are the largest federal programs providing financial assistance to individuals that meet the program's definition of disability.[11] In recent years, however, the programs have come under increased financial pressure as budgets have tightened and beneficiary rolls have swelled. Fiscal Year 2012 saw the programs grow to support the largest number of beneficiaries in their history, raising concerns that resources may not be sufficient over the long run. At the end of August 2013, more than 14 million individuals were receiving SSDI, SSI, or both.[12]

In addition to an aging workforce and economic downturn, the growth of the disability rolls can be traced, in part, to a decision made in 2007 to focus intensely on eliminating what was at that time a growing backlog of cases.[13] By 2006, the Social Security Administration ("SSA") was regularly receiving over 2.1 million applications for benefits per year, many of which were taking years to resolve.[14] The focus, after 2007, on quickly reducing the SSA backlog increased the likelihood of poorly reviewed claims.[15]

A brief review of the application process is helpful in understanding why the adjudication of these claims takes so long and how the backlog developed.[16] Individuals who apply for disability benefits are afforded

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[11] *See* Social Security Administration, Benefits for People with Disabilities, http://www.ssa.gov/disability.

[12] *See* Social Security Administration, Research, Statistics, and Policy Analysis, Monthly Statistical Snapshot, April 2013, Table 1, Number of People Receiving Social Security, Supplemental Security Income or both, April 2013, http://www.ssa.gov/policy/docs/quickfacts/stat_snapshot. For a more detailed explanation of the financial challenges facing the Social Security Disability Insurance program, see the Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/subcommittees/investigations/hearings/social-security-administrations-disability-programs.

[13] *See* Social Security Administration, Press Releases, Social Security Administration Attacks Disability Backlog, October 9, 2007, http://www.ssa.gov/pressoffice/pr/disability-backlog-pr.htm.

[14] The number of applications peaked in 2009 at over 2.9 million and fell over the past several years. *See* Social Security Administration, Selected Data From Social Security's Disability Program, http://www.ssa.gov/oact/STATS/dibStat.html. *See also* Social Security Administration, Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, September 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

[15] Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/subcommittees/investigations/hearings/social-security-administrations-disability-programs.

[16] For a detailed explanation of the application process for benefits under the Social Security Disability Insurance program, see the Minority Staff Report, U.S. Senate Permanent

several levels of review, each of which is *de novo*, meaning the claimed is reviewed anew each time with no deference given to the prior denial at the next level of review. The result is the applicant is given multiple opportunities to prove they are eligible for the program. As such, if someone is denied at the initial level and, in most states, again at the first level of appeal called "reconsideration," he or she may request a hearing before one of the agency's 1,500 administrative law judges ("ALJs") in SSA's Office of Disability Adjudication and Review.[17]

Administrative Law Judges give each case an independent *de novo* review. This helps ensure a claimant's appeal is looked at on the merits, and that agency mistakes might be corrected. Unlike prior levels of review, however, ALJs are supposed to engage in a detailed process that involves collecting new evidence, holding live, on-the-record hearings and drafting detailed decisions. While initial benefit determinations can be made in a matter of months, decisions from ALJs can take years. From the time a claimant is denied at the initial level, it can take an additional year or two before their claim is heard by an ALJ at a hearing, with still more time before the ALJ issues a decision.[18] At the ALJ level of appeal, the likelihood of a claimant being approved for benefits increases, since the majority (on average 62 percent) of ALJ decisions are historically allowances.[19]

In 2006, SSA officials noted the number of requests for ALJ hearings had increased at an alarming rate over the past decade. From 1997 to 2001, the agency received 472,000 requests for ALJ hearings per year, which rose to 564,000 per year from 2002 to 2006 – an increase of nearly twenty percent.[20] Moreover, the number of days it took to process cases at the ALJ level reached its highest level ever by 2005, rising by nearly 141 days over a five year period.[21] Processing times

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Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/subcommittees/investigations/hearings/social-security-administrations-disability-programs.

[17] Social Security Administration, Hearings and Appeals, Hearing Office Locator Office of Disability Adjudication and Review, http://www.ssa.gov/appeals/ho_locator.html.

[18] The average processing time for a case at the ALJ level of appeal has fallen from 476 days in October 2008 to 359 days 359 days in March 2011. *See* Social Security Administration, Office of Inspector General, The Office of Disability Adjudication and Review's Hearings Backlog and Processing Times, Report A-12-11-21192, June 2011, http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-12-11-21192.pdf.

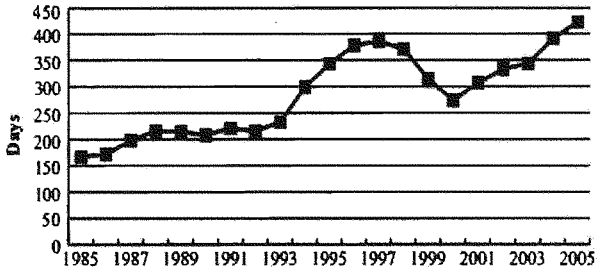
[19] *See* Social Security Administration, Office of Inspector General, The Social Security Administration's Review of Administrative Law Judges' Decisions, Report A-07-12-21234, March 2012, http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-07-12-21234.pdf.

[20] Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

[21] Report of the Social Security Advisory Board, "Improving the Social Security Administration's Hearing Process, September 2006, http://www.ssab.gov/documents/HearingProcess.pdf.

would later rise another 99 days by 2008, when it took 514 days between an appeal and a hearing.[22]

Chart 4 Average Hearing Processing Time, 1985 - 2005



By 2007, however, as higher volumes of hearings resulted in longer waiting times for claimants, pressure grew for the agency to eliminate its backlog. During his confirmation hearing in January 2007 to become SSA commissioner, Michael Astrue was told by Senate Finance Committee members the backlog was "irresponsible" and an "outrage."[23] Mr. Astrue said addressing it was his top concern, and the options were either a huge increase in SSA staff or "some radical change in the system."[24] He committed to return later in 2007 to discuss his recommendations for bringing the backlog down.[25]

Once the Senate confirmed Mr. Astrue, SSA began developing a plan of action, which it made public in September 2007. In short, the plan involved asking employees to do more, faster. The goal was to ensure more cases were heard each year by spending less time on each case.

Over the following years, the agency saw an incredible turnaround in its statistics, which appeared to show the plan was working. Wait times for ALJ hearings, which in fiscal year 2008 were 514 days, dropped to as few as 353 days by 2012.[26] Hearing decisions likewise skyrocketed

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[22] Social Security Administration, *National Hearings Average Processing Time (FY 2008 – FY 2013)*, http://www.socialsecurity.gov/appeals/charts/National_Hearing_APT_FY2008-FY2013_3rd_Qtr.pdf (last visited Sep. 27, 2013).

[23] Hearing Before The Committee On Finance United States Senate on the Nomination of Michael J. Astrue, To Be Commissioner of Social Security, S. Hrg. 110-222, 110th Cong. 18-19 (2007), *available at* http://permanent.access.gpo.gov/lps90778/393871%5b1%5d.pdf.

[24] *Id.*

[25] *Id.*

[26] Chart of the Social Security Administration, "National Hearings Average Processing Time (FY 2008 – FY 2013), accessed May 21, 2013, http://ssa.gov/appeals/charts/National_Hearing_APT_FY2008-FY2013_2nd_Qtr.pdf.

from 575,380 in 2008 to 820,484 in 2012 – a 43 percent increase.[27] By February 2011, Commissioner Astrue was able to announce that under his watch, the agency had "reversed a trend of declining service and an increasing backlog in our disability workloads."[28]

At the same time, however, questions were being raised whether the backlog plan was as successful as it appeared. The plan put enormous pressure on SSA's components to post big numbers, which they did. In at least some instances investigated by the Committee, though, agency employees appear to have done so by cutting corners and reducing the attention given to each case and issuing questionable decisions.

During the years in which the backlog plan was in full swing, one SSA office in particular stood out for its exceptional ability to produce huge numbers, becoming one of the most productive in the nation. Located in Huntington, West Virginia, the Huntington Office of Disability Adjudication and Review was one of 149 "ODAR" offices run by SSA to handle disability cases needing ALJ review.[29] While it is unclear if the practices at Huntington ODAR were widespread, the office used questionable and often inappropriate, means to clear cases through the system. Many of these short-cuts appear to have violated Agency rules and regulations.

The Social Security Administration divides all ODAR offices into regions, with Huntington located in Region 3 reporting to the Philadelphia Regional Office.[30] Huntington ODAR hears appeals from claims originally denied by Social Security Field Offices in Ashland, Pikeville, and Prestonsburg, Kentucky as well as in Huntington, West Virginia, itself.[31] As a general rule, disability cases are assigned to the office closest to where a claimant lives.[32]

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[27] Chart of the Social Security Administration, "National Hearing Decisions (FY 2008 – FY 2013), accessed May 21, 2013, http://ssa.gov/appeals/charts/National_Hearing_Decisions_FY2008-FY2013_2nd_Qtr.pdf.

[28] Social Security Administration, News Release, "Statement of Michael J. Astrue, Commissioner of Social Security, on the President's Fiscal Year 2012 Budget Request," February 14, 2011, http://www.ssa.gov/pressoffice/pr/fy12-budget-request-pr.html.

[29] The agency now has 165 ODAR Hearing Offices, http://www.socialsecurity.gov/appeals/DataSets/archive/05_FY2013/05_July_Average_Processing_Time_Report.html.

[30] Social Security Administration, Hearings and Appeals, Hearing Office Locator, Office of Disability Adjudication and Review, Philadelphia Region 3, http://www.ssa.gov/appeals/ho_locator.html#vt=2.

[31] *Id.*

[32] To the extent possible, the location of the hearing site will be within 75 miles of the claimant's residence…A claimant should not be required to travel a significant distance to the hearing office (HO) or another hearing site if a closer hearing site exists and there are no other circumstances that prevent an ALJ from conducting the hearing at the closer hearing site. Hallex I-2-3-10, "Scheduling Hearings," http://www.socialsecurity.gov/OP_Home/hallex/I-02/I-2-3-10.html, (May, 24, 2011).

The Huntington ODAR office is staffed with approximately 60 people, including seven to nine judges at any given time. The remaining staff supported the work of the judges. Attorneys assisted in reviewing case files and writing decisions, while case technicians and other administrative staff helped organize the many files and interface with claimants. Each became deeply familiar with the operations of the office, owing in large part to the heavy caseload they worked together to clear.

Over time, several members of the staff began to grow concerned about how Huntington ODAR was conducting its business. They felt the pressure to move cases quickly, but noticed that to do so the office was cutting corners, sometimes in inappropriate ways. Their concerns, however, were overlooked even as the office continued to use questionable practices.

The Committee's two-year investigation finds the success of the Huntington ODAR in achieving a high number of dispositions, or final case decisions, rested in part on questionable case decisions and poor oversight. The Social Security Administration, responding to significant pressure to reduce the disability backlog, pressured ALJs to decide cases quickly. Under this pressure to decide cases quickly, it appears that many decisions from the Huntington ODAR office failed to meet the quality standards required by law and regulation.

Case files reviewed by the Committee indicate that, while working to decide cases quickly, several ALJs in Huntington ODAR placed little, if any, scrutiny on the documentation provided to them by outside lawyers, particularly the medical evidence supplied by doctors and other medical professionals used by certain attorneys and representatives to evaluate claimants.

Decisions made by Congress and top agency officials to prioritize hearing cases quickly and reducing the agency's backlog resulted in questionable decisions by ALJs and created an opportunity for the disability programs to be exploited.

III. SSA PRESSURED ALJS TO DECIDE A HIGH NUMBER OF CASES, BUT FAILED TO ENSURE THEY PRODUCED QUALITY DECISIONS

The agency has long focused on the productivity of its ALJs. That focus intensified in September 2007 following an agency plan to push the judges to decide 500-700 cases a year. Caseload statistics were reported to top regional offices each month and ODAR offices were under enormous pressure to meet their monthly caseload targets.

Regional offices, however, appeared to place less emphasis on determining whether the decisions reached by ODAR offices were accurate and legally defensible. Many ODAR staff members felt that the emphasis placed on meeting caseload targets came at the expense of reaching high quality decisions.

a. The Agency Encouraged ALJs to Decide High Numbers of Cases

The agency monitored the number of cases being decided by each ODAR office by requiring monthly reporting to the regional offices. In Huntington, the office reported to Regional Chief Administrative Law Judge ("RCALJ") Frank Cristaudo, the head of the Philadelphia Region. Documents reviewed by the Committee showed Judge Cristaudo questioned the productivity of the office as early as 1999. In an email, Judge Cristaudo reached out to the Hearing Office Chief Administrative Law Judge ("HOCALJ"), Charlie Paul Andrus and let him know the office's performance one month was inadequate. Judge Cristaudo said, "[o]n first quick review, I am disappointed in your office's November [1999] performance. [Regional Office] staff will be contacting you for an explanation and plans for improvement."[33] In response, Judge Andrus forwarded the email from the RCALJ to the entire Huntington ODAR and encouraged the office to work harder.[34]

The emphasis on quantity continued. In a 2004 memorandum from Judge Cristaudo to all Region III Hearing Office Chief Judges, Cristaudo asserted "[o]ne of our greatest challenges is to achieve our disposition goal."[35] The memorandum noted that "offices are encouraged to make use of their creative talents to overcome obstacles...Our focus should be

[33] December 2, 1999 email from RCALJ Cristaudo to Judge Charlie Paul Andrus, PSI-SSA-95-032338-39. Exhibit 1.
[34] *Id.*
[35] July 7, 2004 Memorandum from Frank Cristaudo, Regional Chief Judge, Region III – Philadelphia to Hearing Office Chief Judges, Hearing Office Directors, Region III – Philadelphia on "Fourth Quarter Performance." Exhibit 2.

on what we need to do to get the job done."[36] Finally, Judge Cristaudo directed:

> Offices should communicate the importance of meeting goals to their judges and staff and seek individual and collective commitment to achieving them. Staff should be aware of what is individually and collectively needed to be successful. Everyone needs to be aware of exactly how many cases are needed to be pulled, scheduled, heard, decided and written and be asked to work toward that objective. We need to think of creative ways to celebrate when we pull, schedule, write, hear and decide the number of cases needed to achieve the daily, weekly, or monthly goals that we set. Achieving goals can be satisfying and fun. When you come up with new ideas, share them so other offices can have some fun too.[37]

While each office was asked "to carefully monitor and report on its progress toward meeting [its] goal," the memorandum did not discuss, or even mention, the quality or legal sufficiency of the ALJ decisions.[38]

By April 2007, Judge Cristaudo, who had since become Chief Judge for all SSA ALJs, began working with newly installed Commissioner Astrue to develop the plan for addressing the agency's growing backlog. He sent a memorandum to the Regional Chief Judges regarding "benchmarks for quality case processing."[39] The memorandum explained "[w]e have defined the Benchmarks to target all statuses by week instead of round numbers. Use of weekly targets for this purpose supports our approach of monitoring weekly performance and workloads."[40] These benchmarks set the number of days a disability case would be allowed to remain in each agency assigned status. Each status represents the stage the case is at in the ODAR office. For example, an "ALJ Writing Decision" status indicates the ALJ is drafting a decision, which should not take longer than 14 days.[41]

On September 13, 2007, the agency presented its backlog reduction plan.[42] The plan included a number of proposals designed to shorten the amount of time to decide a case. [43]

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[36] *Id.*
[37] *Id.*
[38] *Id.*
[39] April 18, 2007 Memorandum from Frank Cristaudo, Chief Judge to Regional Chief Judges. Exhibit 3.
[40] *Id.*
[41] *See* Social Security Administration, Office of Inspector General, The Office of Disability Adjudication and Review's Hearings Backlog and Processing Times, Report A-12-11-21192, June 2011, Appendix D, Quality Case Processing Benchmarks.
[42] Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

At the ALJ level, the agency planned to "increase adjudicatory capacity" by expediting the hiring 150 more ALJs. The agency streamlined the work performed by support staff in preparing medical evidence for the ALJ to review before a hearing as well and "limit[ed medical] file assembly to a cover sheet and numbering pages sequentially." Previously, support staff would prepare the medical evidence for the ALJ to review by reviewing the file themselves, noting important evidence, and removing multiple copies of records.[44]

The plan also included mandating the use of Findings Integrated Template ("FIT") described as "an abbreviated decision format that captures all the key elements required for a defensible decision." ODAR offices were also directed to screen old cases for potential on-the-record decisions without a hearing and utilize new flexibility by sharing electronic case files across offices and using video hearings. While the agency's plan included "time frames for submitting evidence to the ALJ and closing the evidentiary record at the time of the ALJ decision," neither were implemented.[45]

The next month, in October 2007, Judge Cristaudo sent another memorandum "asking each of our Administrative Law Judge to manage their dockets in such a way that they will be able to issue 500-700 legally sufficient decisions each year."[46] Prior to this instruction, ALJ's were given greater latitude in the number of cases they heard each year.[47] In the coming years, based on this instruction, ALJs adjusted work patterns to hit this new goal.

Next, to encourage judges to decide as many cases as possible, the agency developed decisional goals broken down by region, hearing office, and ALJ. This left little ambiguity as to the goal each ALJ needed to reach, often on a daily basis. The agency began setting these goals in 2011, which were "derived formulaically and are computed based on the number of cases all ALJs must dispose of per day in order to achieve the negotiated nationwide 'budget disposition' number. For Fiscal Years 2011 and 2012, the number of cases each ALJ was to

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[43] One of these proposals to increase the time spent on decisions at initial application was the nationwide rollout of the Quick Disability Determination or "QDD." "QDD uses automated tools to screen cases, and allows SSA to fast-track cases that are most likely to be allowed." In a pilot program, QDD resulted in 97 percent of certain cases decided in 21 days. *See* Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

[44] Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

[45] *Id.*

[46] October 31, 2007 Memorandum from Frank A. Cristaudo, Chief Administrative Law Judge. Exhibit 4.

[47] Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

decide was based on 2.37 dispositions per ALJ per day."[48] That figure was then used to determine the number of cases each hearing office needed to decide to meet that month's decisional goal.

Beginning in 2010, the agency posted the number of cases decided, by ALJ, online, including statistics on each ALJ's approved and denied cases.[49] According to several judges from around the country who spoke with Committee investigators, this was widely interpreted by ALJs to ensure they met their goal of deciding 500 cases per year.

b. The Agency Encouraged ALJs to Decide Cases On-the-Record to Reduce the Hearing Backlog

Part of encouraging judges to decide a higher number of cases included allowing ALJs to review cases to determine if they could be decided "on-the-record" ("OTR") based upon medical evidence in the case file without an ALJ hearing. This included "screening" paper files to determine if the evidence supported an OTR decision. According to the agency, allowing judges more flexibility to decide cases without hearings would have the advantage of shortening claimant wait times. However, it appears this policy was abused in order to decide a higher-than-average volume of cases with a minimal level of effort and scrutiny.

In its September 13, 2007 plan to reduce the backlog, the agency wrote that on-the-record decisions would be used more often, especially for old cases:

> SSA will screen its oldest cases using profiles developed by the Office of Quality Performance to identify cases where there may be a high probability that an allowance can be issued on the record without a hearing. ... [T]his could make a significant impact on SSA's backlogs.[50]

However, the agency's description of its plans differed from actual implementation. A January 2011 document distributed by Judge Cristaudo to claimant representatives noted how ALJ's were "aggressively" looking to write on the record decisions:

> Therefore, we encourage all representatives to review the file and submit evidence as early in the hearing process as

[48] Complaint; *Association of Administrative Law Judges, et al. v. Carolyn W. Colvin*, (D.D.C. filed April 18, 2013).
[49] Social Security Administration, Hearings and Appeals, ALJ Disposition Data, http://www.ssa.gov/appeals/DataSets/03_ALJ_Disposition_Data.html.
[50] Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.

> possible. Do not wait until the case is scheduled to submit evidence. ODAR is aggressively screening cases for potential "on the record" situations and updated evidence is helpful in identifying cases that may be reversed without the need for a hearing.[51]

On-the-record decisions, while allowing ALJs to dispose of certain cases more quickly, also present judges with several challenges. First, the purpose of allowing ALJs independence in writing decisions is to provide checks and balances within the SSA disability program. As such, if an application is inappropriately denied an ALJ looking at the same set of information can decide to award benefits. However, in the words of SSA's current Chief ALJ, Debra Bice, ALJs should "never abdicate the role of judge," and are always obliged to render a correct judgment.[52] By eliminating an in-person ALJ hearing, which provides the claimant a forum to plead their case after previously being denied benefits twice, an ALJ misses the opportunity to hear from a claimant firsthand leaving ALJs less than fully informed.[53]

Second, allowing judges to screen all of their cases for those easiest to decide creates an incentive to let complicated cases sit for longer than they should. An ALJ like Judge David Daugherty, who was simply looking to meet his or her monthly goal, could select less complicated cases to boost his numbers, while claimants in need of decisions were left waiting.

c. Judge Daugherty Used Agency Policies to Approve a High Number of Cases

One particular ALJ in the Huntington ODAR who decided a high number of cases, both OTR and with hearings, was David B. Daugherty. Judge Daugherty began his career as an ALJ with the Social Security Administration in 1990. Prior to working as an ALJ, he served as an elected circuit court judge in Cabell County, West Virginia.[54]

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[51] Social Security Administration, "Best Practices for Claimants' Representatives," January 2011, http://www.socialsecurity.gov/appeals/best_practices.html/reps/reps/rep_info.html.

[52] Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.coburn.senate.gov/public//index.cfm?a=Files.Serve&File_id=6f2d2252-50e8-4257-8c6f-0c342896d904.

[53] See Social Security Administration, Hearings and Appeals, What You Need to Know to Request a Hearing Before an Administrative Law Judge, http://www.socialsecurity.gov/appeals/hearing_process.html.

[54] Damian Paletta, Disability-Claim Judge has Trouble Saying "No," The Wall Street Journal, May 19, 2011, http://online.wsj.com/article/SB10001424052748704681904576319163605918524.html.

According to public data, Judge Daugherty was one of the highest producing ALJ's in the nation. During 2010, the last full fiscal year in which he decided cases, Judge Daugherty was the third most productive ALJ, deciding 1,375 cases and awarding benefits in 1,371 of them – an approval rate of 99.7 percent.[55] In 2011, he decided 1,003 cases, awarding benefits 1,001 times.[56]

Judge Daugherty's ability to produce such a high volume of cases, however, surprised many of his colleagues who questioned whether his work habits matched his productivity. Some of Judge Daugherty's co-workers had strong opinions about him. For example, a senior ALJ stated in an email that Judge Daugherty "was intellectually lazy. That was probably his most obvious characteristic."[57] In a Committee interview, another senior ALJ described Judge Daugherty as "a spoiled little boy who grew up to become a judge," and that in performing his work he "sought the easiest way out."[58] Still another ALJ told the Committee that when he expressed concern about quickly reviewing and deciding cases, Judge Daugherty advised him that "you're just going to have to learn which comers to cut."[59]

d. Huntington ODAR Management Focused on Production Numbers Despite Office Morale Problems

The highest ranking member of management onsite in the Huntington ODAR office, as with all ODAR offices, is the Hearing Office Chief Administrative Law Judge, referred to as the "HOCALJ." The HOCALJ is directly responsible for all program and administrative matters concerning SSA's hearing process in the hearing office. The HOCALJ's main responsibility is to oversee and supervise ALJs, staff attorneys, and the Hearing Office Director in the office.[60] The HOCALJ is also chiefly responsible for communicating with the chief regional judge.

During the period under review by the Committee, Charlie Paul Andrus served as the Hearing Office Chief Administrative Law Judge or "HOCALJ" in Huntington ODAR, a job he held from 1997 through

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[55] Website of the Social Security Administration, "FY 2010 -ALJ Disposition Data," Accessed May 24, 2013, http://www.ssa.gov/appeals/DataSets/Archive/03_FY2010/03_September_ALJ_Disp_Data_FY2010.html.

[56] Website of the Social Security Administration, "FY 2011 -ALJ Disposition Data," Accessed May 24, 2013, http://www.ssa.gov/appeals/DataSets/Archive/03_FY2011/03_September_ALJ_Disposition_Data.html.

[57] May 20, 2011 email from Patricia Jonas, Executive Director, Office of Appellate Operations to mccamer@msn.com, PSI-SSA-96D2-04632. Exhibit 5.

[58] June 19, 2012 Committee interview of Judge Charlie Andrus.

[59] May 29, 2012 Committee interview of Judge William Gitlow.

[60] Office of the Inspector General, Social Security Administration, Hearing Office Performance and Staffing, Audit Report No. A-12-08-28088 (February 2010), http://oig.ssa.gov/sites/ default/files/audit/full/pdf/A-12-08-28088_7.pdf.

2011.[61] In addition to his responsibilities as HOCALJ, Judge Andrus was also responsible for deciding his share of cases, around 500 each year.[62] Judge Andrus stated that in his role as HOCALJ he was able to help low producing ALJs by providing staff and other resources to help the ALJs meet the 500 cases per year goal, which he believed to be "doable, but not easy."[63]

At the same time, Judge Andrus related his frustration with the role of HOCALJ, saying he was given little actual authority. For this, he blamed the Administrative Procedures Act ("APA"), which provides each ALJ with "qualified decisional independence."[64] With that authority, ALJ's are given significant independence to decide cases as they see fit, as long as the cases conform to the law and agency guidelines. It is meant to provide some measure of insulation from outside pressures, whether that means to award or deny benefits. The purpose of providing this independence to ALJs was to ensure public confidence in the process of adjudicating claims for benefits.[65] Judge Andrus asserted because of the APA, a HOCALJ was given little actual authority. In fact, Judge Andrus believed he was limited to "persuading [an ALJ] a lot."[66]

Although Judge Andrus had little ability to supervise the quality and outcome of disability decisions, he played a key role in assuring that the office decided cases quickly. During his time as HOCALJ, Huntington ODAR was a high producing office. One of the key steps he took was installing a staff who understood how to move cases quickly.

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[61] June 19, 2012 Committee interview of Judge Charlie Andrus. Judge Andrus is no longer acting in this capacity and was recently placed on administrative leave by the agency.
[62] June 19, 2012 Committee interview of Judge Charlie Andrus.
[63] *Id.*
[64] See Report of the Social Security Inspector General, "The Social Security Administration's Review of Administrative Law Judges' Decisions," A-07-12-21234, March 2012, http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-07-12-21234.pdf. The report contains the following definition of "qualified decisional independence" as provided by SSA:

> Qualified decisional independence" means that ALJs must be impartial in conducting hearings. They must decide cases based on the facts in each case and in accordance with agency policy as laid out in regulations, rulings, and other policy statements. Further, because of their qualified decisional independence, ALJs make their decisions free from agency pressure or pressure by a party to decide a particular case, or a particular percentage of cases, in a particular way. The agency may not take actions that abridge the duty of impartiality owed to claimants when ALJs hear and decide claims.

[65] *See* Report of the Social Security Inspector General, "The Social Security Administration's Review of Administrative Law Judges' Decisions," A-07-12-21234, March 2012, http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-07-12-21234.pdf.
[66] June 19, 2012 Committee interview of Judge Charlie Andrus.

i. Huntington ODAR Management Prioritized the "Numbers"

During the time period reviewed by the Committee, the Huntington ODAR was managed by the Hearing Office Director ("HOD"), Gregory Hall.[67] The HOD position is described as the principal management advisor to the HOCALJ and works significantly with the HOCALJ in the overall management and administration of the hearing office.[68] The HOD is responsible for supervising, planning, organizing, and controlling the operations of the hearing office.[69] This typically includes managing all staff in the hearing office other than the ALJs.

Mr. Hall started with the agency as a claims representative and worked his way up to be eventually promoted to HOD in October 2006.[70] Mr. Hall explained to the Committee that one of his primary goals as HOD was ensuring Huntington reviewed a large number of cases quickly, referring to himself "a numbers person, and I'll tell you that upfront."[71] As such, Mr. Hall noted that Huntington ODAR ranked number two in the country in 2010 for case processing time. He believed "moving cases quickly is what the agency expects, as long as it's done accurately."[72]

While Judge Andrus managed the ALJs, Mr. Hall focused on ensuring the staff also moved cases quickly. To encourage quick case processing, for many years Mr. Hall sent out weekly emails to the entire office with the subject line, "Where We Are," outlining how many cases had been decided and whether individuals in the office were meeting their goals.[73] To track the progress of the office on a daily basis, Mr. Hall used a variety of detailed reports that constantly updated him on the status of cases.[74]

During Mr. Hall's tenure Huntington ODAR became one of the highest producing offices in the country. In 2010, it had the second shortest average processing time at just 263 days (just one day longer than the

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[67] July 27, 2011 Committee interview of Gregory Hall.
[68] Office of the Inspector General, Social Security Administration, Hearing Office Performance and Staffing, Audit Report No. A-12-08-28088 (February 2010), http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-12-08-28088_7.pdf.
[69] *Id.*
[70] July 27, 2011 Committee interview of Gregory Hall.
[71] July 27, 2011 Committee interview of Gregory Hall.
[72] *Id.*
[73] *Id.*
[74] These reports, called Disability Adjudication Reporting Tools (or "DART reports") tracked monthly progress by the office, including scheduled hearings, a "Workload Summary Listing" report to show each ALJ's daily progress, and a "Workload Summary Report" to compare Huntington with other offices in the region. July 27, 2011 Committee interview of Gregory Hall.

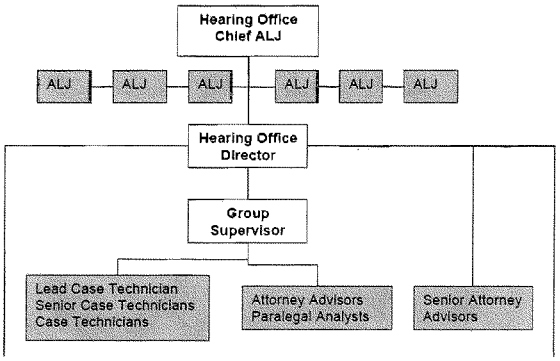
top office of Middlesboro, Kentucky).[75] The office ranked 12th out of 149 hearing offices in ALJ Dispositions Per Day Per ALJ with each Huntington ODAR ALJ processing 2.93 cases per day.[76]

After 38 years with the agency, on August 18, 2011, Mr. Hall announced his plan to retire from the agency at the end of August 2011.[77]

ii. "Boot Camp Mentality" Led Huntington ODAR to Become a Top Producing Office Despite Morale Problems

Serving under the direction of Mr. Hall was a layer of management responsible for keeping Huntington's case load moving quickly. However, the intense pressure to dispose of cases led to conflicts within the office.

The employees in the Huntington ODAR are divided into three "groups," each of which are managed by a Group Supervisor or "GS." It is the job of the GS to direct the activities of employees assigned to the group to ensure the efficient, timely, and legally sufficient processing of hearing office cases.[78] During the time period covered by this report the following individuals served as a Group Supervisors: (1) Arthur Weathersby; (2) Harriette Cyrus; (3) Kathie Goforth; (4) Stephen Hayes; (5) Carrie Roland; and (6) Jerry Meade.



[75] Social Security Administration, Hearings and Appeals, FY2010 Hearing Office Workload Data (Cumulative for 9/26/09 through 9/24/2010) http://www.ssa.gov/appeals/DataSets/Archive/02_FY2010/02_September_HO_Workload_FY2010.html.

[76] Social Security Administration, Hearings and Appeals, FY 2010 – National Ranking Report by ALJ Dispositions Per Day Per ALJ (Cumulative for 9/26/09 through 9/24/2010), http://www.ssa.gov/appeals/DataSets/Archive/04_FY2010/04_September_Disposition_Per_Day_Per_ALJ_Ranking_FYTD2010.html.

[77] *See* August 18, 2011 email from Gregory Hall to Huntington ODAR. Exhibit 6.

[78] The GS is the first-line supervisor of the following positions, which support the ALJs by preparing cases for hearings: Attorney-Advisor; Paralegal Analyst; Lead Case Technician; Senior Case Technician; and the Case Technician. Office of the Inspector General, Social Security Administration, Hearing Office Performance and Staffing, Audit Report No. A-12-08-28088 (February 2010), http://oig.ssa.gov/sites/default/files/audit/full/pdf/A-12-08-28088_7.pdf.

Office Morale. Huntington ODAR has a long history of discord between management and other office employees. As early as July 2001, Judge William Gitlow emailed a colleague in another office and stated Judge Andrus created a "boot camp" atmosphere in the office:

> I can't say our morale is much better. Our HOCALJ (Andrus) is almost universally despised by the office personnel. We have record numbers of [Equal Employment Opportunity] complaints pending against management. Andrus decided that the reason our office wasn't producing was a lack of adequate pressure and chose to apply a boot camp mentality to the office. He chose two Group Supervisors with no OHA [Office of Hearing and Appeals] experience (not attorneys), hoping that they would bust heads. The HOD [Hearing Office Director] is also not an attorney. So we have two non attorneys assigning cases, reviewing the performance of the attorneys, who are in turn supervised by a non attorney. (Sigh...). I think that we are the only office in all of OHA that doesn't have a single attorney in a supervisory position in the office.[79]

Judge Gitlow emphasized how disjointed the office was by pointing out each group had differing standards for denial decisions, but stated "[a]t least I have carte blanche in my group to establish the way denial decision are written for our group and was assigned to ensure the standards for it."[80]

In October 2001, in response to "constituents allegations of mismanagement" in the Huntington ODAR, Congressman Nick Rahall of West Virginia requested the SSA Office of Inspector General ("OIG") review "allegations of mismanagement,...discrimination and favoritism in hiring and promotion polices, contempt for employees with special needs, hostile work environment, lack of training, denial of union representation, overemphasis on production, and inappropriate sexual advances."[81] After its review, the OIG found no indication of criminal activity, but "identified the existence of other problematic conditions pertaining to low office morale, security of claimant case files, performance appraisals not being conducted, and time and attendance reporting."[82]

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[79] July 19, 2001 email from William H. Gitlow to Ronald M. Kayser, PSI-SSA-95-032436. Exhibit 7.
[80] *Id.*
[81] Social Security Administration, Office of Inspector General, Congressional Response Report: Huntington, West Virginia, Office of Hearings and Appeals, A-13-02-22090 (August 8, 2002). Exhibit 8.
[82] *Id.*

With regard to the low morale problem, the OIG specifically noted a number of SSA attorney staff "resented the GSs because they were not attorneys but were the administrative supervisors of attorneys." Management appeared to be attempting to remedy the problem. The report stated that "office management expressed awareness of the [morale] problem, and state they were working on ways to improve morale within the office."[83] According to Committee interviews with current and former Huntington ODAR office employees and ALJs, nothing improved.[84]

iii. The Agency Transferred Over 1,000 Cases to Huntington ODAR for Adjudication

The agency took advantage of the Huntington ODAR's faster processing time. Between January 2006 and August 2011, the agency transferred 1,186 cases to Huntington for adjudication from other ODAR offices that needed help processing cases. The majority of these cases – 1,016 – were transferred from the ODAR in Morgantown, West Virginia. According to Mr. Hall, all of the cases were considered "aged" due to the delay by the Morgantown ODAR in scheduling them for a hearing after losing several ALJs and staff.[85] A case is considered aged if it is over 750 days old.[86]

Mr. Hall stated Huntington ODAR spent two months after receiving the Morgantown cases screening them to determine if an on-the-record decision was possible. For the cases left, Mr. Hall stated the Huntington ALJs scheduled "rocket dockets" where the ALJs would hear as many as 20 cases a day. Many of these hearings were for unrepresented claimants.[87] According to Mr. Hall, Huntington ODAR finished processing close to all of the Morgantown cases within a year, as well as dealing with their normal caseload.[88]

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[83] *Id.*
[84] July 25-27, 2011 Committee interviews of Huntington ODAR employees, ALJs, and former ALJs.
[85] July 27, 2011 Committee interview of Gregory Hall.
[86] I-2-0-72, Assigning and Processing Request for Hearings filed by Claimants that do not Reside in the United States, http://www.ssa.gov/OP_Home/hallex/I-02/I-2-0-72.html.
[87] July 27, 2011 Committee interview of Gregory Hall.
[88] *Id.*

IV. ONE LAWYER REPRESENTED A DISPROPORTIONATE NUMBER OF CLAIMANTS BEFORE THE HUNTINGTON ALJS

With the agency's emphasis on deciding a high number of cases to reduce the ALJ hearing wait time, the Huntington ODAR began to make allowances for attorneys that represented a high number of claimants. No other attorney represented more claimants that appealed to the Huntington ODAR than Eric C. Conn.[89] By 2010, Mr. Conn represented so many claimants he would become the third highest paid disability lawyer in the nation, following behind Thomas Nash of Nash Disability Law in Chicago and Charles Binder of the nationwide disability advocacy group, Binder & Binder.[90]

a. Mr. Conn's Practice Focused on Representing Claimants for Disability Benefits

Mr. Conn is an attorney located in Stanville, Kentucky, a small rural town in the eastern portion of the state and home to around 520 residents.[91] The majority, if not all, of Mr. Conn's practice involves representing individuals applying for and appealing denials of disability benefits. Mr. Conn is a graduate of Morehead State University and later attended Ohio Northern University Pettit College of Law. According to a biography on his website, "although Conn had completed his tour of [military] duty at the time of Operation Desert Storm, he was called back to active duty and served as a company commander during the Gulf War."[92]

In 1993, Mr. Conn opened the Eric C. Conn Law Complex in Stanville, Kentucky in a trailer given to Mr. Conn by his parents. At present, the Conn Law Firm ("CLF") office in Stanville exists as a series of connected mobile homes surrounding a main office building. Later, Mr. Conn opened another office in Ashland, Kentucky, which closed in 2012. That same year, Mr. Conn expanded to the West Coast and opened an office in the Beverly Hills neighborhood of Los Angeles, California.[93]

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[89] Committee analysis of information provided by the Social Security Administration.
[90] Information provided by the Social Security Administration in a telephone call dated October 2, 2013.
[91] Census Data was unavailable for Stanville, Kentucky. Therefore, the zip code in which Stanville is located was used. *See* United States Census, American FactFinder, Community Facts, Zip Code 41659, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1.
[92] Attorney, Eric Conn, "Eric C. Conn, Beyond the Billboard," Excerpts from the Medical Herald Leader, 8/8/2005, www.mrsocialsecurity.com.
[93] See "About Us," http://mrsocialsecurity.com/about-us/. *See also* Press Release, The Eric C. Conn Law Firm Announces New Office Location in Beverly Hills, CA, Expanding Their Social Security Disability Claims Expertise to Both Coasts (Oct. 22, 2012),

In correspondence through his attorney, Mr. Conn explained the structure of his law firm:

> The law firm is solely owned by Eric C. Conn and employs only a small number of additional attorneys. The law firm employs a larger number of administrative staff, approximately 30 to 40, to intake clients, obtain information from a variety of sources, and process a multitude of forms during each stage of the application process, among other functions.[94]

While Mr. Conn's current practice consists mainly of representing claimants seeking disability benefits, he previously practiced before the United States Court of Appeals for Veterans Claims.[95] In 2002, in response to an investigation by that Court into allegations of professional misconduct, Mr. Conn resigned "from the Bar [of that Court] in lieu of further investigatory proceedings."[96] While Mr. Conn's resignation from the Court was not an admission of the alleged misconduct, by resigning he agreed "to cease all practice before [the] Court," which the Court determined "provide[d] the Court and its appellants with protection from any repetition of such conduct by him."[97] The Court also noted that, "[i]n submitting [his] resignation, attorney Conn has also relinquished any right to apply for reinstatement or readmission at any time in the future."[98]

Mr. Conn's resignation from practicing before the United States Court of Appeals for Veterans Claims did not prevent him from representing claimants applying for disability benefits before the Social Security Administration.[99]

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http://www.ereleases.com/pr/eric-conn-law-firm-announces-office-location-beverly-hills-ca-expanding-social-security-disability-claims-expertise-coasts-89379.

[94] May 17, 2012 Letter from Pamela J. Marple, Esq., attorney for Eric C. Conn, to the Permanent Subcommittee on Investigations. Exhibit 9.

[95] *In re Eric C. Conn, Attorney at Law*, No. 01-8001 (U.S. Vet. App. Sept. 30, 2002), https://www.courtlistener.com/cavc/5bPG/conn-v-principi/

[96] *Id.*

[97] *Id.*

[98] *Id.*

[99] Unlike federal and state courts, an individual representing a claimant before the Social Security Administration for a claim of disability does not have to be an attorney admitted to the state bar. Instead, non-attorneys are eligible to represent claimants before the agency. Therefore, Mr. Conn's prior resignation from the Court of Veterans Claims had no effect on his ability to represent disability claimants. The Social Security Administration does, however, have the ability to "refuse to recognize as a representative...any attorney who has been disbarred or suspended from any court or bar to which he was previously admitted to practice..." *See* 42 U.S.C. 406, Representation of Claimants, http://www.ssa.gov/OP_Home/ssact/title02/0206.htm#ft87. It is unclear whether Mr. Conn's resignation in lieu of investigatory proceedings by the prior Court would support a refusal by SSA to allow him to act as a disability claimant representative.

b. Mr. Conn Used an Aggressive Marketing Campaign to Recruit Claimants

Mr. Conn and his disability law practice became known for his aggressive use of advertising, which he used to recruit a large number of claimants to represent. Through billboards, television and radio commercials, and his presence at local events, Mr. Conn marketed both himself and his legal practice. In an interview from 2005, Mr. Conn described himself as "a firm believer in advertising" and asserted he "read everything about marketing [he] can get [his] hands on."[100]

Mr. Conn's billboards, at one time, were ubiquitous on Highway 23, one of Eastern Kentucky's main thoroughfares, and in the surrounding areas of Kentucky and West Virginia. These billboards referred to Mr. Conn as "Mr. Social Security/SSI."[101] Mr. Conn's website also carries the label: "mrsocialsecurity.com."[102]

Other television advertisements by Mr. Conn featured "the Obama Girl" Amber Lee Ettinger, bluegrass signer Ralph Stanley, and Jesco White (also known locally as the "Dancing Outlaw"). Mr. Conn stated he produced the advertisement to aid his campaign for appointment to the Social Security Advisory Board.[103]

The Conn Law Firm also boasts the second largest Abraham Lincoln statute in the world, second only to the Lincoln Memorial in Washington, D.C. Visible from Highway 23, it is an exact replica of the statue within the Lincoln Memorial in Washington, D.C. The Conn Law Office uses images of the 19-foot high statue in his advertising on television and billboards. Mr. Conn has estimated the cost of the statue around $500,000.[104] According to a press release, the statue had to be "put in place by crane. It had to be delivered in three pieces due to the large size."[105] "Attorney Eric C. Conn state[d] that the statue's purpose is to remind Kentuckians that Abraham Lincoln was a Kentuckian. Lincoln himself wrote: 'I, too, am a Kentuckian.'" The statue serves as

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[100] Attorney, Eric Conn, "Eric C. Conn, Beyond the Billboard," Excerpts from the Medical Herald Leader, 8/8/2005, www.mrsocialsecurity.com.
[101] *Id.*
[102] *See* The Conn Law Firm, http://mrsocialsecurity.com/.
[103] In an interview with a local reporter, Mr. Conn noted to hire the "Obama Girl" cost $25,000, while Ralph Stanley's fee was $10,000; Jesco White charged Mr. Conn $1,500 to appear in the video. See Scott Utterback, Courier-Journal.com, Kentucky Lawyer Eric Conn Hires the "Obama Girl" for Campaign Video, http://www.youtube.com/watch?v=uW0_EB9Seck.
[104] See Scott Utterback, Courier-Journal.com, Kentucky Lawyer Eric Conn Hires the "Obama Girl" for Campaign Video, http://www.youtube.com/watch?v=uW0_EB9Seck.
[105] Press Releases, Second Largest Seated Lincoln Statute in the World Arrives in Kentucky (Sept. 20, 2010), http://www.ereleases.com/pr/largest-seated-lincoln-statue-world-arrives-kentucky-40403.

a tourist attraction with the press release noting the "public may visit the statue 24 hours a day and admission is free."[106]

At times, Mr. Conn also employed women, known variously as "Conn Girls" and "Conn's Hotties," to attend local events wearing shirts the displayed his firm's logo. At other times, he hired local celebrities, such as former Miss Kentucky USA Kia Hampton, who appeared in one of his commercials questioning the ethics of another disability firm, Binder and Binder.[107]

Mr. Conn also promoted his disability practice in other ways, including by sponsoring a fundraiser for a local emergency shelter,[108] flying a plane over a "United for Coal" event with a supportive banner,[109] and creating the first 3-D lawyer television commercial.[110] Most recently, he commissioned a statue of Charles Ramsey, the Cleveland, Ohio man who gained national recognition after helping to rescue three women held captive for a decade. The statue of Mr. Ramsey was unveiled at the Eric C. Conn Law Office, with the event hosted by Mr. Conn, and later donated to a Cleveland museum.[111] In press releases, Mr. Conn also described himself as "a multimillionaire attorney in Kentucky. Conn has made his millions by representing the disabled in Disabled [sic] Social Security and SSI proceedings."[112]

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[106] *Id.*

[107] See, *e.g.* http://www.youtube.com/watch?v=gA9YUBrBr58.

[108] Press release, Eric C. Conn Law Firm partners with WestCare Emergency Shelter (Dec. 21, 2012), http://www.ereleases.com/pr/eric-conn-law-firm-partners-westcare-emergency-shelter-95487.

[109] Press release, United for Coal Supported by Eric C. Conn (Oct. 22, 2012), http://www.ereleases.com/pr/united-coal-supported-eric-conn-89371.

[110] Press release, First 3D Lawyer Commercial Announced (Dec. 13, 2010), http://www.ereleases.com/pr/3d-lawyer-commercial-announced-44252.

[111] Press release, "Dishwasher Turned Hero: Charles Ramsey Statue to be Unveiled" (May 23, 2013), http://www.ereleases.com/pr/dishwasher-turned-hero-charles-ramsey-statue-unveiled-145669.

[112] Press Release, Rohl and Conn Hold Southeast Asia Meetings (March 19, 2010), http://www.ereleases.com/pr/rohl-conn-hold-southeast-asia-meetings-33282.

V. HOCALJ ANDRUS MADE SPECIAL SCHEDULING ARRANGEMENTS FOR MR. CONN'S CASES

Since Mr. Conn represented so many claimants in the office, the Huntington ODAR gave him special treatment by giving his cases priority when scheduling hearings. The office scheduled hearings for his clients outside the agency-mandated rotation of assigning an ALJ to a case and Mr. Conn's claimants were often scheduled before other cases, against SSA policy, leading to longer wait times for claimants lacking well-connected representation.

When a disability case file arrives at an ODAR hearing office on appeal from a denial of benefits by DDS, the case is assigned to an ALJ for review and scheduled for a hearing. The SSA Hearing, Appeals, and Litigation Law Manual mandates that the "HOCALJ generally assigns cases to ALJs from the master docket on a rotational basis, with the earliest (i.e., oldest) [request for hearings] receiving priority."[113] This practice is meant to ensure the claimant who had waited the longest for a hearing would be first-in-line to plead their case before the first available ALJ.

Because Mr. Conn was representing so many clients, HOCALJ Andrus proposed creating a separate scheduling system for him, apart from the one in place for other cases.[114] The new system expedited Mr. Conn's clients and scheduled them in large blocks so that many of Mr. Conn's clients would have hearings on the same day. It also ensured that all of his hearings would happen at Huntington ODAR's remote site in Prestonsburg, Kentucky, close to Mr. Conn's law offices.[115] Prior to implementing this system, Mr. Conn could physically not attend all of the hearings being scheduled for his numerous clients. Mr. Conn's clients would at times be scheduled for hearings with multiple ALJs at the same time, making it impossible to be in two places at once.[116]

In addition to requiring special accommodations in order to represent his clients, Mr. Conn also appears to have frequently canceled his clients' hearings if he discovered the case was assigned to a judge other than his preferred Judge, David Daugherty. Some in the Huntington ODAR

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[113] Hearing, Appeals, and Litigation Law Manual, I-2-1-55, "Assignment of Service Area Cases to Administrative Law Judges," http://ssa.gov/OP_Home/hallex/I-02/I-2-1-55.html. *See also* Hearing, Appeals, and Litigation Law Manual, I-2-3-10, "Scheduling Hearings," http://ssa.gov/OP_Home/hallex/I-02/I-2-3-10.html ("The objective is to hold a hearing as soon as possible after the request for hearing [] is filed, at a site convenient to the claimant.").

[114] *See* July 5, 2001 Memorandum from Charlie P. Andrus HOCALJ Huntington, WV to Steve Slahta, Acting RCALJ OHA Region III. Exhibit 10.

[115] *Id.*

[116] June 19, 2012 Committee interview of Judge Charlie Andrus.

were concerned Mr. Conn was "judge shopping" to ensure his cases had a higher likelihood of approval.[117]

On July 5, 2001, HOCALJ Andrus sent a memorandum to Steve Slahta, who was serving as Acting Regional Chief Administrative Law Judge for Region III.[118] Judge Andrus explained 340 (or 40 percent) of the 845 unassigned cases to be scheduled for hearings in Prestonsburg, Kentucky were represented by Mr. Conn. Judge Andrus stated:

> We have encountered problems being able to schedule a sufficient number of [Mr. Conn's] cases to justify a trip to Prestonsburg for myself on two occasions, and we have had to reduce numbers for other judges on other occasions due to scheduling problems. In addition, we have had problems in setting hearings in a timely manner, due in part to scheduling problems with Mr. Conn. In addition, we suspect that he is engaging in "forum shopping" by his unwillingness to be available during weeks when certain judges are scheduled.[119]

Judge Andrus elaborated that around this time it became obvious that Mr. "Conn was "suspiciously available when [Judge Daugherty] was available, but suspiciously unavailable" when other judges were scheduled for hearings in Prestonsburg.[120] After confronting Mr. Conn directly about his "suspicious" availability only when Judge Daugherty was scheduled to hear cases in Prestonsburg, he stated Mr. Conn replied, "well, it was good while it lasted."[121] This confrontation, however, does not appear to have significantly changed Mr. Conn's practice.

Huntington Deviates from Agency Protocol in Assigning Conn Cases. Under agency rules, when a claimant appeals to an ALJ, the oldest case in the office should be assigned a hearing date first. Availability of the claimant's representative is not supposed to be considered in deciding when the case is assigned a hearing date.

Judge Andrus's proposal for scheduling Mr. Conn's cases, however, would involve a new office policy creating a rotational system by which no single judge heard more of his cases than any other judge. In effect, it created a separate track for Mr. Conn's cases giving them preference over older cases represented by other attorneys or claimant representatives.

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[117] *Id.*
[118] *See* July 5, 2001 Memorandum from Charlie P. Andrus HOCALJ Huntington, WV to Steve Slahta, Acting RCALJ OHA Region III. Exhibit 10.
[119] *Id.*
[120] June 19, 2012 Committee interview of Judge Charlie Andrus.
[121] *Id.*

In July 2001, Judge Andrus sent his scheduling proposal to the Philadelphia Region III Office for approval. While his stated purpose of the scheduling change was to put an end to Mr. Conn's "forum shopping by his unwillingness to be available during weeks when certain judges are scheduled," the impact was to assign Mr. Conn's cases to an ALJ more quickly. To reduce the problem in the short-term, Judge Andrus asserted "that we need to assign Mr. Conn's cases in rotation to each ALJ as they come into the office. This will give each judge about the same amount of cases and will lessen if not eliminate the tendency to forum shop, as all of us will have the same number of his cases."[122] Judge Andrus noted he "plan[ned] to discuss the problem with Mr. Conn next week," but assumed it would not be met with resistance since Mr. Conn "ha[d] been agreeable to suggested changes in the past."[123] Judge Andrus also urged the staff and judges of Huntington ODAR to schedule cases as far into the future as possible when Mr. Conn made clear he was not available certain weeks for hearings. Judge Andrus stated that "if necessary, we can get blocks of days for three or four months in advance."[124] If Mr. Conn asserted he was unavailable for hearing dates, Judge Andrus stated "we [would] need a larger supply of 'other attorney' cases pulled to be able to fill in the docket if [Mr. Conn] is not available." Judge Andrus "would pull three 'other attorney' cases for every two Eric Conn cases."[125]

In sum, Judge Andrus's short-term plan involved rotating Mr. Conn's cases, but also moved Mr. Conn's cases to the front of the line, since it meant that Huntington ODAR would "deviate from strict following of age of case when pulling."[126] Under this proposal, Mr. Conn's cases would be assigned to an ALJ and scheduled for hearings before other claimants.

Judge Andrus Chose Not to Implement Other Options Available to Him In Addressing Mr. Conn's Caseload. In other ODAR offices around the country, backlog situations would often mean judges from less busy offices would arrive and hear cases on a temporary basis. Judge Andrus, however, strongly resisted the use of judges from other ODAR offices and asserted that "out-of-town judges we have in Prestonsburg cause some of the problem."[127] Judge Andrus wrote in his memorandum to the SSA regional office, "they tie Mr. Conn up with cases that have to have a priority, they also cause difficulty in scheduling hearing rooms, reporters, and VEs. Considering the hassles, they have been more harm

[122] *See* July 5, 2001 Memorandum from Charlie P. Andrus HOCALJ Huntington, WV to Steve Slahta, Acting RCALJ OHA Region III. Exhibit 10.
[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] *Id.*

than help."[128] Presumably, out-of-town ALJs would take priority over Huntington ALJs who heard cases regularly in Prestonsburg. Therefore, Judge Andrus ensured Mr. Conn's cases were decided by one of Huntington ODAR's ALJs.

Another option would have been for Huntington ODAR to simply request that cases be transferred to another ODAR office. Judges in these offices could then issue on-the-record decisions or hold hearings via videoconference. Judge Andrus proposed "if we must send cases out I would prefer to send only Huntington cases," as opposed to Mr. Conn's cases scheduled for hearing in Prestonsburg. Judge Andrus reasoned "we [] have a greater number of people doing SSA [disability] cases in Huntington, so that availability of [claimant representatives] is not as difficult a problem. We also find it easier to obtain reporters and VEs in Huntington versus Prestonsburg." Judge Andrus also highlighted the fact that "[w]e cannot exclude Eric Conn cases if we send Prestonsburg cases, so I would prefer not to send any at all."[129]

Agency Officials Disagree with the Proposal by Judge Andrus. The proposal by Judge Andrus for scheduling Mr. Conn's cases was sent to the Philadelphia regional office, and drew strong criticism from Veronica Polohovich in the SSA Philadelphia Office of the Regional Chief Judge. In an email, Ms. Polohovich objected to the special treatment the plan seemed to afford Mr. Conn and wrote she did "not agree with the recommendations by Judge Andrus for the following reasons:

1. If Mr. Eric Conn is available, we should be notifying the claimants and Mr. Conn of our attempts to schedule a hearing and advising them that the reason the case has not been scheduled is due to Mr. Conn's unavailability. This should force the issue and either make Mr. Conn be more available or the claimants attain a new representative.

2. I do not agree with deviating from following age of case when pulling, we would be doing this to accommodate Mr. Conn. In fact, the whole proposal seems to be an attempt to accommodate Mr. Conn.

3. The proposal to permanently transfer out only Huntington cases does not follow HALLEX or Region III's case transfer policy. It is not cost effective for traveling judges to travel to Huntington and Huntington

[128] *Id.*
[129] *Id.*

> judges to travel to the remote sites (Prestonsburg). It is more cost effective for Huntington judges to stay in Huntington and the traveling judges to travel directly to the remote sites.
>
> 4. Judge Andrus mentions numerous problems or hassles from visiting judges. These should be brought to the [Regional Office]'s attention when they occur. He may be eluding to DC, but I have not received any complaints.[130]

Despite objections, on July 18, 2001, Valerie Loughran, Regional Management Officer, related to others in the Regional Office the agency had approved Judge Andrus's plan with regard to the transfer of cases:

> After discussion with Judge Slahta, we decided that Judge Andrus could vary from the transfer policy for the short term, to deal with the current problem. So if we are transferring cases in the near future we will use Huntington. I know this is not what we want as an ongoing policy, but it may help. If it presents a significant problem please advise.[131]

Barbara Bracchi, another employee of the Regional Office, responded on July 20, 2001, pointing out the proposed plan favored Mr. Conn and suggested his clients be informed directly if scheduling changes were made simply to accommodate Mr. Conn's personal availability:

> Since they have problems scheduling with [Mr. Conn], I think they should be sending the attorney with a copy to the claimant a form memo every time they attempt to schedule a hearing and he says he is not available so the claimant knows that the attorney is causing the delay. Attorneys generally do not like this and it gives the claimant the opportunity to find another representative if he does not want to wait for the hearing.
>
> I'm not inclined to permanently transfer cases unless absolutely necessary since it has recently come to light that the [Hearing Office]s don't seem to be follow our guidelines for these cases anyway. What we have found (in DC, Charlottesville, and others) is that transferring cases are not being worked in [request for hearing] order, but seem to

[130] July 18, 2001 email from Veronica Polohovich to Jim Comerford, PSI-SSA-96D2-003930-35. Exhibit 11.
[131] July 18, 2001 email from Valerie Loughran to Barbara Bracchi, Jim Comerford, and Steven D. Slahta, PSI-SSA-96D2-003930-35. Exhibit 11.

> languish for long periods of time in the assisting office (even when they requested the cases).[132]

Judge Andrus stated he discussed the proposed changes in scheduling Mr. Conn's cases with Mr. Conn in response to an email from Chief Administrative Law Judge Frank Cristaudo.[133]

In November 2002, nearly 18 months after the new scheduling policy was put in place, Judge Andrus and then-Hearing Office Director ("HOD") Harriette Cyrus met with Mr. Conn and his staff again to discuss scheduling issues. Afterwards, on November 29, 2002, Judge Andrus updated Judge Cristaudo on the meeting and emailed the latest plan he developed to deal with Mr. Conn's cases, which once again involved Mr. Conn's cases receiving special treatment in a number of ways:

> I wanted to send a brief note outlining [] what we discussed in the meeting we had with Mr. Conn and his staff. Harriette and I met with them for about two hours the other day and had a productive session.
>
> Mr. Conn has over 50% of our Prestonsburg cases (which constitutes over 60% of our hearings), and scheduling has been a real problem. We normally send two judges a week to Prestonsburg to hear 22 to 30+ cases each. With vacations and other times he may not be available, Mr. Conn literally has more cases than can be heard in that time, if he is the only attorney available. We have agreed to the following actions to make scheduling easier:
>
> - We will solicit volunteer ALJs to make a second trip to Prestonsburg in those four months in a year where we have a "fifth week."
> - Mr. Conn will give us dates when his back-up attorney is available as far in advance as he can so that we can schedule case for him as needed.
> - Huntington OHA [ODAR] will send a [] report of Mr. Conn's cases to him each week both by alphabet and by [agency] status code. This will allow him to see when case move to [certain status] so that he can start to prepare the case earlier to identify those who have gone back to work or disappeared (for possible dismissal)

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[132] July 20, 2001 email from Barbara Bracchi to Valerie Loughran, Jim Comerford, and Steven D. Slahta, PSI-SSA-96D2-003930-35. Exhibit 11.
[133] June 19, 2002 email from Frank Cristaudo to Charlie Paul Andrus; PSI-SSA-96D2-003368. Exhibit 12.

and those where an OTR may be justified based on new evidence.

- Both of us agree to substitute a new case in the event a scheduled case drops out, up until the day that the judge has left for Kentucky.

Harriette and I believe that this will let us schedule these cases more efficiently. We rejected an idea to schedule out more than one or two months as this is problematic as his schedule can change that far in advance. In addition, our judges sometimes change dates although they usually do that a month or two in advance. However, scheduling three or four months may result in cancelled cases, which we didn't want to do.

[Mr. Conn's] cases are not just about the same age as the rest of our Prestonsburg docket (they had been 2-3 months older), and we feel that this will keep his case from aging.[134]

As this report will show, the new proposal was ineffective in curbing the problem and Mr. Conn's cases continued to receive special treatment.

a. Mr. Conn Filtered Out-of-Town Claimants through Huntington ODAR

A key reason Mr. Conn had so many cases at the Huntington office was that he exploited a loophole that enabled him to direct cases from other parts of the country to the office for review. Essentially, he had his claimants "waive" their right to a hearing near where they lived and elect instead to travel to Kentucky.

Under SSA regulations, any disability claim should be assigned for review by the ODAR office closest to the claimant's listed residence, usually within 75 miles of the claimant's residence.[135] The determination of the hearing location is supposed to be made based only on the claimant and not on the location of claimant's representative. The rules state:

"When a [hearing office] receives a [hearing request], the [hearing office] staff will screen [hearing request] to determine if the

[134] November 29, 2002 email from Charlie Paul Andrus to Frank Cristaudo, PSI-SSA-003696-97. Exhibit 13.

[135] To the extent possible, the location of the hearing site will be within 75 miles of the claimant's residence...A claimant should not be required to travel a significant distance to the hearing office (HO) or another hearing site if a closer hearing site exists and there are no other circumstances that prevent an ALJ from conducting the hearing at the closer hearing site. Hallex I-2-3-10, "Scheduling Hearings," http://www.socialsecurity.gov/OP_Home/hallex/I-02/I-2-3-10.html, (May, 24, 2011).

> [hearing office] has jurisdiction, i.e., whether the claimant's address is in the geographic area the [hearing office] serves. If the [hearing office] does not have jurisdiction, the [hearing office] will forward the [hearing request] to the [hearing office] that does.[136]

The rule is intended to ensure that "a claimant should not be required to travel a significant distance to the hearing office or another hearing site if a closer hearing site exists and there are no other circumstances that prevent an ALJ from conducting the hearing at the closer hearing site."[137] Further, agency rules mandate a request for a change in the location of a hearing "should not be routinely granted" because "routine changes of the place of hearing would be disruptive and could adversely affect service to other claimants."[138]

Mr. Conn, however, routinely had his clients waive their right to a nearby hearing so they could appear before the Huntington ODAR. To do so, Mr. Conn and his claimants signed a form letter he had designed which was addressed to the Manager of the Social Security Office in Prestonsburg. The form officially came from Mr. Conn and stated in pertinent part:

> As you know my office is located in Stanville, Kentucky. I do not have satellite offices at ANY location in Kentucky or in other states.
>
> Therefore, I am requesting that all claims for clients of my office be done and processed at the Prestonsburg Social Security Office regardless of where the client lives.[139]

At the same time, the claimant also signed a "Request for Transfer and Waiver of Travel Expenses," which stated:

> I would like to have my claim transferred to the Prestonsburg Social Security Office. Should I eventually have to attend a hearing on this claim, I would like the said claim to be handled by the Office of Hearings and Appeals in Huntington, WV and to be heard at the Prestonsburg Hearing site.

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[136] HALLEX: I-2-0-70, "Hearing Office Service Area," http://www.ssa.gov/OP_Home/hallex/I-02/I-2-0-70.html.
[137] Hallex I-2-3-10, "Scheduling Hearings," http://www.socialsecurity.gov/OP_Home/hallex/I-02/I-2-3-10.html, (May, 24, 2011).
[138] HALLEX: I-2-0-70, "Hearing Office Service Area," http://www.ssa.gov/OP_Home/hallex/I-02/I-2-0-70.html.
[139] *See* Form Letter to Greg Reynolds, Manager, on "Processing the Claims of Attorney Eric C. Conn." Exhibit 14.

> I expressly waive my right to reimbursement for travel expenses should the transfer of my claim result in my being compelled to travel more than seventy-five miles to attend a hearing or to the Prestonsburg Social Security Office.[140]

The Prestonsburg office routinely accepted the waiver requests. The end result was that, despite the claimant's geographic location, the claim would be sent to the Prestonsburg Social Security Office and, if appealed, through the Huntington ODAR.

When asked about these waivers during an interview with the Committee, SSA Chief Judge Debra Bice said this kind of practice was clearly inappropriate. "I was shocked," she said of her reaction when she discovered what was happening. "Our policy [that the claim should be heard by the closest ODAR] has always been very, very clear on that. This is clearly against our policy."[141]

In August 2011, Chief ALJ Debra Bice reported that "approximately 21% of cases processed in Huntington between 2005 and the present were out of service area cases. ... However, of the 6,750 out of service area cases, 2,286 (33%) were represented by Conn." She explained the remaining cases "could be due to case transfers." She continued:

> Conn and [another attorney] use forms to request the field office to process the cases in Prestonsburg and forward the case to the Huntington hearing office. This is contrary to policy. These cases should always be sent to the servicing [Hearing Office] and then the ALJ in that [Hearing Office] will decide whether or not to grant the transfer.[142]

The Committee reviewed 110 case files from Mr. Conn's claimants that were adjudicated by Judge Daugherty; 30 of those case files, or 27 percent, contained a geographic waiver. The case files are discussed in Appendix I.

b. Judge Daugherty Coordinated with Mr. Conn to Award Benefits On-the-Record and Without Hearings

Perhaps the most significant form of special treatment given to Mr. Conn was the unusually high number of cases he had approved by Judge Daugherty, often without a hearing. Judge Daugherty selected dozens of Mr. Conn's clients each month for review and quickly approved the cases for benefits, typically relying on materials in the casefile without

[140] *See* Form "Request for Transfer and Waiver of Travel Expenses." Exhibit 14.
[141] August 3, 2012 Committee interview with Chief Judge Debra Bice.
[142] August 30, 2011 email from Debra Bice to Kristen Fredricks, Joseph Lytle, PSI-SSA-100-004537-38. Exhibit 15.

holding a hearing. This procedure for resolving the cases was known as an "on-the-record" or OTR decision. Between 2005 and 2011, Judge Daugherty never once denied benefits to a claimant represented by Mr. Conn.[143]

Of the 1,411 cases adjudicated by Judge Daugherty in FY2010, 531 (or 38 percent) were claimants represented by Mr. Conn.[144] The remaining 880 cases Judge Daugherty decided in 2010 were divided among 72 other attorneys and claimants representatives, or an average of 12 apiece. The result was an assembly line process in which hundreds of Mr. Conn's claimants were approved for benefits in only a few short years.

Year	Total Number of Decisions by Judge Daugherty	Total Number of Mr. Conn's Cases Approved by Judge Daugherty	Total Number of Mr. Conn's Cases Dismissed by Judge Daugherty	Total Number of Mr. Conn's Cases Denied by Judge Daugherty
2005	1,003	377	4	0
2006	1,180	481	2	0
2007	1,289	509	2	0
2008	1,433	429	4	0
2009	1,444	451	2	0
2010	1,411	530	1	0
2011	1,030	366	3	0

The arrangement was instrumental in making Judge Daugherty one of the highest volume ALJ's in the nation, and Eric Conn one of the agency's highest paid claimant representatives.

Since at least 2006, Judge Daugherty had a practice of coordinating with Mr. Conn to create the monthly DB List. According to former employees of Mr. Conn, Judge Daugherty called the Conn Law Firm each month and provided to Mr. Conn's staff the list of claimants and their Social Security numbers.[145] The list was composed entirely of Mr. Conn's clients who were denied benefits at the DDS level and had appealed to be heard by an ALJ. Since Judge David B. Daugherty's widely used nickname was "DB," the lists were referred to around the Conn Law Firm as the monthly "DB List."[146] For example, the June 2006 list, the earliest such list obtained by the Committee, was titled: "D.B. June OTR's [on-the-record] Due on 06/16/06."[147]

[143] As noted in the chart, certain cases before Judge Daugherty of Mr. Conn's were withdrawn.
[144] Committee analysis of information provided by the Social Security Administration.
[145] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶5 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin ¶3-4 (Exhibit 17).
[146] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶7 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin (Exhibit 17). *See also* CLF030566-810. Exhibit 18.
[147] Exhibit 18 at CLF030633.

During Judge Daugherty's monthly phone calls, according to former Conn personnel, after stating the name and Social Security number of the claimant, he said either "physical" or "mental."[148] By stating either "mental" or "physical," Judge Daugherty indicated to Mr. Conn's office the type of medical opinion he needed to award that claimant disability benefits.[149] At times, for certain claimants, Judge Daugherty stated: "either;" "none;" or "both."[150] In some instances, Judge Daugherty just indicated "whatever Eric wants" with regard to the medical opinion needed.[151]

In addition, for some clients, Judge Daugherty stated that he was changing the claimant's "alleged onset date" to approve their benefits.[152] In the SSA disability program, claimants over the age of 50 are evaluated under more relaxed vocational grids that use age, education, and work experience to find if the claimant is disabled.[153] When a claimant's age was close to one of the cutoff points, Judge Daugherty at times requested the claimant to "amend onset date for grid rule – 6 months before 50th birthday."[154] The DB Lists also indicated at times that Judge Daugherty was reopening a prior application and, for example, stated: "reopen-report go back to [date]."[155]

Some individuals on the DB Lists had prior denials from other Huntington ALJ's. In those cases, Judge Daugherty at times noted that Mr. Conn needed to ensure a claimant's onset date did not fall prior to the date they were denied, which would violate program rules. For instance, in one case in which Judge Andrus had already denied benefits at an earlier date, Judge Daugherty instructed Mr. Conn to "amend [the] onset date to [date] 1 day after Judge Andrus decision."[156]

The DB Lists appear to have functioned as a road map for Mr. Conn to ensure his claimants were approved for disability benefits by Judge Daugherty. The DB Lists reviewed by the Committee ranged in date

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[148] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶6 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 5 (Exhibit 17). *See also* CLF030566-810. Exhibit 18.
[149] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶6 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin (Exhibit 18).
[150] Exhibit 18 at CLF030649-50, CLF030656-57.
[151] Exhibit 18 at CLF030651-2.
[152] Exhibit 18 at CLF030678-79.
[153] For a full explanation of SSA's vocational grids see pages 10-13 of the Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/committees/investigations/hearings/social-security-administrations-disability-programs.
[154] Exhibit 18 at CLF030670.
[155] Exhibit 18 at CLF030739.
[156] Exhibit 18 at CLF030676.

from June 2006 through July 2010.[157] The lists ranged in number of claimants from 15[158] to 52.[159]

For the period reviewed by the Committee, a total of 1,823 claimants were identified on the various DB Lists, and almost all were approved for benefits.[160] Through his attorney, Mr. Conn justified the DB Lists as follows:

> For Judge Daugherty, his practice was to place a call to the Conn Law Firm and speak with the then-office manager. Judge Daugherty would tell the office manager which claimants represented by the Conn Law Firm…he wanted to consider that month. In that manner, the Conn Law Firm would be sure that all records were complete for those clients and know which clients to prepare for hearings.[161]

The evidence indicates, however, that the DB Lists were more than a common courtesy to help Mr. Conn prepare; they functioned as a key mechanism enabling the two men to process hundreds of cases per year.

As stated above, certain DB Lists indicated they were lists of claimants to be approved OTR or on-the-record without a hearing.[162] In fact, most of Mr. Conn's cases were approved by Judge Daugherty on-the-record without a hearing.[163] In 2008, for example, Judge Daugherty approved 429 of Mr. Conn's cases, but held no hearings on cases represented by Mr. Conn.

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[157] Mr. Conn, nor his Firm, produced DB Lists from the following months: October 2010; October 2009 through December 2009; and May and June 2010.
[158] *See* Exhibit 18 at CLF030751.
[159] *See* Exhibit 18 at CLF030654-55.
[160] According to agency records, the claim for one individual on the DB List was dismissed. For three others, the agency had no record of their application. Information provided by the Social Security Administration.
[161] May 17, 2012 Memorandum from Pamela J. Marple, Esq., attorney for Eric C. Conn, to Permanent Subcommittee on Investigations. Exhibit 9.
[162] *See, e.g.*: Exhibit 18 at CLF030633 titled "D.B. June OTR's Due on 06/16/06;" Exhibit 18 at CLF030672 titled "D.B. OTR's for July 2006 Due by 07/19/06;" Exhibit 18 at CLF030721 titled "August OTR's – Due by August 9, 2006 2nd half due by 17th."
[163] Committee analysis of information provided by the Social Security Administration.

Year	Number of Hearings Held on Mr. Conn's Cases by Judge Daugherty	Total Number of Mr. Conn's Cases Approved by Judge Daugherty
2006	80*	481
2007	4**	509
2008	0	429
2009	2	451
2010	3	530
2011	18***	366

*All 80 hearings were held over four days (February 22, 2006; March 29, 2006; May 25, 2006; and June 28, 2006) with hearings occurring every 15 minutes starting at 9:00 am to 3:00 pm with an hour mid-day break.
** All four hearings were held on November 19, 2007 between 9:00 and 10:00 am.
*** Judge Daugherty held all 18 of these hearings on one day (March 21, 2011) at 9:05 am. These also included hearings for claimants represented by Mr. Conn's associate, H. David Hicks.

c. Against Agency Rules, Judge Daugherty Took Cases Assigned to Other ALJs and Awarded Benefits On-the-Record and Without Hearings

After identifying which of Mr. Conn's clients he would approve each month – using DB Lists – Judge Daugherty next took steps to ensure the cases were assigned to him and not another ALJ. To do so, Judge Daugherty routinely reassigned himself Mr. Conn's cases, despite the fact they were already set for hearings before other ALJs. Although this practice was against agency policy and repeatedly brought to the attention of management, it was never stopped.

SSA rules are clear that unless extraordinary circumstances require it, all cases appealed to the ALJ level should be assigned in rotation as they come to the office. If SSA does not assign cases by rotation, the agency opens itself up to allegations of favoritism. Patricia Jonas, head of SSA's Appeals Council, which oversees all ALJ decisions, told the Committee the agency held this to be an important principle.[164]

Judge Daugherty used several methods over the years to assign himself Mr. Conn's cases. When the agency primarily handled disability claims in paper, any ALJ could go through unassigned cases in the file cabinets, locate a file, and write a decision. In fact, the agency encouraged ALJs to locate and decide as many cases as possible on-the-record to assist with bringing down the backlog. However, it also had the effect of deciding cases out of the normal course of first appealed received, first scheduled for disposition.

[164] July 30, 2012 Committee interview of Judge Patricia Jonas.

In 2003, the agency began using an electronic case management system and switched from a paper-based case file system to an electronic one. A loophole in that system allowed any ALJ to locate cases electronically and assign the case to themselves for decision.[165] Judge Daugherty used this loophole to assign cases to himself for decision. When asked why the electronic system allowed him to do this, Ms. Jonas responded "no one contemplated that a judge would assign a case to himself."[166] SSA Chief Judge Debra Bice also confirmed that Judge Daugherty assigning cases to himself was "totally against policy."[167] In fact, a number of ALJ's in Huntington alerted management of Judge Daugherty's practice of doing so.

2005. In October 2005, Judge Daniel Kemper emailed Judge Andrus to complain that Judge Daugherty had assigned cases to himself that were previously assigned to other Huntington ALJ's, and simply awarded benefits on-the-record.

> As I discussed with you yesterday, I have a court remand on a case [] which was decided by me on June 27, 2003 and in an earlier decision by Judge Paris on June 28, 2002. Claimant alleged the same onset date in both filings []. Thereafter, Daugherty takes the record off the master docket and issues a fully favorable decision on April 11, 2004, with the original onset date of September 12, 2000. He completely ignored both Judge Paris' decision and mine, making no reference to either in the decision. This makes it particularly difficult now to decide the case on remand. I have spoken to Judges Chwalibog and Gitlow about this. Judge Chwalibog believes that a similar situation happened with one of his cases.
>
> You stated that you would discuss this matter with him to the extent that he should at least check to see if there have been any prior applications and decisions made on a particular cases. It seems to me when you have a remote onset date as here, a red flag would have been raised that yes, there may very well have been such a prior application and decision on the case.[168]

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[165] The agency's system was known as the Case Processing and Management System or CPMS. See DI 80550.001 Case Processing Management System – Overview, https://secure.ssa.gov/poms.NSF/lnx/0480550001. According to agency officials, an ALJ is no longer allowed to assign himself a case for decision. Only certain people in each ODAR office are given rights to assign cases to ALJs. September 27, 2013 Committee interview of Deputy Commissioner Glen Sklar, Judge Patricia Jonas, and Judge Debra Bice.

[166] July 30, 2012 Committee interview of Judge Patricia Jonas.

[167] August 3, 2012 Committee interview of Chief Judge Debra Bice.

[168] October 4, 2005 email from James D. Kemper, Jr. to Charlie P. Andrus, Andrew J. Chwalibog, and William H. Gitlow, PSI-Conf_SourceHWV-01-0053. Exhibit 19.

2006. Judge Daugherty's practice of pulling cases and approving them on-the-record was pointed out the following year as well. On June 18, 2006, Judge Gitlow emailed a colleague and explained his impression of how the Huntington Office reached its disposition goals each month stating:

> Amazing how it takes a ***** [sic] ALJ in an office to make numbers each month. We have Judge Daugherty here who scans the master docket each month, pays 90+% and gets out 80 to 100 cases each month. So we make our numbers each month. Without him we would not. Ever.[169]

Complaints that Judge Daugherty reassigned cases to himself continued. Judge Andrus reminded the Huntington office in July of 2006 that cases from Eric Conn and Bill Redd, another attorney who also represented a high number of claimants, were to be assigned in strict rotation to prevent the appearance of judge shopping. Judge Andrus wrote the following in an email to the entire office:

> As you know, we have a large amount of cases from Eric Conn's office and Bill Redd's office. The only way that we can fairly handle these cases is by strict rotation. If we don't assign these cases in rotation we leave ourselves open to charges of favoritism, judge shopping, as well as complaint from the lawyers that they only see "certain judges and not others." These allegations have been raised in the past and we have been able to show that the cases for these lawyers are divided equally among all the ALJs.
>
> In addition, I want to remind everyone of the policy we have followed for several years that these cases are NOT to be reassigned to another judge for any reason other than a judge leaving the office or recusal and then they are to be assigned out in strict rotation. I must personally approve any exception to this rule. In addition, the Case Intake Specialist and anyone else adding cases are to assign these cases to the next ALJ in rotation immediately when they are entered onto our system.
>
> Social Security pays these lawyers a lot of money in fees each year due to the size of their caseload (into seven figures). The only way we can refute unfounded allegations of improper assignment of cases to generate more fees for the

[169] May 18, 2006 email from William H. Gitlow to Roland M. Kayser, PSI-SSA-95-032792. Exhibit 20.

> lawyer is to follow a strict rotation and a "no change" policy.[170]

2007. Huntington ODAR staff also took notice of Judge Daugherty's focus on Mr. Conn's cases. In January 2007, Sarah Carver, a Senior Case Technician, emailed the hearing office director, Greg Hall, to inform him:

> It has come to my attention the Eric Conn electronic cases are not being equally divided among those judges who have been trained on the electronic files. In fact, as you are now aware, [Judge Daugherty] has, on his own initiative, elected to go in and assign himself SEVERAL electronic cases, all of which are Eric Conn cases.[171]

Ms. Carver also suggested other ALJs be trained on using the electronic files so "it would put a stop to Eric Conn calling [Judge Daugherty] and giving him a list of his electronic cases, knowing that the other judges are not holdings hearings. How else would [Judge Daugherty] have knowledge of Conn's pending electronic cases?"[172]

Ms. Carver alerted Mr. Hall once again five months later in May 2007 that "[t]his month [Judge Daugherty] closed 29 electronic cases. 29 of these are Eric Conn cases. Why? We have other representatives which have electronic cases with this office. The word favoritism comes to mind. This is clearly favoritism."[173]

In August of 2007, Huntington ODAR employee Donna George noticed certain cases originally assigned to Judge Gitlow were reassigned to Judge Daugherty. To document her concerns she composed a written statement the following month, signed and dated it, then submitted it to the agency for further action. In it, she described how she approached HOD Greg Hall, but he "tried to make out like it was a Master Docket Clerk error."[174] While the case "first looked like it had been unassigned and that Judge Daugherty [] went into the system and picked it out to be one of his cases," she soon realized the cases were originally "assigned to Judge Gitlow since February 2007 and Judge Daugherty [] switched it to his own case on 8/20/07."[175]

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[170] July 31, 2006 email from Charlie P. Andrus to Huntington ODAR Office, PSI-SSA-95-032809. Exhibit 21.
[171] January 25, 2007 email from Sarah Randolph [Carver] to Gregory Hall. Exhibit 22.
[172] *Id.*
[173] May 9, 2007 email from Sarah Randolph [Carver] to Gregory Hall. Exhibit 23.
[174] September 18, 2007 signed statement of Donna George, PSI-Conf_SourceHWV-01-00056. Exhibit 24.
[175] *Id.*

Ms. George informed Judge Gitlow the cases were reassigned. She reported that "later, Greg [Hall] called me back into his office and told me that Judge Gitlow had went to Judge Andrus with this matter and was very upset about it. He again told me not to tell anyone about it."[176] Later that week, following a union representative's meeting with members of management, Mr. Hall told Ms. George "he didn't want [her] to tell anyone else about this incident" and that "he didn't want it to get back to Judge Daugherty before Judge Andrus had a chance to look into the matter."[177]

In an email to himself on August 31, 2007, Judge Gitlow documented his version of the same event:

> On Tuesday, 8/28/07 Donna [George] came to me with my pencil schedule for October Prestonsburg, saying that she wanted to know if I had already prepped two cases. I had not yet done so. She explained that while those cases were assigned to me in the system, they had now been changed from being in my name to being in Judge Daugherty's name. I had no knowledge of this. As such, Donna [George] needed to cancel those two hearings and find two different cases for me.
>
> I then went to Chief Judge Andrus to explain what happened. Since they were e-files, they were not papered and as such did not have a folder with my initials on it in the master docket drawer. I asked Judge Andrus if Judge Daugherty would know that these had been assigned to me. His response was that if would depend upon where Judge Daugherty had looked. I explained that I was concerned that the office remains above reproach. He led me to believe that he would take care of this problem.[178]

Judge Andrus never responded to say whether he would or would not follow up with Judge Daugherty.[179] Judge Gitlow stated the cases at issue were ones in which Mr. Conn represented the claimants, since those were the only cases immediately assigned to ALJs when they are received by Huntington ODAR.[180]

In her September 2007 memorandum documenting the incident, Ms. George identified the two claimants. Both of the claimants (and their

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[176] *Id.*
[177] *Id.*
[178] August 31, 2007 email from William H. Gitlow to William H. Gitlow, PSI-Gitlow-01-0001. Exhibit 25.
[179] May 29, 2012 Committee interview of Judge William Gitlow.
[180] *Id.*

Social Security numbers) were also listed on the September 4, 2007 "DB List" of claimants Judge Daugherty indicated to Mr. Conn he would decide on-the-record if Mr. Conn provided disabling medical opinions related to the claimants' "physical" condition.[181]

A physician frequently used by Mr. Conn, Dr. Huffnagle, provided medical opinions for both claimants, including a medical opinion and a Residual Functional Capacity assessment. He reviewed one of the claimants on August 24, 2007, four days after Judge Daugherty reassigned the case to himself. Both of these claimants were awarded disability benefits. For both claims, Mr. Conn received a total of $6,491.30 in attorney fees paid by the Agency.[182]

Also in September 2007, Huntington ODAR employee Jennifer Griffith, the Master Docket Clerk, emailed Hearing Office Director Greg Hall that Judge Daugherty continued to transfer files into his name for decision. Ms. Griffith was responsible for implementing the office's rotational assignment policy, and was aware of repeated incidences in which this happened. She wrote:

> I am aware that while I was out of the office Judge Daugherty felt it necessary to take some more cases that were assigned to another judge and place them in his name. I am aware that it was brought to your attention and you tried to blame me. I do not appreciate this.
>
> [Judge Daugherty] does many things like this every month. When I find them I make management aware of it. Nothing is ever done about it. Somehow it always ends up being the fault of one of the master docket clerks. We cannot control him or anything he does.[183]

Ms. Griffith continued to raise the issue with Hearing Office Director Hall and provided specific examples of Judge Daugherty assigning cases to himself.[184] At the same time, Ms. Carver alerted Mr. Hall in October 2007 the problem continued. She emailed Mr. Hall that Judge Daugherty assigning himself cases from the master docket list "continues to be a problem and management has been notified on NUMEROUS occasions."[185] Ms. Carver also pointed out that her "main concern is the cases [Judge Daugherty] is assigning to himself out of

[181] *See* Exhibit 18 at CLF030782-83.
[182] Committee analysis of Conn Law Firm financial records.
[183] September 11, 2007 email from Jennifer Griffith to Gregory Hall. Exhibit 26.
[184] October 23, 2007 email from Jennifer Griffith to Gregory Hall. Exhibit 27.
[185] October 24, 2007 email from Sarah Randolph to Gregory Hall. Exhibit 27.

rotation."[186] This was due mainly to the fact it "exhibits favoritism towards E. Conn."[187]

2009. In 2009, Judge Gitlow once again determined Judge Daugherty was taking his cases where Mr. Conn was the representative and reassigning them to himself.[188] Judge Gitlow stated a Senior Case Technician ("SCT") alerted him to what Judge Daugherty was doing. While Judge Gitlow believed he should take the matter directly to the Regional Chief Judge, he decided to give Judge Andrus another chance to correct the problem. Judge Gitlow met with Judge Andrus and requested that he address the issue and told him that his prior attempts to remedy the problem were inadequate.[189]

2010. Judge Daugherty, however, continued to reassign Mr. Conn's cases to himself. On March 29, 2010, Ms. Carver emailed Judge Gitlow: "FYI. Someone was closing this case and seen it was originally your case and [Judge Daugherty] took it and did an OTR on it."[190] Ms. Carver included the claimant's name and Social Security number. That same claimant's name (and their Social Security number) was listed on the March 2010 "DB List" created by Mr. Conn's office.[191] Next to this claimant's name on the DB List was the notation "physical" indicating that Judge Daugherty required evidence of a physical disability to approve the cases on-the-record.[192] Again, Dr. Huffnagle reviewed the claimant and provided an opinion and Residual Functional Capacity assessment. Judge Daugherty ultimately awarded this claimant disability benefits on-the-record and Mr. Conn received $2,415 from the agency in fees for representing this claimant.[193]

2011. Judge Daugherty continued to reassign Mr. Conn's cases to himself, which were previously assigned to other judges. On April 29, 2011, Judge Gitlow sent another email to himself laying out the following:

> I found out yesterday, 4/28/11, that some cases assigned to me in 12/10 had been reassigned by Judge Daugherty to himself in 1/11. This is the third such incident to which I was aware, with the first in 8/07 and the second in 12/09. In the first instance I went to my HOCALJ; those contemporaneous notes are set forth. The second time I went Judge Chwalibog (AJC) to discuss this and whether I should

[186] *Id.*
[187] *Id.*
[188] May 29, 2012 Committee interview of Judge William Gitlow.
[189] *Id.*
[190] March 29, 2010 email from Sarah Carver to William H. Gitlow. Exhibit 28.
[191] "March DB," Exhibit 18 at CLF030806.
[192] "March DB," Exhibit 18 at CLF030806.
[193] Committee analysis of Conn Law Firm financial records.

> go directly to the [Regional Chief Administrative Law Judge]. AJC suggested that I give the HOCALJ [Andrus] another opportunity to end this reassignment. I followed his suggestion and went to the HOCALJ a second time. I told the HOCALJ at that time that if it happened again I would be forced to go higher up. Now I have been put in a position where I am faced with knowledge of this a third time. Obviously I am inclined to go directly to the RCALJ. However, I first sought guidance from other experienced ALJs, so I asked AJC and Judge Buel to meet with me. We met on Friday at 2pm, 4/29/11. After I set forth all the facts, they were in agreement that I should go a third time to the HOCALJ, but this time with them as well. I was reluctant to do so, as I felt that if I did not do something further that I would be viewed as somehow complicit or condoning such activity. However, both judges were in agreement that if the three of us met with the HOCALJ together that such action would [be] an appropriate step on my part. As such, the three of us met with the HOCALJ and explained that Judge Daugherty had for the third time been reassigning my cases over to him. Judge Andrus assured me that he would (a) put the instruction to Daugherty in writing this time rather than orally; and (b) take this matter to the RCALJ, Judge Bede, on Monday.
>
> Unfortunately, what I have seen post meeting is a generic message to all the office reminding everyone of the HOCALJ policy on case reassignments. If this is all that the HOCALJ meant by putting the instruction to Daugherty in writing, I feel that I have been misguided. However, I made my decision (not to go to RCALJ) and I now feel bound and constrained by it.[194]

Judge Andrus emailed the entire Huntington ODAR office again that day reminding them that ALJ's should not reassign cases to themselves that were previously assigned to other ALJ's:

> I want to remind everyone of my long-standing directive about re-assigning cases between judges. Once a case is assigned to a judge that case is to stay with that judge unless I find a specific reason to reassign the case, such as recusal. Therefore, NO ONE should reassign a case from one judge to another without clearing it through their supervisor who will clear it through me. Judges should come directly to me. We will continue our long standing policy of assigning Eric Conn

[194] April 29, 2011 email from William H. Gitlow to William H. Gitlow. Exhibit 29.

> cases immediately upon receipt, by strict rotation, to all judges except Judge Meade. Once Judge Meade starts hearing cases in Prestonsburg, we will assign to him too.
>
> If a case is unassigned, then it can be assigned to a judge without going through the above process. If a staff member has any questions about this procedure please see your supervisor. If the judges have any questions please see me.[195]

Judge Andrus told the Committee afterwards that while he sent the generic email to all judges, he also spoke privately to Judge Daugherty to let him know that even though he sent the email to all the judges, "it's going to you."[196]

In response, Judge Daugherty this time said he had more than 40 Eric Conn cases that were assigned to other ALJs. Judge Daugherty emailed Judge Andrus back and stated "[y]our email prompted me to check my Eric Conn cases to see if there were any that had been assigned to me from another ALJ. I discovered 23 of them." Judge Daugherty then listed the 23 claimants' cases he had assigned to himself, which were previously assigned to Judges Buel, Chwalibog, Dunlap, Gitlow, and Quinlivan.[197]

Two hours later, Judge Daugherty emailed Judge Andrus again stating: "OOPS! I looked further and found the following" and listed 19 more cases, which were previously assigned to Judges Buel, Chawalibog, Dunlap, and Gitlow.[198] Judge Daugherty continued and stated "[t]hat should be it! There are no other cases for me to screen. Thank goodness I don't have to do these cases!!!" Judge Daugherty noted that he wanted to "apologize for the inconvenience, if any, which may have resulted from [] these errors."[199]

The next day, Judge Andrus forwarded Judge Daugherty's emails to Judge Nicholas Cerulli and Regional Chief Administrative Law Judge Jasper J. Bede stating "I had no clue he was doing this to this extent. I do notice one name conspicuously absent from the list of the judges," referring to himself.[200]

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[195] April 29, 2011 email from Charlie Paul Andrus to Huntington ODAR (at 4:06 p.m.). Exhibit 30.
[196] June 19, 2012 Committee interview of Judge Charlie Andrus.
[197] May 2, 2011 email from David B. Daugherty to Charlie P. Andrus, Andrew J. Chwalibog, and William H. Gitlow (at 2:36 p.m.). Exhibit 30.
[198] May 2, 2011 email from David B. Daugherty to Charlie P. Andrus, Andrew J. Chwalibog, and William H. Gitlow (at 4:49 p.m.). Exhibit 30.
[199] *Id.*
[200] May 3, 2011 email from Charlie P. Andrus to Nicholas Cerulli and Jasper J. Bede attaching prior email correspondence. Exhibit 30.

On June 10, 2011, around a month after *The Wall Street Journal* story on Judge Daugherty, Mr. Hall sent a memorandum to the Huntington ODAR Staff that under the direction of the Hearing Office Chief Judge only the HOD and group supervisors are "delegated the authority to assign cases to judges...No one else is to assign cases. No other employees, including judges, are authorized to assign cases."[201] If an ALJ wanted to review cases for potential on-the-record decisions, they "will email the Hearing Office Chief Judge the request and the number of cases they desire."[202] Most importantly, the memorandum ended the special treatment afforded to Mr. Conn's cases and stated "[n]o case will be assigned as it arrives in the office except for those cases meeting the exception criteria as outlined within the E-Business Process (Remands and Critical Cases)."[203] As such, "[c]ases will be pulled according to the E-Business Process."[204] Therefore, cases were no longer scheduled under a two-track process favoring Mr. Conn's clients and instead were pulled according to agency policy of oldest case scheduled for hearing before newer cases.

All of these administrative actions came only after the relationship between Mr. Conn and Judge Daugherty was first uncovered by the *Wall Street Journal* on May 19, 2011. After six years of documenting Judge Daugherty inappropriately pulling cases and reassigning them to himself, the agency finally ended the practice.[205]

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[201] June 10, 2011 Memorandum to ODAR Staff, Huntington, West Virginia from Gregory Hall, Hearing Office Director. Exhibit 31.
[202] *Id.*
[203] *Id.*
[204] *Id.*
[205] After the *Wall Street Journal* article, another ALJ wrote HOCALJ Andrus forwarding the story and stated "Shame on you!" In response, Judge Andrus wrote only "What can I say – judicial independence." May 19, 2011 email from William H. Helsper to Charlie Paul Andrus. Exhibit 32.

VI. JUDGE DAUGHERTY CANCELLED 30 HEARINGS AND AWARDED BENEFITS TO EVERY CLAIMANT WITH OTR DECISIONS

Reassigning cases to himself was not the only action taken by Judge Daugherty that raised suspicion with agency management. Since at least 2002, top agency management was aware of potentially improper actions by Judge Daugherty that appeared to benefit Mr. Conn. In at least one instance, Judge Daugherty cancelled his entire docket of hearings scheduled for the Prestonsburg hearing site and instead approved all of the claims through on-the-record decisions. All of the cases were represented by Mr. Conn.

2002. In January 2002 Judge Andrus emailed the Huntington office ALJs to remind them of the policy regarding the cancelling of hearings. He emphasized to everyone the administrative burden was too great when hearings are cancelled, and so it would generally not be allowed:

> I want to remind you all again that you need to clear any changes to the hearing schedule with me before hearing days are cancelled. I found out that many times hearings which cannot be set one month are set for a month or even two months ahead. Therefore, if we cancel a week that has a hearing reporter and VE [vocational expert] (currently through March) we can cause a lot of extra work. This can be avoided by clearing these changes through me or Harriette. We m[a]y be able to find another judge to cover those dates. I would also like to remind you that when dates are cancelled as opposed to being covered by another judge, the hearing reporter and VE have committed time to us that is lost.
>
> By a copy of this message, I am asking...the scheduling clerks to check with me before cancelling the hearing date. This way we have another chance of covering a date rather than losing it.[206]

Despite the request from Judge Andrus in January 2002, later that year Judge Daugherty cancelled 30 hearings scheduled to take place over a three-day period. On September 5, 2002, Judge Daugherty sent an email to Judge Andrus that stated "[i]n an effort to contribute as many decisions as possible toward this month's goals, I have cancelled my [Prestons]burg hearings for the 23rd, 24th & 25th of this month and will,

[206] January 23, 2002 email from Charlie Paul Andrus to Huntington Hearing Office ALJs, PSI-SSA-95-032421. Exhibit 33.

instead, write 30 [on-the-record] decisions from them."[207] Judge Andrus forwarded the email to Judge Cristaudo.[208]

Agency policy discouraged cancelling hearings in this way not only to prevent wasted administrative expenses, but because hearings are often the most important part of an ALJ's decision-making process.[209] Hearings are one of the most important aspects of the appeals process for applicants seeking disability benefits because they afford both claimant and judge the opportunity to speak in-person. Claimants are given the chance to make their best case and ALJs can make judgments based on more than just paper medical files. As Judge Cristaudo made clear, ALJs were expected to "hold scheduled hearings absent a good reason to cancel or postpone the hearing."[210]

In response to Judge Daugherty's action, Judge Cristaudo stated he was "furious" and formally requested an official reprimand be issued to Judge Daugherty for cancelling the hearings.[211] Judge Cristaudo wrote a memorandum to the Associate Commissioner on December 2, 2002:

> The purpose of this memorandum is to request that an official letter of reprimand be issued to Judge David Daugherty, an administrative law judge in the Huntington (West Virginia) Hearing Office. I spoke with you about this matter when you visited Philadelphia. On September 5, 2002, I was advised by Hearing Office Chief Judge Charlie Paul Andrus that Judge David Daugherty had cancelled a scheduled hearing trip and instead decided to issue favorable on-the-record decisions in 30 of the 35 cases. Judge Daugherty stated that he took this action to help the office attain numerical goals. In fact, he used annual leave on two of the days on which the hearings had been scheduled.
>
> I am most concerned about the conduct of Judge David Daugherty and feel that a letter of reprimand is warranted. When a case is scheduled for hearing, there is an understanding that hearing is needed in order to resolve the matter. To state that 30 hearings were cancelled and 30 on-

[207] September 5, 2002 email from David B. Daugherty to Charlie P. Andrus, PSI-SSA-96D2-003483. Exhibit 34.
[208] September 5, 2002 email from Charlie P. Andrus to Frank Cristaudo, PSI-SSA-96D2-003483. Exhibit 34.
[209] See, e.g., Social Security Administration, Office of Disability Adjudication and Review, Plan to Eliminate the Hearing Backlog and Prevent its Recurrence, Annual Report Fiscal Year 2008 ("On October 31, 2007, the Chief Administrative Law Judge issued a letter to all ALJs asking them to...hold scheduled hearings absent a good reason to cancel or postpone hearings.").
[210] Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, Sept. 13, 2007, http://www.ssa.gov/hearingsbacklog.pdf.
[211] May 15, 2013 Committee interview with Judge Frank Cristaudo

> the-record decisions issued to help the agency meet performance goals suggests possible impropriety and flawed decisions. I believe that the actions taken by Judge David Daugherty justify the issues of a letter of reprimand. For your convenience a draft letter has been prepared and is enclosed along with the relevant background information.[212]

The draft letter of reprimand recommended by Judge Cristaudo was a strongly worded rebuke to Judge Daugherty for cancelling the 30 hearings and instead writing favorable on-the-record decisions. It emphasized the importance of holding a hearing:

> The principal purpose of scheduling a hearing is to afford the claimant an opportunity to be heard and to review the evidence and cross-examine witnesses. This is an important and solemn event, and no hearing should be scheduled if it is unnecessary. The act of scheduling a case for hearing evinces a belief that the documentary record is not sufficient to decide the case, and that oral testimony is needed. Therefore, no hearing should be cancelled without a compelling reason. Moreover, as in this case, the sudden and wholesale cancellation of nearly an entire docket of cases suggests that the hearings were cancelled without individualized attention the cases deserve. What makes your actions even more egregious is that they were motivated by personal interest as well as by your stated desire to promote office productivity. This behavior cannot be tolerated.
>
> As an administrative law judge, you hold a high position in our Federal service and are held to the highest of ethical standards. Your flagrant abuse of the hearing scheduling process is not worthy of the high position of trust which you hold. In order for the agency to meet its obligations, it is essential that all judges discharge their duties in a manner consistent with the high degree of responsibility, trust and integrity required of administrative law judges. Therefore, a reprimand is fully warranted and necessary to deter future misconduct and promote the efficiency of the Federal service.[213]

Members of agency management met on December 6, 2002 to discuss whether to issue the reprimand to Judge Daugherty. According to Judge

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[212] December 2, 2002 Letter from Region III Chief Judge Frank Cristaudo to Associate Commissioner, PSI-SSA-96D2-003703. Exhibit 35.
[213] Undated draft letter from Associate Commissioner A. Jacy Thurmond, Jr. to David Daugherty, PSI-SSA-96D2-003707-08. Exhibit 36.

Cristaudo, the letter was never sent due to agency concerns regarding ALJ independence.[214]

2003. On April 24, 2003, nearly eight months after the incident, Judge Cristaudo sent a memorandum to Judge Andrus informing him that with regard to Judge Daugherty canceling the hearings, Deputy Chief Judge Bisantz for the agency had "directed [him] to conduct a bias and unfair hearing inquiry on this matter" and "the initial inquiry involves soliciting relevant comments and information from the administrative law judge."[215] Judge Cristaudo requested Judge Andrus "initiate an investigation of this matter by obtaining comments from Judge Daugherty and by reviewing the written materials that have already been procured in this matter."[216] The memorandum specifically requested:

> Judge Daugherty should be asked why he canceled hearings, and subsequent questioning should focus on whether he was trying to increase his dispositions or whether he had a public service motive. Secondly, he should be asked whether he has previously cancelled a large number of hearings and issues on-the-record decisions; and, if so, he should be asked to give some specifics about when, how many cases, and why were they cancelled.[217]

Judge Cristaudo requested Judge Andrus complete the investigation within 14 days. Judge Andrus emailed Judge Cristaudo his investigatory findings on May 5, 2003:

> As you requested I spoke with Judge Daugherty about the docket of hearings he canceled in September 2002. He related that the then Group Supervisor, Kathleen DeWeese, requested him to help get out cases before the end of the year by reviewing cases for OTR. Judge Daugherty said that he reviewed the cases scheduled in Prestonsburg as requested by Ms. DeWeese. Evidently Mr. Conn (who represented nearly all of the claimants) had sent in reports of consultative examinations he had obtained on the cases that were allowed in mid-September. This left Judge Daugherty with only four or five cases which were rescheduled as he no longer had enough cases to justify a travel docket and they could be rescheduled with three to four weeks. He had planned to go on vacation the last week of the month after he had done his

[214] May 15, 2013 Committee interview of Judge Frank Cristaudo.
[215] April 24, 2003 Memorandum from Regional Chief Judge OHA – Region III – Philadelphia Frank A. Cristaudo to Charlie P. Andrus Hearing Office Chief Judge, PSI-SSA-96D2-004021-22. Exhibit 37.
[216] *Id.*
[217] *Id.*

> hearings in Prestonsburg. At some point in time he changed the plans to leave earlier as he no longer had hearings.[218]

Judge Andrus also opined on the quality of medical opinions Mr. Conn provided to ALJs regarding the claimants that he represented:

> Mr. Conn does send many of his clients to physicians who, while not "bought sources", are more "liberal" in their assessments – as would be expected of an effective advocate. I have no hard evidence to support this, but I think that either Judge Daugherty or Kathleen DeWeese called him and let him know that if he got the reports in early, the cases would be done OTR. If you wish, I can ask Mr. Conn (who I believe will give me a straight answer). I did not want to take this outside SSA without your knowledge.[219]

When discussing the matter with Judge Cristaudo, a colleague wondered "why does Andrus keep bringing up stuff on Daugherty and never follow through on any of it. I am getting tired of him."[220]

When asked later by the Committee, Judge Cristaudo said when he found out about the cancelled hearings he was "furious."[221] He added that as Regional Chief Judge he was powerless to discipline Judge Daugherty over the incident, but if he was the agency's chief judge he would have "fired or suspended" him.[222]

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[218] May 5, 2003 email from Charlie P. Andrus to Frank Cristaudo, PSI-SSA-96D2-004050-51. Exhibit 38.
[219] *Id.*
[220] May 5, 2003 email from Valerie Loughran to Frank Cristaudo, PSI-SSA-96D2-004051. Exhibit 38.
[221] May 15, 2013 Committee interview with Judge Frank Cristaudo.
[222] *Id.*

VII. TO DEFLECT ATTENTION FROM THE CANCELLED HEARINGS, JUDGE DAUGHERTY ACCUSED JUDGE ANDRUS OF IMPROPER SOCIAL CONTACTS WITH MR. CONN

When Judge Daugherty cancelled the 30 hearings, Judge Cristaudo directly questioned Judge Daugherty about why he had done it. In response, according to a subsequent email by Judge Cristaudo, Judge Daugherty shifted the focus to Chief Judge Andrus, accusing him of inappropriate social contacts with Mr. Conn outside of the office.

On June 19, 2002, Judge Cristaudo emailed Judge Andrus about Judge Daugherty's allegation. Citing an earlier conversation with Judge Daugherty, Judge Cristaudo asked Judge Andrus whether he had, in fact, invited Mr. Conn to dinner and a movie:

> When I called Judge Daugherty about "cancelling" hearings in Prestonsburg, he advised me that Counsel Eric Conn advised him that you had invited Counsel Conn to go out to dinner and/or see a movie and that Counsel Conn was uncomfortable with your comment. Please let me know if this occurred, and if so, the circumstances. Though Judge Daugherty indicated he would deny ever saying this, we need to make sure that we investigate this allegation because of the appearance of a conflict of interest. If you would like to discuss this matter further, or if you have any questions, please let me know.[223]

The next day, June 20, 2002, Judge Andrus responded by email and confirmed it was true, but explained it was only to discuss the business of scheduling cases. He added that lunches with Mr. Conn and others were also a regular occurrence. Perhaps the most striking admission in his email, however, was that Mr. Conn had offered to take Judge Andrus with him on two all-expenses-paid international trips to Russia and Brazil, which he stated he turned down:

> I did go to a movie with Mr. Conn. I have also had lunch with Mr. Conn, with other judges and the hearing clerks present although I do not ever remember having dinner with him. I went with Mr. Conn to the movie to have the opportunity to discuss changes in the scheduling I wanted to do and I wanted to do it outside the hearing of the staff. I don't believe that Mr. Conn was uncomfortable about the idea as it was his suggestion and each of us paid our own

[223] June 19, 2002 email from Frank Cristaudo to Charlie Paul Andrus; PSI-SSA-96D2-0033568. Exhibit 12.

> way. Mr. Conn has offered to take me with him to Russia and Brazil at his expense. I politely declined and explained that would be totally improper, and he did not seem offended.
>
> This is exactly what I was talking about when dealing with Judge Daugherty. At least this time he did not accuse me of doing cocaine in my office.
>
> Please advise if you think it improper for me to have social contacts with Mr. Conn.[224]

Judge Andrus told the Committee he did not have any further social contact with Mr. Conn after this incident.[225]

[224] June 20, 2002 email from Charlie Paul Andrus to Frank Cristaudo; PSI-SSA-96D2-0033568. Exhibit 12.
[225] June 19, 2012 Committee interview of Judge Charlie Andrus.

VIII. MR. CONN MOVED TO DISMISS CLAIMS JUDGE GITLOW INDICATED HE WOULD DENY

In addition to working closely with Judge Daugherty to win favorable decisions for his clients, Mr. Conn also appears to have potentially abused the agency's pre-hearing conference procedures to improperly "forum shop" for favorable judges. Mr. Conn appears to have made a practice of arranging pre-hearing conferences with Judge Gitlow, and based on those conferences would move to dismiss any claims that Mr. Conn felt would be denied at a subsequent hearing.

a. Judge Gitlow Indicated to Mr. Conn He Planned to Deny a Claim

In a pre-hearing conference, an ALJ will meet with a claimant representative to discuss the particulars of a case.[226] While allowed under agency regulations, pre-hearing conferences were strongly discouraged because of the possibility it could compromise a judge's independence.[227] Moreover, SSA discourages ALJs from ever having an off-the-record conversation with a claimant representative unless it is later summarized in full on-the record.[228] Indeed, the federal rules authorizing the pre-hearing conference make clear "[t]he administrative law judge will have a record of the pre-hearing conference made" and the agency "will summarize in writing the actions taken as a result of the conference, unless the administrative law judge makes a statement on the record at the hearing summarizing them."[229]

Agency officials agreed ALJs should not hold pre-hearing conferences. Former Chief Judge Cristaudo made clear all conversations with the claimant's representative should be documented on-the-record. In fact, Judge Cristaudo believed pre-hearing conferences should not be allowed and that ALJs should never go off-the-record with a claimant's representative.[230] Current Chief Judge Bice agreed. She asserted the ALJ should not be talking to the claimant's representative outside of the hearing room and "should never go off-the-record."[231]

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[226] Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/download/report-psi-minority-staff-report_-social-security-disability-programs-improving-the-quality-of-benefit-award-decisions.

[227] August 3, 2012 Committee interview of Chief Judge Debra Bice.

[228] *Id.*

[229] 20 C.F.R. §405.330. Pre-Hearing Conferences, http://www.ssa.gov/OP_Home/cfr20/405/405-0330.htm.

[230] May 15, 2013 Committee interview of Judge Frank Cristaudo.

[231] August 3, 2012 Committee interview of Chief Judge Debra Bice.

Despite this, pre-hearing conferences between Mr. Conn and Judge William Gitlow were held on a frequent basis, during which the ALJ appeared to have frequently tipped his hand about anticipated case decisions.

As with all Huntington ALJ's, Judge Gitlow would travel to Prestonsburg to hold hearings. In the morning on the day of his hearings, Judge Gitlow would meet with certain claimant representatives that he "felt were above board," a group which included Mr. Conn, as well as two other successful disability attorneys, Grover Arnett, and Dru Shope.[232] During these pre-hearing conferences, Judge Gitlow would "see if [he] could move the case along."[233] This meant that during the meeting he would tell the claimant representative how he planned to decide the case based on the available medical evidence in the file at that time. He would not officially decide the matter, however, until he met the claimant at the hearing.[234]

Once the hearing was underway, Judge Gitlow would telegraph to the representative which way he was going to decide a case by the way he posed questions to the court's Vocational Expert ("VE").[235] In a disability hearing ALJ's will often pose to the VE several "hypothetical scenarios" based on the claimant's medical evidence. This data is used by the VE to make non-binding recommendations to the judge about whether someone with those limitations might find work. In the case of Judge Gitlow, he would ask only a single hypothetical question of a VE, and then rule accordingly. If the stated limitations produced a response from the VE that jobs were available the hypothetical person could perform, the claimant representative would know Judge Gitlow intended to deny the claim.[236]

When it became apparent Judge Gitlow was going to deny a claim, Mr. Conn would immediately move to dismiss the claim before the hearing was concluded. Dismissed claims would have to be re-filed at the initial DDS, repeating the initial application and reconsideration stage of the disability adjudication process. Mr. Conn requested claims be dismissed so frequently that Judge Gitlow believed he "had turned it into an art form." In fact, Judge Gitlow explained Mr. Conn was about the only representative that would move to dismiss a claim. According to Judge Gitlow, Mr. Conn believed he was better off moving for dismissal and

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[232] May 29, 2012 Committee interview of Judge William Gitlow.
[233] *Id.*
[234] *Id.*
[235] Minority Staff Report, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, "Social Security Disability Programs: Improving the Quality of Benefit Award Decisions," September 13, 2012, http://www.hsgac.senate.gov/download/report-psi-minority-staff-report_-social-security-disability-programs-improving-the-quality-of-benefit-award-decisions.
[236] May 29, 2012 Committee interview of Judge William Gitlow.

re-filing the application with the DDS than having the claim denied by an ALJ and appealing the denial to the Social Security Appeals Council.[237]

Indeed, Mr. Conn did withdraw a high number of cases before Judge Gitlow, leaving Judge Gitlow few cases to deny:

Statistics for Judge William Gitlow for Cases Represented by Mr. Conn[238]

Year	Total Cases	Total Cases for Conn	Total Conn Cases Approved	Total Conn Cases Denied	Total Withdrawn at Request of Conn	Withdrawn for Other Reasons
2005	474	139	74	14	42	9
2006	405	150	95	15	35	5
2007	418	122	66	9	43	4
2008	453	197	124	8	62	3
2009	411	130	90	5	34	1
2010	431	108	69	9	30	0
2011	409	117	70	7	35	5
Totals	**3,001**	**963**	**588**	**67**	**281**	**27**

From 2005-11, Mr. Conn withdrew 29 percent of his cases before Judge Gitlow. Of the cases remaining, Judge Gitlow approved 90 percent of the claims represented by Mr. Conn.[239]

Judge Gitlow told the Committee that any dismissed claims would be assigned back to him if the new filing was denied and then appealed once more to Huntington ODAR. SSA policy required this assignment to be made to prevent claimants from withdrawing in hopes of getting heard by a new judge. As such, Judge Gitlow told the Committee that he did not believe it was possible that Mr. Conn was engaging in judge-shopping by moving to dismiss and re-filing claims.[240] Moreover, Judge Gitlow recalled that some previously dismissed claims ended up back in front of him as expected. Only, on the second time through Mr. Conn would include new medical evidence in the file, which many times were evaluations by one of Mr. Conn's in-house doctors.[241] While Judge Gitlow told the Committee the doctors used by Mr. Conn were not credible since they always opined the individual was unable to work, he felt submitting these doctors' evaluations did not skew his opinion because "all the lawyers did it."[242]

It is possible, however, that not all of the cases dismissed by Judge Gitlow ended up back in front of him when a claimant reapplied. The Committee located 19 claimants on the DB Lists that had previously

[237] *Id.*
[238] Committee analysis of information provided by the Social Security Administration.
[239] *Id.*
[240] May 29, 2012 Committee interview of Judge William Gitlow.
[241] *Id.*
[242] *Id.*

withdrawn cases before Judge Gitlow. Instead, cases could be approved at earlier stages of review or, as described above, be intercepted by Judge Daugherty, who would reassign the cases to himself and approve them for benefits on-the-record.

b. Mr. Conn Garnered Favor from Judge Gitlow

Despite withdrawing cases he knew Judge Gitlow would deny, Judge Gitlow stated he had a great deal of respect for Mr. Conn. He stated "one of the things Eric and [Judge Gitlow] enjoyed was talking Social Security law," since both of them like arcane details of law. As such, Judge Gitlow recommended Mr. Conn be a part of an Association of Administrative Law Judge ("AALJ") Roundtable on Social Security. He wrote an email to one of the roundtable organizers, stating:

> I believe that the addition of one of our attorneys, Eric Conn (Stanville, KY) would be a smart choice as an addition to the roundtable. Mr. Conn is extraordinarily experienced (his volume is huge, with roughly 50 percent of the cases heard at the highly busy Prestonsburg remote site); he is incredibly knowledgeable in the field of Social Security (he is very well read in the field; very well informed; has taught in the field; and is one of only a handful of attorneys nationally to be certified by the new Social Security process). I find him to be passionate about this field of law, always seeking to learn more, yet very moderate in his approach with others. In short, I believe his addition to the roundtable would serve the AALJ quite well and I am certain that afterward you would agree. (Please note I have raised his name without his prior approval).[243]

Judge Gitlow noted "it is a pleasure to do Eric Conn cases" in response to an email from a Senior Case Technician ("SCT") reporting to Judge Gitlow that no new evidence had been submitted for hearings schedule for that day.[244]

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[243] May 3, 2009 email from William H. Gitlow to Ronald Bernoski, PSI-SSA-95-032907. Exhibit 39.
[244] June 14, 2011 email from William H. Gitlow to Barbara Powers, PSI-SSA-95-031480. Exhibit 40.

IX. MR. CONN POTENTIALLY FABRICATED MEDICAL OPINIONS, RESULTING IN AWARDED DISABILITY BENEFITS

According to witness testimony and evidence reviewed by the Committee, it appears that on several occasions Mr. Conn provided the agency with fabricated medical evaluations based in part on information Mr. Conn found on the internet. This information was incorporated into agency approved templates, which could be quickly approved by ALJs.

In the spring of 2010, Judge Andrus called Mr. Conn with a proposal to help him "get rid of his backlog."[245] Pitching it as a "mutual benefit," Judge Andrus asked Mr. Conn to submit template decisions for his approval.[246] Mr. Conn agreed and Judge Andrus gave him instructions about how the decisions should be written, even identifying certain key sentences that should be included.[247]

The templates referred to by Mr. Conn and Judge Andrus are known as Findings Integrated Templates, or "FIT decisions." As part of the agency's plan to reduce its hearing backlog, SSA introduced the use of "FIT" decisions in order to expedite the decision process by allowing claimant representatives to draft a judge's decision, and submit it for approval if it accurately reflected the case file.[248]

A FIT decision is submitted if the claimant's representative "believe[s] the evidence supports a fully favorable decision for [the] claimant."[249] If the judge agrees to award the claimant disability benefits, the ALJ "may use the language proposed by [the] representative."[250] In practice, the use of FIT decisions results in the claimant's representative writing a fully favorable decision awarding disability benefits to her claimant and requests the ALJ sign it. Should the ALJ agree the claimant qualifies for benefits, the FIT decision submitted by the claimant's representative should speed the processing of the claim.

After his agreement with Judge Andrus, Mr. Conn ordered three staff members to pull all cases pending before Judge Andrus and identify old cases that could generate the maximum fee.[251] He then directed them to

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[245] March 22, 2012 Committee interview with Jamie Slone.
[246] *Id.*
[247] *Id.*
[248] Social Security Administration, Plan to Reduce the Hearings Backlog and Improve Public Service at the Social Security Administration, http://www.ssa.gov/hearingsbacklog.pdf.
[249] Social Security Administration, Hearings and Appeals, Recommending a Favorable Decision for Your Client, http://www.ssa.gov/appeals/fit/index.html#submission.
[250] HALLEX, I-2-8-98: Exhibit – Information for Claimants and Representatives About Submitting Language That May Be Used in the Hearing Decisions or Bench Decisions Checklist, http://www.ssa.gov/OP_Home/hallex/I-02/I-2-8-98.html.
[251] March 22, 2012 Committee interview with Jamie Slone.

prepare approximately 180-200 Findings Integrated Template ("FIT") decisions. These FIT decisions were submitted by Mr. Conn for signature to Judge Andrus to make fully favorable awards of disability benefits to certain claimants of Mr. Conn.[252]

For some of these FIT decisions, Mr. Conn relied on medical evidence members of his staff said he falsified. According to one employee, Mr. Conn would send claimants to receive x-rays from Dr. Ira Potter at the Potter Medical Clinic in Lackey, Kentucky. Mr. Conn provided x-ray request forms for the claimant to take to the clinic. The forms were marked by the Conn Law Firm "WE DO NOT WANT THE FILMS READ BY ANYONE! !!!"[253] The Potter Medical Clinic obliged this request and would give the unread medical images to the claimant when the x-rays were completed.

The claimant would return to the firm with the x-ray films. One of the firm's employees then observed Mr. Conn personally writing the medical analysis of the x-ray. Mr. Conn appears to have attempted to compensate for his lack of medical training by basing his analysis off descriptions found on the Internet. Mr. Conn would cut and paste these descriptions into his clients' medical opinions, asserting the claimant was disabled and unable to work. Dr. Frederic Huffnagle, one of the doctors frequently used by Mr. Conn to provide medical opinions of Conn's claimants, would sign the opinions written by Mr. Conn without any additional edits.[254]

Mr. Conn then sent Judge Andrus FIT decisions generated by his office. In an August 6, 2010 email to Mr. Conn, Judge Andrus confirmed he had "written the other OTRs and signed most of them."[255] When asked by the Committee about this correspondence, Judge Andrus stated although he awarded benefits to certain claimants of Mr. Conn, Judge Andrus said he evaluated and edited each of the FIT decisions before signing, and only approved 20 to 30 cases in this manner.[256] Judge Andrus confirmed this email referred to the FIT decisions Mr. Conn submitted,[257] which according to employees contained medical conditions Mr. Conn found on the Intemet.[258] Although this appears to have been an isolated occurrence, the allegations presented to the

[252] June 12, 2012 Affidavit of Jamie Lynn Slone, if 19.
[253] June 12, 2012 Affidavit of Jamie Lynn Slone, if 20 (Exhibit 16); *see also, e.g.*, CLF031230; CLF031232; CLF031234; CLF031236; and CLF031250. Exhibit 41.
[254] June 12, 2012 Affidavit of Jamie Lynn Slone, if 20 (Exhibit 16).
[255] August 6, 2010 email from Charlie P. Andrus to Eric Conn, PSI-Conn-09-0050-51. Exhibit 42.
[256] June 19, 2012 Committee interview of Judge Charlie Andrus.
[257] August 6, 2010 email from Charlie P. Andrus to Eric Conn, PSI-Conn-09-0050-51. Exhibit 42.
[258] June 12, 2012 Affidavit of Jamie Lynn Slone, if 20.

Committee raise the startling possibility that disability claims were granted based on fabricated medical evidence.

X. LAWYERS RELIED ON DOCTORS THEY KNEW WOULD PROVIDE EVIDENCE OF CLAIMANT DISABILITY

The role of medical doctors and professionals in the adjudication of disability cases before Huntington ODAR highlights a key structural vulnerability within the Social Security Disability Insurance program. Because of the subjectivity involved in evaluating disability applications and the independence afforded to ALJs, medical opinions supplied by poorly credentialed doctors may be assigned equal weight to the opinion of more qualified physicians. Within Huntington ODAR, a group of lawyers, doctors, and judges appear to have exploited this vulnerability by utilizing low-quality medical evidence for the purpose of quickly approving claimants.

In an effort to obtain medical evidence supporting an award of disability benefits, some attorneys sought doctors they knew would provide disabling opinions without question. Representatives would send their claimants only to certain doctors to examine the claimant and then opine on their abilities, whether physical or mental. With respect to Doctors obtained by Mr. Conn, the results of these medical evaluations almost always concluded the patient qualified for disability benefits. ALJs, Judge Daugherty in particular, could then quickly approve the claim, giving the purchased medical evidence more weight than the other evidence in the file.

a. Doctors Known to Provide Opinions Stating the Claimant is Disabled Were Known as "Whore Doctors"

The Committee evaluated the medical opinion of a number of doctors who had a reputation for regularly providing questionable medical opinions at the request of disability attorneys. Within SSA, it became common to refer to this class of doctors internally by an unflattering nickname: "whore doctors."[259] This expression, many explained, grew out of the widely held view that attorneys simply purchased disability opinions from the doctors.

Most commonly, the type of medical evidence to come from attorney-arranged exams was a "medical source statement." These were often brief conclusory statements signed by doctors, providing little if any evidence in support. The price of medical source statements varied by doctor, but typically ranged in price from $225 to $650.[260]

[259] June 19, 2012 Committee interview of Judge Charlie Andrus; May 15, 2013 Committee interview of Judge Frank Cristaudo.

[260] According to financial documents produced by Mr. Conn, it appears Dr. Herr received $650 per consultative exam. *See, e.g.,* CLF02216, CLF06038. Exhibit 43.

Many at the agency considered attorney procured medical evidence to be problematic. Judge Cristaudo told the Committee he was familiar with the term "whore doctor," but that it was a challenge for even the best ALJ at times to sort out good medical evidence from bad. For years, he said, "it's the battle of the medical source statements."[261] As a judge he would commonly see the same or similar medical evidence from certain doctors, regardless of the claimant. He told the Committee: "Good judges will look at all the evidence and give them less weight. Lazy judges will just follow the medical source statements."[262] Judge Cristaudo also was aware of "claims attorneys [would] go to a doctor and say 'fill this out.'" He told the Committee that he had even heard – in some instances – that when doctors knew an exam was related to the SSA disability program, they would have the "patients or secretaries fill them out."[263] He added, "There's so much abuse. It's the easy way out." When asked how much weight to give medical decisions that a judge suspects is problematic, he replied, "Who knows? It's an educated guess."[264]

b. Doctors Employed by Mr. Conn Provided Questionable Medical Evidence

The doctors used by Mr. Conn to evaluate his claimants appeared to have routinely provided low-quality medical opinions. Documents reviewed by the Committee and testimony of Mr. Conn's employees provided evidence that the doctors used by Mr. Conn held perfunctory exams and sometimes signed improper paperwork.

Some of the doctors who evaluated Mr. Conn's claimants had histories of malpractice allegations, disciplinary problems, and even had a license revoked in another state. According to former Conn personnel, Mr. Conn specifically sought out doctors with licensure problems for his practice.[265] Ms. Slone, former office manager for the Conn Law Firm, for example, said Mr. Conn would look online for doctors who were sanctioned and intentionally recruited them.[266]

Some of the doctors used by Mr. Conn would not have been allowed to provide medial opinions on claimants at the request of the Social Security Administration. The agency's regulations prevent it from purchasing consultative exams from medical providers whose license to

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[261] May 15, 2013 Committee interview of Judge Frank Cristaudo.
[262] *Id.*
[263] *Id.*
[264] *Id.*
[265] June 12, 2012 Affidavit of Jamie Lynn Slone; ¶17 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin, ¶15 (Exhibit 17).
[266] February 23, 2012 interview with Jamie Slone.

provide health care has been lawfully revoked or suspended by any State licensing authority for reasons bearing on professional competence or conduct.[267] No such restrictions exist, however, for medical opinions provided by claimant representatives to ALJs.

The following doctors were among those relied upon most often by Mr. Conn.

i. Dr. Frederic Huffnagle

The primary doctor used by Mr. Conn to review the majority of his claimants during the period reviewed was Frederic Thomas Huffnagle.[268] Dr. Huffnagle had a history of malpractice and a long disciplinary record, including revocation of his license to practice medicine in New York.

Medical Malpractice Claims. Dr. Huffnagle received his medical degree in 1961 from Thomas Jefferson Medical College in Philadelphia, PA and became a board certified orthopedic surgeon in 1970.[269] In his first ten years of practice, Dr. Huffnagle settled nine malpractice suits, had his staff privileges revoked by at least one hospital, and provided false statements on his application for staff privileges at another hospital.[270]

In 1968, Dr. Huffnagle gained staff privileges at Beverly Hospital and Hunt Memorial Hospital, both located in Massachusetts. Two years later, in 1970, Beverly Hospital placed Dr. Huffnagle on probation for scheduling an experimental surgery that neither he, nor anyone else at the hospital, had previously performed. The next year, in 1971, Beverly Hospital declined to renew his staff privileges citing the above incident among "other serious continuing difficulties."[271] Despite losing privileges at Beverly Hospital, Dr. Huffnagle continued to practice at Hunt Memorial.[272] In total, his eight years of practice in Massachusetts resulted in five separate malpractice suits resulting in payments to patients.[273]

One of the malpractice lawsuits involved a patient of Dr. Huffnagle who suffered from osteoarthritis. Dr. Huffnagle implanted the wrong size of artificial knee in the patient and later fractured a bone and ruptured a

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[267] *See* 20 C.F.R. §§404.1503a and 416.903a.
[268] June 12, 2012 Affidavit of Jamie Lynn Slone; ¶9 (Exhibit 16). In fact, of the physician opinions reviewed by the Committee, the majority were prepared by Dr. Huffnagle.
[269] *Small Percentage of Doctors Responsible for Surge in Malpractice Suits, Rates*, BOSTON GLOBE, June 16, 1986, http://www.saynotocaps.org/newsarticles/Small%20Percentage%20of%20Doctors.html.
[270] *Id.*
[271] *Id.*
[272] *Id.*
[273] *Id.*

tendon removing the knee, leaving the patient permanently bound to a wheel chair.[274]

In 1981, Dr. Huffnagle moved to California and gained staff privileges at Westminster Hospital where he practiced for one year and had four more malpractice suits filed against him.[275] He appears to have gained his privileges at Westminster by falsifying answers in his application, claiming no other hospital failed to renew his privileges and there were no settlements paid related to malpractice claims against him.[276] After that one year in California, Dr. Huffnagle moved back to Massachusetts and was hired by Massachusetts Osteopathic after being rejected at Hunt Memorial Hospital.[277]

Falsifying Application. Dr. Huffnagle garnered several monetary fines and had his license revoked in one state for providing false answers on applications for his medical licenses. On March 3, 1999, the Massachusetts Board of Registration entered an order imposing a reprimand and a $7,500 fine for providing false answers on two Massachusetts license renewal applications and a Pennsylvania license renewal application.[278] On May 20, 1999, he had his license revoked in New York for providing false answers on three previous license renewals in other states.[279] On March 23, 2000, Dr. Huffnagle was placed on one year probation in Pennsylvania and was reprimanded and assessed a $400 fine for providing false answers on a previous application.[280]

Dr. Huffnagle's Opinions in Support of Mr. Conn's Claimants. Dr. Huffnagle routinely found that Mr. Conn's claimants were disabled and could not perform any work. Many of Dr. Huffnagle's examinations were performed on site in the Conn Law Firm's "medical suite."

For two days each month, Dr. Huffnagle would travel 250 miles to Stanville, Kentucky from Bowling Green, Kentucky to evaluate individuals referred to him by Mr. Conn.[281] The claimants would be

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[274] *Id.*
[275] *Id.*
[276] *Id.*
[277] *Id.*
[278] In the matter of Frederic T. Huffnagle, M.D., State Board for Professional Medical Conduct, State of New York, Surrender Order BPMC No. 99-184, http://w3.health.state.ny.us/opmc/factions.nsf/0/a7fd6ec05fca9a3985256a4a0047d70f/$FILE/lc208366.pdf.
[279] *Id.*
[280] *Disciplinary Action*, Pennsylvania State Board of Med. Newsletter (Pennsylvania State Board of Med., Harrisburg, PA), Spring 2001, at 7, www.state.pa.us/portal/server.pt/document/487090/mednews01_pdf.
[281] *See* CLF033386, "Frederic Huffnagle, M.D.; Orthopedic Surgeon; 720 Chestnut Street, Suite 102; Bowling Green, Kentucky 42101." *See, i.e.*, CLF033360 and CLF033356 scheduling evaluations for Dr. Huffnagle on July 26 and 27, 2007. Exhibit 44.

scheduled for an examination by Dr. Huffnagle in 10 to 20 minute increments and he would meet with .a large number of claimants each day.[282] For example, a schedule for Dr. Huffnagle's exams produced by the Conn Law Firm indicated on February 1, 2007 Dr. Huffnagle was scheduled to see 35 claimants and review the medical files for two other claimants and prepare opinions.[283] The first appointment was scheduled for 9 a.m. and the last at 6:20 p.m. Claimants were scheduled at 10 to 20 minute increments; at times, two claimants were scheduled for the same time slot.[284]

The claimants scheduled to see Dr. Huffnagle were typically also listed on the DB Lists created by Mr. Conn and Judge Daugherty.[285] For example, the list of 35 individuals scheduled for Dr. Huffnagle on February 1, 2007 included 25 claimants also listed on the February 2007 DB List, all of which noted "physical."[286]

Dr. Huffnagle's wife would assist him by dictating the medical opinions, which were later transcribed by an outside service.[287] Dr. Huffnagle would provide a short description of the claimant's condition, which consisted mainly of information the claimant reported to Dr. Huffnagle. This included information on the claimant's chief complaint; the history of the present illness; past surgical history; medications; social history; activities of daily living; physical examination; impressions; and discussion.

In addition to the report of his examination, Dr. Huffnagle would also sign a Residual Functional Capacity ("RFC") form for each claimant. This is a standard form provided by doctors on behalf of disability claimants and used by all ALJ's. Its purpose "is to determine the [claimant's] ability to do work related activities on a day-to-day basis in a regular work setting."[288] Once a doctor measures an individual's ability to do these activities, the results are tabulated using guidelines

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[282] *See* CLF033399, "Dr. Huffnagle Appts for 2/1107; CLF033384, "Dr. Huffnagle's Appt's for 3/27/07;" CLF033392, "Dr. Huffnagle Appt 03/01/07;" CLF033378, "Dr. Huffnagle Appt's for 4127/07;" CLF033371, "Dr. Huffnagle's Appt's for 05/24/07." Exhibit 44.

[283] See CLF033399, "Dr. Huffnagle appts for 2/1107, listing 35 claimant appointments and two "file reviews." Exhibit 44.

[284] *Id.*

[285] *Compare* CLF030651-52, "February D.B. 2007 Due Date 02/15/07" (Exhibit 18) to CLF033399, "Dr. Huffnagle Appts for 2/1107." (Exhibit 44). The February DB List included a total of 36 total claimants with four noting "Decision has been sent!" *Also compare* CLF030646-48, "D.B. March 2007 List Due March 7, 2007" (Exhibit 18) to CLF033392, "Dr. Huffnagle Appt 03/01107." (Exhibit 44) The March DB List contains 44 names; 14 of those names are listed on Dr. Huffnagle's appointment schedule for March 1, 2007, all of which noted "Ehysical" on the March DB List.

[286] *Compare* CLF030651-52, "February D.B. 2007 Due Date 02/15/07" (Exhibit 18) to CLF033399, "Dr. Huffnagle Appts for 2/1/07." (Exhibit 44).

[287] June 12, 2012 Affidavit of Jamie Lynn Slone, ir10 (Exhibit 16).

[288] This language was present on all forms submitted in conjunction with the forms completed by Dr. Huffnagle for Mr. Conn's claimants. See, e.g., CLF029445-48. Exhibit 44.

provided by SSA, and a claimant's "capacity" for work is determined. Using the RFC in combination with a claimant's age, education and work experience, an ALJ would decide whether someone qualified for disability benefits.

The RFC measures an individual capacity for work by requesting information on: (1) the weight an individual could lift or carry; (2) the time in an 8 hour work day the claimant could stand or walk; (3) the time an individual could sit in an 8 hour work day; (4) how often the individual could perform certain postural activities; (5) the claimant's limitations with regard to certain physical and communicative functions; and (6) the claimant's ability to tolerate environmental activities and conditions.

Under agency rules, each RFC is supposed to be tailored to describe each claimant's individual exact abilities.[289] Because each individual has different abilities, and the forms require a complex set of data, it follows that finding two *RFCs* that are exactly alike should be a rare occurrence. Claimants who visited Dr. Huffnagle, however, were given the exact same RFCs over and over again. While the form was intended to accurately reflect the claimant's limitations as observed by Dr. Huffnagle, that was not the case.

Assigning multiple claimants the same RFCs was not an accident, but rather appears to have been an effort to tailor evidence to Judge Daugherty's preferences. For claimants on the DB Lists which Judge Daugherty noted "physical," this was understood by Mr. Conn's staff to mean the claimant needed evidence of some sort of a physical disability.[290] Dr. Huffnagle was then asked to provide evidence of physical disabilities and sign a RFC associated with the claimant's physical limitations.[291]

Rather than providing detailed evaluations for each individual claimant, Dr. Huffnagle submitted the same evidence for dozens of claimants. A former employee of Mr. Conn testified the firm used several versions of the RFC form with all information completed before any exam took place. These same versions were used in rotation regardless of the claimant's medical condition; just the names and Social Security

[289] See 20 C.F.R. Appendix 2 to Subpart P of Part 404 -Medical Vocational Guidelines ("In the application of the rules, the individual's residual functional capacity (i.e., the maximum degree to which the individual retains the capacity for sustained performance of the physical-mental requirements of jobs), age, education and work experience must first be determined. When assessing the person's residual functional capacity, we consider his or her symptoms (such as pain), signs, and laboratory findings together with other evidence we obtain. The correct disability decision (i.e., the issue of ability to engage in substantial activity) is found by then locating the individual's specific vocational profile.").

[290] See June 12, 2012 Affidavit of Jamie Lynn Slone; if6 (Exhibit 16).

[291] See June 12, 2012 Affidavit of Jamie Lynn Slone; if9 (Exhibit 16).

numbers at the top of the form were changed. While Dr. Huffnagle did not write or edit the RFCs, he routinely signed them.[292]

The Committee reviewed 837 RFCs signed by Dr. Huffnagle ranging in date from July 2005 to September 2010. A pattern emerged in which large groups of Mr. Conn's claimants had the same limitations and were submitting the same forms – all suggesting that only the names and Social Security numbers were changed on these forms. The Committee found 15 versions of the RFC that were used and approximately 15 groups of claimants, each having the exact same limitations. For example, 54 of Mr. Conn's claimants reviewed by Dr. Huffnagle submitted "RFC Form Version 1," indicating they all had the same limitations:[293]

RFC Form Version 1

Physical Act	Limitations
Lifting / Carrying	8 pounds / 5 pounds
Standing / Walking	3 hours / 30 minutes
Total Sitting / Without Interruption	4 hours / 30 minutes

The following chart identifies the features of each version of the RFC form used by Mr. Conn's claimants examined by Dr. Huffnagle. It also provides the number of claimants Dr. Huffnagle submitted each version of the RFC for Mr. Conn's claimants' case decided by Judge Daugherty:

[292] June 12, 2012 Affidavit of Jamie Lynn Slone; ¶13 (Exhibit 16).
[293] Dr. Huffnagle signed 15 version of RFCs. Each version can be found at Exhibit 45.

RFC Forms Signed by Dr. Huffnagle and Submitted by Mr. Conn to Judge Daugherty

RFC Version	Lifting / Carrying	Standing/Walking	Sitting / Without Interruption	Number of Claimants with same RFC
1	8 pounds / 5 pounds	3 hours / 30 minutes	4 hours / 30 minutes	54
2	10-15 pounds / 4-5 pounds	2-3 hours / 30 minutes	3-4 hours / 15-20 minutes	55
3	8-10 pounds / 5 pounds	2-3 hours / 15-30 minutes	3 hours / 30-45 minutes	43
4	8-10 pounds / 5 pounds	2 hours / 20 minutes	4-5 hours / 15-30 minutes	53
5	10 pounds / 5 pounds	1 hour / 20 minutes	5 hours / 30 minutes	47
6	10 pounds / 5 pounds	2 hours / 30 minutes	4 hours / 30 minutes	50
7	10 pounds / 5 pounds	3 hours / 30 minutes	3 hours / 1 hour	50
8	15-20 pounds / 10 pounds	2-3 hours / 30 minutes	3 hours / 30 minutes	38
9	20 pounds / 15 pounds	1 hour / 30 minutes	4 hours / 30 minutes	97
10	5-10 pounds / 5 pounds	1-2 hours / 30 minutes	4-5 hours / 15-20 minutes	52
11	15 pounds / 5 pounds	3 hours / 20-30 minutes	4 hours / 30 minutes	48
12	15 pounds / 10 pounds	1 hour / 30 minutes	4 hours / 30 minutes	54
13	10 pounds / 7-8 pounds	3 hours / 20 minutes	3 hours / 45 minutes	37
14	20 pounds / 10 pounds	2 hours / 30 minutes	4 hours / 30 minutes	61
15	25 pounds / 10 pounds	3 hours / 20 minutes	3 hours / 30 minutes	17
			Total	**756**[294]

The RFC then asked the signing doctor to rate the ability for each claimant to perform 22 activities by checking a box associated with of the following responses: never; occasionally; frequently; or constantly. The 22 activities listed were: climbing; balancing; stooping; crouching; kneeling; crawling; reaching; handling; feeling; pushing/pulling; seeing; hearing; speaking; heights; moving machinery; temperature extremes; chemicals; dust; noise; fumes; humidity; and vibration.

All of these marked categories matched, in the same manner as the above cited similarities. Setting aside the first three categories listed above and just considering the 22 categories to be marked in four ways,

[294] The Committee determined that 81 of Dr. Huffnagle's decisions did not appear to fall into one of the cited groups of claimants.

the possibility of two claimants having the exact same limitations is statistically remote. Yet, in just the RFCs submitted in support of Mr. Conn's clients to Judge Daugherty reviewed by the Committee, Dr. Huffnagle determined up to 97 of Mr. Conn's claimants had the exact same limitations.

The similar number of claimants in each group is consistent with allegations the RFC forms were rotated on a regular basis as Dr. Huffnagle saw each claimant.[295]

Dr. Huffnagle died on October 5, 2010.[296]

ii. Dr. David P. Herr, D.O.

As part of its review, the Committee also reviewed 102 assessments by Dr. Herr submitted to Judge Daugherty in support of Mr. Conn's claimants.

Analysis of Dr. Herr's Opinions. Dr. Herr is an orthopedist located in West Union, Ohio, but his opinions stated evaluations of Mr. Conn's clients were performed in the Law Offices of Eric C. Conn. The majority of claimants examined by Dr. Herr also submitted RFC's identical to the ones listed above for claimants reviewed by Dr. Huffnagle. While claimants examined by Dr. Herr submitted only 11 of the 15 RFC versions cited above, over 94 percent of the RFC's reviewed by the Committee were one of these 15.

[295] See June 12, 2012 Affidavit of Jamie Lynn Slone; ¶13 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin. ¶11 (Exhibit 17).
[296] Obituary, Dr. Frederic Huffnagle, October 5, 2010, http://www.legacy.com/obituaries/tennessean/obituary.aspx?page=lifestory&pid=145826864#fbLoggedOut.

RFC Forms Signed by Dr. Herr and Submitted by Mr. Conn to Judge Daugherty

RFC Version	Lifting / Carrying	Standing/Walking	Sitting / Without Interruption	Number of Claimants with same RFC
1	8 pounds / 5 pounds	3 hours / 30 minutes	4 hours / 30 minutes	6
2	10-15 pounds / 4-5 pounds	2-3 hours / 30 minutes	3-4 hours / 15-20 minutes	18
3	8-10 pounds / 5 pounds	2-3 hours / 15-30 minutes	3 hours / 30-45 minutes	4
4	8-10 pounds / 5 pounds	2 hours / 20 minutes	4-5 hours / 15-30 minutes	17
5	10 pounds / 5 pounds	1 hour / 20 minutes	5 hours / 30 minutes	13
6	10 pounds / 5 pounds	2 hours / 30 minutes	4 hours / 30 minutes	8
7	10 pounds / 5 pounds	3 hours / 30 minutes	3 hours / 1 hour	n/a
8	15-20 pounds / 10 pounds	2-3 hours / 30 minutes	3 hours / 30 minutes	8
9	20 pounds / 15 pounds	1 hour / 30 minutes	4 hours / 30 minutes	n/a
10	5-10 pounds / 5 pounds	1-2 hours / 30 minutes	4-5 hours / 15-20 minutes	5
11	15 pounds / 5 pounds	3 hours / 20-30 minutes	4 hours / 30 minutes	6
12	15 pounds / 10 pounds	1 hour / 30 minutes	4 hours / 30 minutes	n/a
13	10 pounds / 7-8 pounds	3 hours / 20 minutes	3 hours / 45 minutes	10
14	20 pounds / 10 pounds	2 hours / 30 minutes	4 hours / 30 minutes	n/a
15	25 pounds / 10 pounds	3 hours / 20 minutes	3 hours / 30 minutes	1
			Total	**96**[297]

Just as cited above, the RFC then asked the signing doctor to rate the ability for each claimant to perform 22 activities by checking a box associated with of the following responses: never; occasionally; frequently; or constantly. The 22 activities listed were: climbing; balancing; stooping; crouching; kneeling; crawling; reaching; handling; feeling; pushing/pulling; seeing; hearing; speaking; heights; moving machinery; temperature extremes; chemicals; dust; noise; fumes; humidity; and vibration. All of these marked categories matched, in the same manner as the above cited similarities.

Finally, in most opinions by Dr. Herr reviewed by the Committee, the doctor arrived at the exact same conclusion, using the exact same

[297] The remaining six RFCs reviewed do not fall into one of the listed categories.

wording: "In my opinion, it can be stated within a reasonable degree of medical certainty that the claimant will not regain functional capacities with treatment that would support a return to work."

Agency Analysis. In late 2011, the Division of Quality within the Social Security Administration reviewed 10 of Dr. Herr's opinions that were adjudicated by Judge Daugherty. That review determined that "Dr. Herr uses the same language to describe the purpose of the evaluation and, with some small variances, how the impairment(s) affect the claimant's life."[298] The same review found that, in his opinions, Dr. Herr summarized the medical evidence in the record, but did not find additional impairments. Instead, Dr. Herr used the "claimant's medical history, their subjective complaints and his physical examination to determine [the claimant] to have greater limitations than may have been expressed by either a treating source or a State Agency medical consultant just four to six months prior."[299] The agency also noted that in all cases reviewed, Dr. Herr determined the claimant was unable to sustain an eight-hour work day.[300]

According to documents provided by Mr. Conn, Dr. Herr was paid up to $650 for each claimant he reviewed and provided an opinion.[301]

The Committee requested to interview Dr. Herr through his attorney, but he declined to cooperate.

iii. Dr. Brad Adkins, Ph.D.

During the period under review, Dr. Adkins worked as a Clinical Psychologist at the Pikeville Medical Center in Pikeville, Kentucky. He received his bachelor of science at Pikeville College; Master of Science in Clinical Psychology at Morehead State University; and his doctoral degree from The Union Institute and University of Cincinnati, Ohio.[302]

Dr. Adkins began performing evaluations of disability claimants for the Social Security Administration through the Commonwealth of Kentucky's Disability Determination Services around 2005.[303] At the same time, Dr. Adkins contacted and met with Mr. Conn to perform

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[298] Social Security Administration, DRAFT: Report of the Division of Quality's Review of Decisions Issued by the Huntington, WV Hearing Office, August 15,2011, PSI-SSA-95D2-044759. Exhibit 46.
[299] *Id.*
[300] *Id.*
[301] See, i.e., CLF06038-39. Exhibit 43.
[302] April 4, 2013 Committee Interview of Dr. Brad Adkins. See also Pikeville Medical Weight Loss Surgery Center, Weight Loss Surgery Staff, http://www.pikevillehospital.org/bariatric_staff.html.
[303] April 4, 2013 Committee interview of Dr. Brad Adkins.

evaluations for Mr. Conn's disability claimants as well.[304] When they met, Mr. Conn and Dr. Adkins determined that Mr. Conn would pay Dr. Adkins $300 per claimant Dr. Adkins reviewed; that fee later increased to $350 per claimant.[305]

Dr. Adkins Evaluated Mr. Conn's Claimants. When Judge Daugherty indicated "mental" in his monthly call to Mr. Conn's law firm listing the claimants he would approve on-the-record, Mr. Conn would usually send those claimants to Dr. Brad Adkins.[306]

Dr. Adkins explained to the Committee an employee for Mr. Conn would contact him each month to set up the appointments with Mr. Conn's claimants. On average, Mr. Conn would send Dr. Adkins around 20 claimants each month.[307] Dr. Adkins would meet with these claimants in his office in Betsy Layne, Kentucky on Tuesday afternoons. Since Dr. Adkins reviewed claimants at the request of the agency and local disability attorneys, he tailored his exam based on the request from each entity. For example, the agency could request that Dr. Adkins perform only a clinical interview, without additional testing, for which he received $80 per exam, with a $25 bonus if the completed exam was turned in within 15 days. When Dr. Adkins performed this exam at the request of the agency, he would examine and evaluate the patients by: (1) performing a clinical interview;[308] (2) reviewing the objective medical history;[309] and (3) a mental status exam. A mental status exam administered by Dr. Adkins included a series of questions on five domains of neuropsychological function: (1) language, both receptive and expressive; (2) attention; (3) concentration; (4) immediate, recent, and remote memory; and executive functioning and sensorium. [310]

Dr. Adkins also explained when the agency requested he perform an IQ test, the agency paid Dr. Adkins $150.00, with a $25 bonus for a quick turnaround.[311]

Dr. Adkins charged the disability attorneys more depending on what exam elements they requested. He noted the mental status exam was

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[304] *Id.*
[305] *Id.*
[306] June 12, 2012 Committee Affidavit of Jamie Lynn Slone, ¶ 14 (Exhibit 16).
[307] April 4, 2013 Committee interview of Dr. Brad Adkins.
[308] Dr. Adkins explained the clinical interview included: assessing a patient's level of pain; how pain interfered with their life and in what domains; mental health history and any prior treatment; family mental health history; current mental state; substance abuse history; legal history; general family history; and any history of developmental delays.
[309] According to Dr. Adkins, an objective medical history review included: academic and vocation history; any behavioral observations; activities of daily living.
[310] April 4, 2013 Committee interview of Dr. Brad Adkins.
[311] *Id.*

replaced with the administration of an IQ test, which is a more involved exam, since the attorney paid $350.00 per evaluation.[312]

Dr. Adkin's RFC Forms. Dr. Adkins also provided an RFC form to Mr. Conn describing the patient's limitations, though it focused on mental ability and limitations rather than physical limitations. The form stated that it sought "to determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting."[313] The examiner was asked to describe the claimant's ability in one of the following ways:

- Unlimited: ability to function in his area is not limited by a mental impairment;
- Good: ability to function in this area is more than satisfactory;
- Fair: ability to function in this area is limited but not satisfactory;
- Poor: ability to function in this area is seriously limited but not precluded;
- None: no useful ability to function in this area.[314]

When Dr. Adkins initially started performing evaluations for Mr. Conn, he said he filled out the RFC forms himself. Subsequently, Mr. Conn's office contacted him and asked if they could fill out the RFC form for him, and bring him a copy of his exam report as well as the RFC to review and sign.[315] According to Ms. Slone, these forms, filled out in advance by Mr. Conn's office, were used in rotation and Dr. Adkins never requested they be edited based on each claimant's individual condition.[316] Dr. Adkins admitted when he picked up payment at Mr. Conn's office for rendering the exams, he would sign the pre-filled forms.[317] He asserted, however, he reviewed each of the forms Mr. Conn prepared to ensure the form matched the claimant's limitations as described in Dr. Adkin's report.

Mr. Conn Used Five Versions of the Mental RFC. The majority of RFC forms signed by Dr. Adkins and reviewed by the Committee fell into one of five versions of the RFC.[318] While the names of the claimants were handwritten at the top of each RFC, the "X" in each box indicating the claimant's ability was computer generated.[319] Dr. Adkins explained the computer generated RFCs were filled out by Mr. Conn.[320] The Committee reviewed 182 RFC forms signed by Dr. Adkins in support of

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[312] *Id.*
[313] *See, i.e.*, CLF016923-25. Exhibit 47.
[314] *Id.*
[315] April 4, 2013 Committee interview of Dr. Brad Adkins.
[316] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 14 (Exhibit 16).
[317] April 4, 2013 Committee Interview of Dr. Brad Adkins.
[318] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 14 (Exhibit 16).
[319] See, i.e., CLF030282-84; CLF030289-91. Exhibit 47.
[320] April 4, 2013 Committee Interview of Dr. Brad Adkins.

adult claims decided by Judge Daugherty. Of those, he signed one of five identical forms 132 times.

As noted below, the numerous variables (15 in all) of the claimants' abilities and related descriptors (i.e., unlimited to none, five in all) suggest these RFCs were not specific to each claimant, but instead prepared independent of the claimant the RFC purported to describe. In fact, the possibility of two claimants having the exact limitations is statistically remote.[321]

For Version 1 of the RFC, Dr. Adkins found that 26 of Mr. Conn's claimants had the same limitations:

Making Occupational Adjustments		Making Performance Adjustments		Making Personal/Social Adjustments	
Follow Work Rules	Good	Understand, remember and carry out complex job instructions	Poor	Maintain personal appearance	Good
Relate to Co-Works	Good	Understand, remember, and carry out detailed, but not complex job instructions	Poor	Behave in an emotionally stable manner	Fair
Deal with the Public	Poor	Understand, remember, and carry out simple job instructions	Fair	Related predictability in social situations	Fair
Use Judgment	Fair			Demonstrate Reliability	Poor
Interact with Supervisors	Good				
Deal with Work Stresses	Poor				
Function Independently	Fair				
Maintain Attention/Concentration	Poor				

[321] Dr. Adkins signed five versions of the RFCs, located at Exhibit 47.

Dr. Adkins indicated 26 of Mr. Conn's claimants had the following RFC limitations, or Version 2:

Making Occupational Adjustments		Making Performance Adjustments		Making Personal/Social Adjustments	
Follow Work Rules	Good	Understand, remember and carry out complex job instructions	Poor	Maintain personal appearance	Fair
Relate to Co-Works	Good	Understand, remember, and carry out detailed, but not complex job instructions	Poor	Behave in an emotionally stable manner	Fair
Deal with the Public	Poor	Understand, remember, and carry out simple job instructions	Fair	Related predictability in social situations	Fair
Use Judgment	Fair			Demonstrate Reliability	Poor
Interact with Supervisors	Good				
Deal with Work Stresses	Poor				
Function Independently	Poor				
Maintain Attention/Concentration	Poor				

Dr. Adkins submitted the following RFC for 29 of Mr. Conn's claimants (Version 3):

Making Occupational Adjustments		Making Performance Adjustments		Making Personal/Social Adjustments	
Follow Work Rules	Poor	Understand, remember and carry out complex job instructions	Poor	Maintain personal appearance	Good
Relate to Co-Works	Fair	Understand, remember, and carry out detailed, but not complex job instructions	Fair	Behave in an emotionally stable manner	Poor
Deal with the Public	Fair	Understand, remember, and carry out simple job instructions	Fair	Related predictability in social situations	Fair
Use Judgment	Fair			Demonstrate Reliability	Poor
Interact with Supervisors	Fair				
Deal with Work Stresses	Poor				
Function Independently	Fair				
Maintain Attention/Concentration	None				

Version 4 of Dr. Adkin's RFC form was submitted for 20 of Mr. Conn's claimants, which contained the following limitations:

Making Occupational Adjustments		Making Performance Adjustments		Making Personal/Social Adjustments	
Follow Work Rules	Fair	Understand, remember and carry out complex job instructions	None	Maintain personal appearance	Fair
Relate to Co-Works	Fair	Understand, remember, and carry out detailed, but not complex job instructions	Poor	Behave in an emotionally stable manner	Fair
Deal with the Public	Fair	Understand, remember, and carry out simple job instructions	Poor	Related predictability in social situations	Fair
Use Judgment	Poor			Demonstrate Reliability	Poor
Interact with Supervisors	Fair				
Deal with Work Stresses	None				
Function Independently	Poor				
Maintain Attention/Concentration	Poor				

The following limitations – Version 5 – in Dr. Adkin's RFC submissions were submitted for 31 of Mr. Conn's claimants:

Making Occupational Adjustments		Making Performance Adjustments		Making Personal/Social Adjustments	
Follow Work Rules	Fair	Understand, remember and carry out complex job instructions	Poor	Maintain personal appearance	Good
Relate to Co-Works	Fair	Understand, remember, and carry out detailed, but not complex job instructions	Fair	Behave in an emotionally stable manner	Fair
Deal with the Public	Poor	Understand, remember, and carry out simple job instructions	Fair	Related predictability in social situations	Fair
Use Judgment	Poor			Demonstrate Reliability	Poor
Interact with Supervisors	Fair				
Deal with Work Stresses	Good				
Function Independently	Fair				
Maintain Attention/Concentration	Poor				

Of note in each version of the RFC signed by Dr. Adkins is that he rated the claimant as "poor" when it came to their ability to "demonstrate reliability." Therefore, according to the RFC, as determined by Dr. Adkins, the RFC itself was potentially unreliable.

The remaining 50 RFCs reviewed were similar with as many as six claimants having the same limitations marked, but did not fall into one of the above stated categories.

Inconsistencies Between Dr. Adkins' Reports and RFCs. As noted above, an RFC accompanied each of Dr. Adkins' opinions. Dr. Adkins stated that while he used to fill out the RFC's himself, at a certain point in time Mr. Conn's office started filling out the forms and then providing them to Dr. Adkins simply to sign. Dr. Adkins claimed he reviewed each of the RFCs to ensure it was consistent with his assessment of the claimant. Dr. Adkins told the Committee he never noticed the RFCs were identical and that only five versions existed.[322]

In reviewing Dr. Adkins opinions and RFCs together there were certain internal inconsistencies, which raised questions about how thoroughly he reviewed the RFCs prior to signing them. For example, after examining a 22 year old woman, Dr. Adkins decribed the claimant in his medical opinion as having "an impaired ability to adapt to the workplace, regarding her ability to tolerate the stress and pressures associated with day to day work activity." The RFC for the same individual, however, rated his ability to "deal with work stress" as "good."[323] When questioned about the internal inconsistency with regard to his assessment, Dr. Adkins stated "mistakes happen."[324]

Dr. Adkins' Evaluation of Children. Several of the claimants reviewed by Dr. Adkins were under the age of 18, which SSA evaluates for disability under a different set of criteria than adults. Children are examined within a set of "domains" that are more applicable to their level of development.[325] These include: (1) acquiring and using information; (2) attending and completing tasks; (3) interacting and relating with others; (4) moving about and manipulating objects; (5) caring for yourself; and (6) health and physical well-being.[326] Instead of filling out an analysis of Mr. Conn's child claimants based on these factors, Dr. Adkins signed the same RFC he signed for Mr. Conn's adult claimants. This produced the odd result in which Dr. Adkins claimed that he carefully examined whether ;children could "deal with work

[322] April 4, 2013 Committee interview of Dr. Brad Adkins.
[323] Psychological Evaluation by Dr. Brad Adkins, CLF015807-18. Exhibit 47.
[324] April 4, 2013 Committee interview of Dr. Brad Adkins.
[325] See Social Security Administration Childhood Disability Evaluation Form, https://secure.ssa.gov/apps 10/poms/images/SSA5/G-SSA-538-1.gif.pdf.
[326] *Id.*

stress" and "relate to co-workers." For example, in one instance, Dr. Adkins rated a seven-year-old boy as "fair" with regard to "follow work rules" and "relate to co-workers."[327]

Other Report Issues. While Dr. Adkins's reports stated he spent 3.5 hours with each claimant, he later explained to the Committee that was a typo in all his reports due to the use of a common template.[328] In reality, he explained, his visits with the claimants were much shorter.

When asked what he believed the RFC was used for, Dr. Adkins stated he did not know and believed it was only used by the lawyer. He claimed he was unaware the document was reviewed or relied on by an administrative law judge to award disability benefits.[329] In explaining he stated, "if I am guilty of anything, it is of being naïve."[330]

SSA contacted Dr. Adkins in March 2013 and told him he would no longer be asked to review and evaluate disability claimants for the State of Kentucky. Dr. Adkins does, however, continue to review and evaluate claimants for attorneys, though no longer for Mr. Conn.[331]

iv. Dr. Srinivas Ammisetty

Dr. Srinivas Ammisetty, according to Mr. Conn's website, is an "independent medical examiner who regularly performs evaluations, file reviews, and completes reports for Eric C. Conn Law Firm."[332] The Committee reviewed 10 of the medical opinions by Dr. Ammisetty submitted in support of claims before Judge Daugherty.

Dr. Ammisetty received his medical degree from Guntur College in India. He specializes in internal medicine, pulmonary medicine, and sleep disorders, and practices in Stanville, Kentucky, and has privileges in all the hospitals in the surrounding area.[333] Dr. Ammisetty told the Committee that Mr. Conn requested he perform disability evaluations initially in 2003, but Dr. Ammisetty declined. Mr. Conn approached him again in 2010 when his primary doctor, Dr. Huffnagle, passed away.

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[327] Psychological Evaluation by Dr. Brad Adkins, CLF019495-501. Exhibit 47.
[328] This explained how, for example, on July 17, 2007; November 29, 2007; and December 6, 2007 Dr. Adkins evaluated four claimants each day spending a total of 14 hours with the claimants. The following exams were dated July 17, 2007: CLF025065-76; CLF030115-27; CLF030146-57; and CLF030159-70. The following exams were dated November 29, 2007: CLF024291-302; CLF025901-12; CLF025989-99; and CLF028471-82. The following exams were dated December 6, 2007: CLF025888-99; CLF027717-23; CLF027758-68; and CLF028604-15. Exhibit 47.
[329] April 4, 2013 Committee interview of Dr. Brad Adkins.
[330] *Id.*
[331] *Id.*
[332] The Eric C. Conn Law Firm, http://hegetsthejobdone.com/?p=230 (last visited Nov. 21, 2012).
[333] April 4, 2013 Committee Interview of Dr. Srinivas Ammisetty.

Dr. Ammisetty told the Committee that Mr. Conn said he had a backlog of cases because of Dr. Huffnagle's death, and Dr. Ammisetty agreed to handle them.[334] While Mr. Conn asked Dr. Ammisetty to review the claimants in Mr. Conn's office, Dr. Ammisetty said that he refused. Instead, Dr. Ammisetty insisted he review the claimants in his medical office and said that he never visited Mr. Conn's Law Firm to examine claimants.[335]

The medical opinions submitted by Dr. Ammisetty for Mr. Conn's clients included an RFC form. As with other doctors Mr. Conn worked with, the Conn office typically filled out the RFCs and Dr. Ammisetty signed them.[336] Dr. Ammisetty told the Committee that he did not complete the RFC forms himself because he was not trained to perform such assessments, and because he did not have the necessary equipment in his office, such as weights, to perform that type of evaluation.[337] Dr. Ammisetty told the Committee that, in response, Mr. Conn asserted he had "a team of occupational therapists at his law firm who reviewed the claimants' medical files, interpreted Dr. Ammisetty's findings, and prepared the RFCs." Dr. Ammisetty indicated that he never met, nor knew the name, of any occupational therapist used by Mr. Conn to prepare the RFCs, but based on Mr. Conn's assertion, Dr. Ammisetty signed the RFCs.[338] Dr. Ammisetty told the Committee that he never requested that any of the RFCs be changed prior to his signing them.

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[334] *Id.*
[335] *Id.*
[336] *Id.*
[337] *Id.*
[338] *Id*; see also The Conn Law Firm's RFC form signed by Dr. Ammisetty. Exhibit 48.

The Committee reviewed 10 medical opinions signed by Dr. Ammisetty for cases before Judge Daugherty. Of those, nine contained pre-filled RFC forms identical to those submitted by other doctors used by Mr. Conn.

RFCs Signed by Dr. Ammisetty for Cases before Judge Daugherty

RFC Version	Lifting / Carrying	Standing/Walking	Sitting / Without Interruption	Number of Claimants with same RFC
1	8 pounds / 5 pounds	3 hours / 30 minutes	4 hours / 30 minutes	2
2	10-15 pounds / 4-5 pounds	2-3 hours / 30 minutes	3-4 hours / 15-20 minutes	1
3	8-10 pounds / 5 pounds	2-3 hours / 15-30 minutes	3 hours / 30-45 minutes	2
5	10 pounds / 5 pounds	1 hour / 20 minutes	5 hours / 30 minutes	2
6	10 pounds / 5 pounds	2 hours / 30 minutes	4 hours / 30 minutes	1
8	15-20 pounds / 10 pounds	2-3 hours / 30 minutes	3 hours / 30 minutes	1
			Total	**9**

Just as cited above, the RFC asked the signing doctor to rate the ability for each claimant to perform 22 activities by checking a box associated with of the following responses: never; occasionally; frequently; or constantly. The 22 activities listed were: climbing; balancing; stooping; crouching; kneeling; crawling; reaching; handling; feeling; pushing/pulling; seeing; hearing; speaking; heights; moving machinery; temperature extremes; chemicals; dust; noise; fumes; humidity; and vibration. All of these categories were marked in the exact same manner, as described above with other doctors.

The remaining RFC was handwritten by Dr. Ammisetty, while the above nine were computer generated.

To prepare his opinion of each claimant, Dr. Ammisetty told the Committee that he spent from 5 to 40 minutes with each individual. He said he typically reviewed the patient's past medical history, which was provided to him by Mr. Conn's office staff, and dictated a summary of the claimant's conditions based on the information in the file.[339] He said he used information from the claimants' files to determine what questions he would ask, and he sometimes performed a physical exam if it was needed. If the claimant had no medical records, Dr. Ammisetty recorded the claimant's medical history based on the information provided. Dr. Ammisetty stated he never performed any additional

[339] *Id.*

medical testing, but said he could look at the patients and tell what their conditions were.[340] He charged Mr. Conn $400 to review each claimant.

Dr. Ammisetty stated that he stopped performing exams for Mr. Conn in October 2011, because he was too busy, and also because of the news coverage Mr. Conn was receiving.[341]

SSA Reviewed Dr. Ammisetty's Opinions. In the SSA Division of Quality report mentioned above, the agency audited 12 cases in which Dr. Ammisetty provided independent medical opinions on behalf of Mr. Conn.[342]

The agency's report made several findings regarding Dr. Ammisetty's medical evaluations, including that the doctor consistently copied and pasted material from the claimant's other medical records. It noted that Dr. Ammisetty typically copied background information on the claimant and findings from prior consultative examination reports from doctor opinions procured by the Disability Determination Services.[343] It also noted that Dr. Ammisetty never cited the prior exam as the source, but instead passed the findings off as his own.[344] In addition, the reports he copied always found the claimant was physically capable of more activity and less restricted than Dr. Ammisetty would ultimately conclude in his findings.[345] The use of copy and paste insertions also suggested to the Division of Quality that Dr. Ammisetty's examinations were incomplete or that he may have failed to examine the claimant at all.[346] Such a finding is consistent with Dr. Ammisetty telling the Committee that he dictated his medical opinions from prior medical evidence.[347]

The agency noted "on at least one occasion, Dr. Ammisetty copied from multiple independent consultative examination reports, which produced internally inconsistent notes, such as reporting in one sentence no previous surgery, then reporting another sentence a recent surgery."[348] Finally, the Division of Quality report noted that other medical evidence in the record did not support Dr. Ammisetty's findings of disability, and his ultimate conclusions were not supported by substantial evidence.[349]

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[340] *Id.*
[341] *Id.*
[342] Social Security Administration, DRAFT: Report of the Division of Quality's Review of Decisions Issued by the Huntington, WV Hearing Office, August 15,2011, PSI-SSA-95D2-044759. Exhibit 46.
[343] *Id.*
[344] *Id.*
[345] *Id.*
[346] *Id.*
[347] April 4, 2013 Committee interview of Dr. Srinivas Ammisetty.
[348] *Id.*
[349] *Id.*

Judge Daugherty adjudicated all 12 cases reviewed by the Division of Quality and awarded disability benefits to each claimant over the span of two days.[350] The Division report noted that Judge Daugherty relied exclusively on Dr. Ammisetty's reports, never cited any other evidence, and always included the same stock language, which appeared in a different font from the rest of the opinion: "having considered all of the evidence, I am satisfied that the information provided by Dr. Ammisetty most accurately reflects the claimant's impairments and limitations. Therefore, claimant is limited to less than sedentary work at best."[351]

A separate SSA memorandum documented another agency review of nineteen disability determinations where Dr. Ammisetty's submitted medical reports mirrored the information contained in previous consultative examination reports. Again, the memorandum noted the use of copy and paste insertions from past consultative examination reports without crediting the source.[352] The memorandum also stated that the heavy use of copy and paste insertions made it difficult to determine which part of the evaluation included Dr. Ammisetty's notes as opposed to copied content from other sources.[353] Moreover, when a consultative examination was absent from the file, it noted that Dr. Ammisetty's reports were much more cursory and the findings less detailed. In all but one case reviewed, Dr. Ammisetty opined the claimant was completely disabled.[354]

c. Other Doctors Provided Reviews of Claimants at the Request of Mr. Conn

i. Phil Pack, M.S.

Mr. Pack was affiliated with East Kentucky Psychological Services, Inc. during the period of Committee review. The practice had offices in three Kentucky locations: Paintsville, Pikeville, and Harlan. While not a medical doctor, he provided psychological assessments for clients of Mr. Conn, which he submitted as evidence of mental impairments for his clients. Mr. Pack stated he is licensed as a psychologist in the state of Kentucky.[355]

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[350] *Id.*
[351] *Id.*
[352] According to the review, Dr. Ammisetty's use of copy and paste was evident from the following: "verbatim word usage in full narrative paragraphs; matching chronology of the reports; identical medical findings, including blood pressure and weight despite several months or a year between exams; inclusion of identical test results for atypical examinations such as arm measurements; alternating use of "patient" and "claimant" between reports." Social Security Administration, DRAFT: Report of the Division of Quality's Review of Decisions Issued by the Huntington, WV Hearing Office, August 15,2011, PSI-SSA-95D2-044759. Exhibit 46.
[353] *Id.*
[354] *Id.*
[355] April 2, 2013 Committee interview of Mr. Phil Pack, M.S.

Mr. Pack began performing evaluations for Mr. Conn as long as 15 years ago. However, he said the claimants he reviewed at that time were "flat out malingerers"[356] and he called Mr. Conn's office and said they needed to do a better job screening clients because they were not going to like the reports he was sending them. He said Mr. Conn stopped calling him at that point to ask for assessments.[357]

Mr. Pack began performing assessment for Mr. Conn again in the last ten years, and also provided assessment on behalf of the agency. Mr. Conn paid him $225 per exam, while the agency paid $150.[358] He estimated that roughly 80 percent of his work was done for the agency, with 20 percent done on behalf of attorneys, including Mr. Conn.[359]

Mr. Pack stated Mr. Conn never provided him with a template form to sign, and that he was never pressured to change the results of any of his reports.[360]

Agency Analysis of Mr. Pack. The agency also reviewed 30 claimant reports submitted by Mr. Pack, most of which were submitted at the request of Mr. Conn. Mr. Pack, however, also submitted reports on behalf of the agency as well at the DDS level. While the reports appeared to be original, the findings were boilerplate. For example, the agency determined that "of 28 cases in which Mr. Pack provided assessments, he found the claimant had poor ability (markedly limited) in demonstrating reliability 28 times (100%)."[361]

The agency noted in three of the cases reviewed, Mr. Pack was the examining source for both the agency at the DDS level and Mr. Conn at the appeals level. This meant Mr. Pack would be in the unusual situation of reviewing his own work. In one of these cases, Mr. Pack found the claimant not credible when he evaluated the claimant for SSA at the DDS level, but completely credible when he evaluated the same claimant at the request of Mr. Conn on appeal to an ALJ. In another report, Mr. Pack made clear the claimant had a problem with substance abuse at the DDS level, while in his report on the same claimant for Mr. Conn made no mention of such an issue when the case was appealed to an ALJ.[362] Overall, the agency found Mr. Pack's reports for Mr. Conn always found the claimant disabled and unable to work.[363]

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[356] Malingering is a term used to describe the fabrication or exaggeration of symptoms.
[357] April 2, 2013 Committee interview of Mr. Phil Pack, M.S.
[358] *Id.*
[359] *Id.*
[360] *Id.*
[361] Social Security Administration, DRAFT: Report of the Division of Quality's Review of Decisions Issued by the Huntington, WV Hearing Office, August 15,2011, PSI-SSA-95D2-044759. Exhibit 46.
[362] *Id.*
[363] *Id.*

ii. Dr. Syed Ikramuddin

Dr. Ikramuddin received his medical degree in 1964 from Osmania Medical School in India, and came to America as a general surgeon. He first received his license to practice medicine in New York in 1976, and then received his license to practice in Kentucky two years later at which time he began practicing in Prestonsburg, Kentucky.[364]

License Suspended in Kentucky. On December 14, 1994, the Kentucky Board of Medical Licensure ("KBML") suspended Dr. Ikramuddin's license for gross negligence and failure to conform to the "standards of accepted and prevailing medical practice within the Commonwealth of Kentucky."[365] The KBML's decision was based on two separate grievances filed against Dr. Ikramuddin.

The first grievance involved a tonsillectomy performed by Dr. Ikramuddin on a forty-two year old male patient in 1986.[366] The patient died six days later from cardiac arrest due to left arterial tonsillar hemorrhage and secondary shock.[367] KBML determined that not only was tonsillectomy unnecessary, but also Dr. Ikramuddin's actions (or inactions) during and post-surgery were directly responsible for the patient's death.[368] Dr. Ikramuddin inflicted a wound during the surgery that resulted in postoperative bleeding. He then failed to properly manage the bleeding, which resulted in hypovolemic shock and the patient's death.[369]

The second grievance involved Dr. Ikramuddin removing part of a ten-year old female patient's left breast to perform a biopsy.[370] Like the previous case, the Board found the procedure was not medically necessary or even appropriate.[371] Moreover, the Board concluded the patient would never develop a normal breast as a result of the operation conducted by Dr. Ikramuddin.[372]

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[364] Ky. Rev. Stat. Ann. § 311.595(8)(1994); Ky. Bd. of Med. Licensure v. Ikramuddin (Commonwealth of Ky. State Bd. of Med. Licensure Dec. 14, 1994) (agreed order). Sealed Exhibit.
[365] *Id.*
[366] *Id.*
[367] *Id.*
[368] *Id.*
[369] *Id.*
[370] *Id.*
[371] *Id.*
[372] In addition to filing grievances with the KBML, both the female patient and the estate of the male patient filed malpractice suits against Dr. Ikramuddin. The ten-year old girl's claim was settled with Dr. Ikramuddin's insurance carrier for approximately $485,000,[372] while the man's estate won a jury verdict of around $1 million, which was later affirmed by the Kentucky Court of Appeals. *See* Ky. Bd. of Med. Licensure v. Ikramuddin 7 (Commonwealth of Ky. State Bd. of Med. Licensure Dec. 14, 1994) (hearing officer's proposed findings of fact and conclusions of law) at 32-33.

New York Revokes Dr. Ikramuddin's License. As a result of continuing misconduct in Kentucky, Dr. Ikramuddin's license to practice in New York was revoked on November 10, 1997.[373] The New York Board based its decision on a 1997 Order issued by the KBML.[374] The conduct in Kentucky by Dr. Ikramuddin, as indicated by the Order, included: failure to provide appropriate treatment; failure to order appropriate tests; ordering inappropriate tests or treatment; failure to perform adequate physical exams; failure to take adequate patient histories; a lack of basic surgical knowledge; and falsification of a medical record.[375] The Order also documented instances of gross negligence and deviations from the standard of care required in Kentucky.[376]

Dr. Ikramuddin died on December 29, 2011.

iii. The Potter Clinic

According to a former employee of Mr. Conn, the Potter Clinic provided x-rays of Mr. Conn's claimants with no analysis of the actual x-ray. Mr. Conn requested certain clients receive x-rays from the clinic, with the form stating "WE DO NOT WANT THE FILMS READ BY ANYONE!!!!"[377] Once the x-rays were provided to Mr. Conn, he would provide the analysis of the x-ray from disabling descriptions on the Internet of x-ray films. Dr. Huffnagle would then sign the opinion.[378] Some of these descriptions prepared by Mr. Conn, which did not match the x-ray, according to Ms. Slone, were submitted to Judge Andrus to support an on-the-record FIT decision.[379]

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[373] New York Dep't of Health State Bd. for Prof'l Medical Conduct, Determination and Order for Syed Ikramuddin M.D., (Nov. 10, 1997)[hereinafter Revocation Order]. New York law allows the State Board for Professional Medical Conduct (NY Board) to revoke a doctor's license for misconduct committed in other states. Under New York Education Law § 6530(9)(d), if a medical professional licensed in the State of New York has had disciplinary action taken against them by an authorized professional disciplinary agency of another state, and those actions would constitute professional misconduct under New York law, then that professional is subject to disciplinary action by the New York State Board for Professional Medical Conduct. N.Y. Educ. Law § 6530(9)(d), *available at* http://www.health.ny.gov/professionals/office-based_surgery/law/6530.htm

[374] *Id.*

[375] *Id.*

[376] *Id.*

[377] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 20 (Exhibit 16); *see also, e.g.,* CLF031230; CLF031232; CLF031234; CLF031236; and CLF031250. Exhibit 41.

[378] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 20 (Exhibit 16).

[379] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 20 (Exhibit 16).

d. Mr. Conn's Attorney Explained the Use of Supplemental Medical Opinions

Through his attorney, Mr. Conn explained his use of these supplemental medical opinions:

> In certain cases, the Conn Law Firm procures a supplemental ***medical opinion*** in order to advocate for its client and explain why the SSA record supports a favorable decision. Such medical opinions are supplementary only. They are based on the same "medical records" already in the SSA file (sometimes twice) that any SSA medical opinion is based. They are not required and are not procured for every client. Each supplemental medical opinion procured by the Conn Law Firm is submitted to the SSA and stored in the SSA's [database] system.
>
> The decision to procure a supplemental medical opinion is based on factors specific to each case and could include the conclusion by the Conn Law Firm that the underlying medical records don't fully reflect the client's disability, the medical opinion obtained through the SSA assigned doctor is not fulsome, the preference of the SSA decisionmaker, and/or the type of SSA case involved. If during its representation the Conn Law Firm obtains medical records that for some reason were not obtained by the SSA, it is the firm's practice to submit those records to the SSA as well.[380]

Mr. Conn, through his law office, would initially pay for the medical evaluation as required under SSA regulations prohibiting representatives from charging for additional exams. However, contrary to agency rules, each claimant was later required to reimburse the firm for the cost of the examination.[381] To ensure this was the case, Mr. Conn required all of his clients to sign an affidavit stating they would reimburse CLF for the cost of the examination, while another employee filmed the claimant signing the affidavit.[382] Indeed, a document produced by Mr. Conn's law firm noted whether the claimant had signed an affidavit related to their appointment with Dr. Huffnagle.[383]

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[380] May 17, 2012 Letter from Pamela J. Marple, Esq., attorney for Eric C. Conn, to the Permanent Subcommittee on Investigations. Exhibit 9.

[381] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 8 (Exhibit 16). *See also* 20 C.F.R. §404.1720 Fee for representative's service. That provisions mandates the amount of the representative's fee is determined by the agency and "a representative must not charge or receive any fee unless we [the agency] has authorized it, and a representative must not charge or receive any fee that is more than the amount we authorize."

[382] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 8 (Exhibit 16).

[383] See Frederic T. Huffnagle Schedule, CLF033403-04. Exhibit 49.

e. Judge Daugherty Appeared to Rely Exclusively on the Opinions of Mr. Conn's Doctors to Award Disability Benefits

The prior list of doctors is not an exhaustive list of every medical professional hired by Mr. Conn, though they provided a key piece of evidence in overwhelming majority of the cases reviewed by the Committee. Despite problems with the medical evidence they produced, however, Judge Daugherty appeared to rely exclusively on the opinions of these doctors to award benefits to Mr. Conn's clients.

Judge Daugherty's actions are in stark contrast to expectations created by top agency officials for ALJ decision-making. According to agency policy, as laid out in the SSA *Hearings, Appeals and Litigation Law Manual* (''HALLEX''), an ALJ is required to take careful steps each time a case is heard to carefully weigh the evidence and make an accurate decision. Accordingly, it requires every ALJ to include in every decision, "[a] discussion of the weight assigned to the various pieces of evidence in resolving conflicts in the overall body of evidence; e.g., conflicts between treating and nontreating sources, including a statement of which evidence is more persuasive and why."[384] More than a cursory reference to the various pieces of evidence in the case file, this requires ALJs to provide a robust discussion of the weight they assign each piece.

Moreover, if an ALJ is unsatisfied with the amount of medical evidence in the file, he or she can request an additional consultative exam. Only, the additional exams should be requested through official agency channels and be directed to the SSA doctors in each state. HALLEX says "the ALJ may request a CE(s) and/or test(s) through the State agency."[385]

Judge Daugherty did not appear to follow these requirements in cases represented by Mr. Conn. As detailed in the following section, many of these cases involved claimants with little or no medical evidence to support their disability claim. To overcome this problem, Judge Daugherty did not go through the agency, but directly alerted Mr. Conn to the evidence needed to rule in favor of the claimant, which Mr. Conn's doctors then provided.

The interaction between Mr. Conn and Judge Daugherty was the same each month. Once the DB List for the month was created, one of Mr. Conn's employees would call the claimants on the list and request they come to the office for a medical evaluation. Depending on whether

[384] HALLEX I-2-8-25. Writing the Decision. Can be found at http://www.ssa.gov/OP_Home/hallex/I-02/I-2-8-25.html.
[385] HALLEX I-2-5-20. Consultative Examinations and Tests. Can be found at http://www.ssagov/OP_Home/hallex/I-02/I-2-5-20.html.

Judge Daugherty indicated the claimant needed a "mental" or "physical" evaluation would dictate what doctor the claimant was scheduled to see to provide an opinion the claimant was disabled.[386]

When writing his decisions, Judge Daugherty appeared to rely solely on this attorney-bought medical opinion to award disability benefits. Not only did he do this nearly 100 percent of the time for Mr. Conn's clients, but in the decisions reviewed by the Committee he would routinely ignore all of the other evidence in the file, appearing to give it no weight at all. For example, in Huntington Case 74[387] where Mr. Conn provided an opinion by Dr. Huffnagle, Judge Daugherty opined:

> Having considered all the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to sedentary work at best.

This same language was present in most, if not all, of Judge Daugherty's cases. For some opinions, this language was in a different font than the rest of the decision, which could be due to material being copied and pasted into a document.[388] Judge Daugherty then discounted the remainder of the medical evidence by stating:

> The State agency medical consultants physical assessments are given little weight because another medical opinion is more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants.

Judge Daugherty then awarded the claimant disability benefits based solely on the one doctor's opinion who was paid by Mr. Conn, who only examined the patient once. This apparent disregard of the claimant's complete medical records was contrary to program rules and regulations.

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[386] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 7 (Exhibit 16).

[387] The Committee requested certain case files from the Social Security Administration. When the agency produced the case files to the Committee, each case file was assigned a number, which could be referenced but the claimant would remain anonymous.

[388] Social Security Administration, DRAFT: Report of the Division of Quality's Review of Decisions Issued by the Huntington, WV Hearing Office, August 15,2011, PSI-SSA-95D2-044759. Exhibit 46.

f. Analysis of Cases Decided by Judge Daugherty on the "DB Lists"

i. Review of Claimants' Case Files on DB Lists

The Committee reviewed the analysis employed by Judge Daugherty in awarding benefits to the DB List claimants. To do so, the Committee reviewed a total of 110 case files, which included all claimants listed on the first and last full DB lists from January 2007 and July 2010, and additional DB Lists issued within that timeframe. In reviewing these cases, the Committee did not attempt to independently determine whether or not the claimants met the Social Security Administration's criteria for awarding benefits under the disability program. Rather, the Committee assessed the extent to which Judge Daugherty's decisions were supported by the full evidence included in each case file, including all of the medical records, results of consultative examinations, agency evaluations, and the claimants' subjective allegations as indicated on their application and other forms.

ii. Summary Analysis of Findings

Of the 110 cases reviewed, the Committee found reason to question the basis for the vast majority, or 100, of Judge Daugherty's decisions. In these 100 cases, the Committee reviewed all medical evidence available in the claimants' files and in each case, identified either a lack of objective evidence, or conflicting evidence that Judge Daugherty often appeared to ignore. Conversely, the Committee found a total of 10 cases in which Judge Daugherty's decisions to award benefits were supported by the medical evidence of record contained in the claimant's case file. These included two cases in which the claimant's met the medical listing criteria for mental disorders.

Every one of the cases reviewed was decided on-the-record without holding a hearing. Furthermore, geographic waivers which ensured the claim would be routed through the Prestonsburg Field Office, and then appealed to the Huntington ODAR, were present in 30 of these cases.

Furthermore, all but two of the 100 decisions questioned by the Committee were decided based on the agency's Medical-Vocational Guidelines, known as the vocational "grids." In such cases, the claimant's medical conditions alone were not severe enough to meet any of the agency's medical listings. Rather, the determination of disability was based on whether a claimant's medical symptoms caused a sufficient level of functional limitations that, in combination with the claimant's age; education level; transferability of job skills; and

availability of jobs in the national economy; so limited the capacity to work that a determination of disability was warranted.[389]

For example, according to these Guidelines, an individual who cannot lift more than 10 pounds at a time, who cannot stand or walk for at least two hours in an eight hour workday, and who cannot sit for at least six hours in an 8 hour workday, is determined to be capable of "less than sedentary" work.[390] The determination of the level of work an individual is capable of performing is based on an assessment of his or her abilities, as indicated by the Residual Functional Capacity (RFC), which according to Administration guidance identifies what an individual can do, and is based "primarily upon medical evidence, but may also include observation or description of limitations."[391]

Once the individual's RFC is identified, the remaining factors noted above are taken into account to determine whether the individual is disabled. A finding that an individual is capable of performing only sedentary, or less than sedentary work is more likely - once other factors are taken into account - to lead to a finding of disability.

Of greatest concern in the 100 cases in which Judge Daugherty issued questionable decisions was the extent to which he relied exclusively on medical opinions provided by doctors hired by Eric Conn. In doing so, Judge Daugherty failed to account for other evidence in the claimant's files that in many cases, suggested the claimants were capable of working. This included evidence that either directly contradicted those opinions, differed significantly in assessing the severity of the claimant's alleged symptoms and conditions, or that identified other factors, such as the claimant's noncompliance with prescribed medication or physician advice, or indications of drug or alcohol abuse.

Judge Daugherty's reliance on a single piece of evidence to support his decisions stands in direct conflict with agency regulations that guide the evaluation process. Woven throughout SSA regulations is a consistent requirement to consider *all* of the available evidence in the case file.

For example, in describing how the agency is to evaluate symptoms, including pain, regulations state: "In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about how your symptoms affect you."[392]

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[389] 20 C.F.R. Part 404, Subpart P, Appendix 2.
[390] SSR 83-10, Titles II and XVI: Determining Capability to Do Other Work—The Medical Vocational Rules of Appendix II.
[391] DI 24510.001 Residual Functional Capacity (RFC) Assessment - Introduction.
[392] 20 CFR 404.1529 § (a).

Agency policy notes that "...under no circumstances may the existence of an impairment be established on the basis of symptoms alone. Thus, regardless of how many symptoms an individual alleges, or how genuine the individual's complaints may appear to be, the existence of a medically determinable physical or mental impairment cannot be established in the absence of objective medical abnormalities; i.e., medical signs and laboratory findings."[393]

With regard to a claimant's credibility, agency policy states: "It is not sufficient for the adjudicator to make a single, conclusory statement that 'the individual's allegations have been considered' or that 'the allegations are (or are not) credible.' It is also not enough for the adjudicator simply to recite the factors that are described in the regulations for evaluating symptoms. The determination or decision must contain specific reasons for the finding on credibility, supported by the evidence in the case record, and must be sufficiently specific to make clear to the individual and to any subsequent reviewers the weight the adjudicator gave to the individual's statements and the reasons for that weight."[394]

iii. Judge Daugherty Used Templated Language in Written Decisions

In 88 of the 110 decisions reviewed, Judge Daugherty relied on physical evaluations provided by Dr. Huffnagle. In 56 of these cases, Judge Daugherty wrote short decisions in which his description of the claimants' residual functional capacity and his basis for that determination were nearly identical.

The decisions all contained the same four paragraphs, which established the findings from Dr. Huffnagle's medical exams as the sole basis for determining the individual's residual functional capacity. The only part of this section that changed from one claimant to the next was the determination of whether the claimant was capable of *less than sedentary* or *sedentary* work in the second paragraph. For decisions that followed this format, this section of the decision never included analysis of other medical evidence in the claimants' files, as required by the agency.

[393] SSR 96-4p.
[394] SSR 96-7p.

The general template Judge Daugherty used for this section was as follows:

> In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and 416.929 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and 416.927 and SSRs 96-2p and 06-3p.
>
> Having considered all the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to *less than sedentary* work at best.
>
> After considering the evidence of record, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.
>
> The State agency medical consultants' physical assessments are given little weight because another medical opinion is more consistent with the record as a whole and evidence received at the hearing level shows that the claimant is more limited than determined by the State agency consultants.

With the exception of the blanket statement that the medical opinions submitted by providers hired by Mr. Conn best reflected the claimants' conditions, Judge Daugherty provided no additional written explanation to demonstrate his consideration of all of the other evidence included in these cases. This fact is the primary reason why the Committee questioned the basis for Judge Daugherty's decisions in the majority of cases reviewed.

The Committee identified numerous cases in which Judge Daugherty appeared to either overlook or disregard without any explanation significant evidence included in the claimant's case files that called his finding of disability into question. For instance, in a number of cases, additional medical evidence from consultative exams or the claimants' treating physicians called into question the severity of the claimant's conditions. The Committee identified some cases in which Dr.

Huffnagle diagnosed claimants with medical conditions that the claimants' themselves did not identify in their applications, but which then formed the basis for Judge Daugherty's decision. Some case files included evidence of claimant noncompliance with treatment, or evidence of drug and alcohol abuse. While these factors may not have precluded a finding of disability, Judge Daugherty's decisions reflect no indication that he gave such factors the appropriate level of consideration to determine whether the claimants' conditions would warrant a finding of disability regardless.

Section 4 below summarizes one of the cases reviewed by the Committee, illustrative in that it provided an opportunity to compare Judge Daugherty's approach with that of another Administrative Law Judge who evaluated the same claimant. Detailed summaries of a sample of additional cases reviewed by the Committee are presented in Appendix I.

iv. Judge Daugherty Overturned Prior ALJ Decisions

In some cases, Judge Daugherty awarded benefits to claimants who were previously denied by another Administrative Law Judge, but then reapplied. In these cases, the only additional medical evidence provided was from the physicians hired by Mr. Conn. With the exception of those opinions, Judge Daugherty awarded benefits on largely an identical body of evidence that a previous Administrative Law Judge found insufficient to merit a favorable decision.

Generally in such cases, a claimant can file a new application or in some cases re-open an old case, but are not allowed to receive benefits for any time before the date of their previous denial. This prevents someone from receiving benefits for a time period that the agency has already decided a person was not disabled, but allows benefits in the future if circumstances change. As such, when someone reapplies it is typical for them to allege an onset date on the day immediately following the date of the previous ALJ decision.

After being denied benefits again at the initial and reconsideration decisions by the agency, these cases were presented to Judge Daugherty with largely the same body of medical evidence that was reviewed by the previous Judge, with the exception of an additional medical opinion from the physicians hired by Eric Conn.

Case A: On June 1, 2010, Judge Daugherty awarded benefits to a claimant he determined was only capable of performing less than

sedentary work due to sciatica, disc herniation, and diabetes.[395] However, less than a year prior the claimant was denied benefits on a prior application by another judge in the Huntington, West Virginia ODAR.[396] Judge Daugherty's written decision made no mention of the claimant's past application, but instead relied only on the evaluation performed by Dr. Huffnagle, which he again concluded was most consistent with the evidence as a whole.[397] However, the decision did not cite or discuss any other evidence from the file that would support that finding.[398]

On August 27, 2009, less than a year before, Administrative Law Judge Andrew Chwalibog denied benefits to the claimant, concluding that while he could not return to his previous job, "the claimant is capable of making a successful adjustment to other work that exists in significant numbers in the national economy. A finding of 'not disabled' is therefore appropriate ..."[399] Judge Chwalibog's decision contained a detailed examination of the medical evidence and determined that despite having several severe limitations, including obesity, he did not meet the requirements of the program.[400]

His detailed, nine-page decision made 57 references to the claimant's medical exhibits, and assigned weights to the opinion of various sources.[401] Of particular importance was the evidence Judge Chwalibog gained from the hearing he held on June 9, 2009.[402] For example, while the claimant said that his right foot was a major problem, the judge wrote, "the claimant did not mention his right foot during the hearing. Therefore, the undersigned finds the claimant's tendonitis of the right foot does not constitute a severe impairment."[403]

Judge Chwalibog also referred to the testimony of a vocational expert who testified, "that given all of these factors the individual would be able to perform the requirements of representative occupations nationally/regionally at the light level."[404]

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[395] See Exhibit A-1, June 1, 2010 Decision, Administrative Law Judge David B. Daugherty at 3 and 5.
[396] See Exhibit A-2, August 27, 2009 Decision, Administrative Law Judge Andrew J. Chwalibog at 9.
[397] See Exhibit A-1, June 1, 2010 Decision, Administrative Law Judge David B. Daugherty at 3-4.
[398] *Id.* at 3-4.
[399] *See* Exhibit A-2, August 27, 2009 Decision, Administrative Law Judge Andrew J. Chwalibog at 9.
[400] *Id.* at 3-9.
[401] *Id.* at 3-8.
[402] *Id.* at 1.
[403] *Id.* at 4.
[404] *Id.* at 9.

Four days after the decision, on August 31, 2009, the claimant hired Eric Conn as his attorney and applied for benefits once more.[405] The claimant changed his alleged onset date from July 2007, as it was in his prior application, to August 25, 2009 – a date two days *prior* to the Chwalibog denial.[406] He listed the same conditions for which he had just been denied, including, "type 2 diabetes, back pain, neck pain, herniated discs in back, muscle spasms, fatigue, depression, anxiety, nervousness, trouble sleeping, tendonitis in right foot, and hypertension."[407]

When the agency considered the new application, documents note that no new medical evidence was submitted, and as a result, the initial decision was denied on November 9, 2009.[408] The examining official wrote: "This claimant has a residual functional capacity for light work, is a younger individual, has a high school education, and work experience ... There are a significant number of occupations for which this claimant qualifies ... Since the claimant has the capacity to perform other work, disability is not established."[409] This decision to deny benefits was upheld on March 8, 2010 upon reconsideration by the agency.[410]

Claimant Added to DB List. Following the reconsideration decision, the claimant requested an ALJ hearing on March 24, 2010.[411] Mr. Conn and Judge Daugherty also placed the claimant on the May 2010 "DB List."[412]

On April 27, 2010, the claimant was seen by Dr. Huffnagle.[413] The exam notes indicate that the claimant's current medical symptoms or problems included: "low back pain with left hip pain," which he added, "came on gradually over time."[414] Dr. Huffnagle diagnosed the claimant with "sciatica, possible L4-L5 disc herniation, and diabetes" with no mention of the claimant's right foot in the diagnosis.[415] On the same day, he signed Conn Law Office RFC version #4.[416]

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[405] *See* Exhibit A-3, August 31, 2009 Appointment of Representative and Fee Agreement at 1-2 and see Exhibit F-4, Disability Report – Adult Form SSA-3368 at 9.
[406] *See* Exhibit A-2, August 27, 2009 Decision, Administrative Law Judge Andrew J. Chwalibog at 1 and see Exhibit A-4, Disability Report – Adult Form SSA-3368 at 2.
[407] *Id.* at 2.
[408] *See* Exhibit A-5, October 5, 2009 Request for Medical Advice at 1; Exhibit A-6, March 5, 2010 Physical Residual Functional Capacity at 2 and see Exhibit A-7, November 10, 2009 Notice of Disapproved Claim.
[409] *See* Exhibit A-8, Simplified Vocational Rationale at 1.
[410] *See* Exhibit A-9, March 5, 2010 Notice of Reconsideration at 1.
[411] *See* Exhibit A-10, Request for Hearing by Administrative Law Judge at 1.
[412] Exhibit A-11, DB OTR List (May) CLF030713.
[413] *See* Exhibit A-12, April 27, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 1.
[414] *Id.* at 1.
[415] *Id.* at 4.
[416] *Id.* at 5-8.

Claimant Awarded Benefits. Judge Daugherty's fully favorable decision a month later on June 1, 2010 found that the claimant's severe and disabling limitations were "sciatica, disc herniation and diabetes" – the same identified by Dr. Huffnagle; although Judge Daugherty dropped the adjective "possible" from Dr. Huffnagle's description of the claimant's disc herniation.[417]

His decision failed to mention how the claimant had previously applied and was denied, and instead gave exclusive weight to the exam performed by Dr. Huffnagle, writing: "Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best" and therefore disabled according to the Medical Vocational Guidelines.[418]

[417] *See* Exhibit A-1, June 1, 2010 Decision, Administrative Law Judge David B. Daugherty at 2.
[418] *Id.* at 3-5.

XI. ALJS, LAWYERS, AND DOCTORS ALL PERSONALLY BENEFITED FROM THE APPROVAL OF HIGH NUMBERS OF CLAIMS

As Huntington ODAR became one of the top producing hearing offices agency employees, Mr. Conn, and his doctors enjoyed a range of personal benefits. For Huntington ODAR management and ALJs, these included financial bonuses as well as increased stature within SSA.[419] For Mr. Conn and the doctors he hired, the financial benefits were significant, earning them millions of dollars as their clients were approved for disability benefits."

a. Mr. Conn Earned Over $4.5 Million in Attorney Fees From the DB Lists and Became the Third Highest Grossing Disability Attorney Nationwide

Mr. Conn's work representing claimants seeking to receive disability benefits proved to be a lucrative choice, earning him millions of dollars. Based on a review of DB Lists dated June 2006 through July 2010, the chart below provides the number of claimants listed in each list and the total amount Mr. Conn earned each month in fees from the Social Security Administration for the claimants on each list.

Year	No. of Claimants on DB List	Amount Paid by SSA in Fees
2006	227	$ 637,947.46
2007	535	$1,314,710.90
2008	437	$ 987,913.63
2009	365	$ 888,162.06
2010	259	$ 679,508.18
Total	**1,823**	**$4,508,242.23**[420]

Total Earnings by Mr. Conn. In a newspaper interview from 2005, Mr. Conn stated that he "saw a lot of people practicing Social Security law, but you can either do it or do it well. It's a very complicated area, and I saw a need that I needed to fill. Some attorneys don't understand all areas in which people can win. I didn't plan to become the Social Security lawyer, but it seemed to fit."[421]

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[419] The Huntington ODAR sought to be recognized by the agency for its processing of cases in its request to receive the Team Award in 2010. In its submission, the office noted "[t]he Huntington Hearing Office provides its claimants with the one-two punch of 2.93 dispositions daily per ALJ along with an extremely fast average processing time of 180 days." Huntington ODAR Submission for Team Award nomination. Exhibit 50.

[420] Claimants and amounts obtained by Mr. Conn through the DB Lists are broken down by month in Appendix II.

[421] Attorney, Eric Conn, "Eric C. Conn, Beyond the Billboard," Excerpts from the Medical Herald Leader, 8/8/2005, www.mrsocialsecurity.com.

Over the years, Mr. Conn became increasingly successful in winning cases for his disability practice. In 2001, the agency paid Mr. Conn $87,738.13 in attorney fees based on his successful representation of disability claimants.[422] The amount Mr. Conn received in total attorney fees peaked in 2010 when he received over $3.9 million from the agency.[423]

Year	Amount Mr. Conn Received in Attorney Fees from SSA[424]
2001	$ 87,738.13
2002	$ 681,915.44
2003	$ 989,277.81
2004	$ 941,726.83
2005	$ 1,341,003.42
2006	$ 1,602,234.57
2007	$ 1,917,092.29
2008	$ 2,469,665.75
2009	$ 3,539,054.22
2010	$ 3,987,906.82
2011	$ 1,855,630.20
2012	$ 2,223,904.55
2013 to date	$ 1,062,436.62
Total	**$ 22,699,586.65**

The amount received in fees by Mr. Conn dropped following an article by *The Wall Street Journal* in May 2011 exposing Mr. Conn's practices and the retirement of Judge Daugherty.

b. Judge Daugherty's Financial Records Include Unreported Income from An Undisclosed Source

Judge Daugherty played a critical role in Mr. Conn's ability to represent a large number of disability claimants, process their cases quickly, and obtain millions of dollars in attorney fees from SSA each year.

Under the Ethics in Government Act, ALJs are required to file annual Public Financial Disclosure Reports reporting their income, assets, and outside activities.[425] The Office of Government Ethics ("OGE") has explained in its related guidance that the purpose of the disclosure forms is to ensure compliance with conflict of interest laws and standards of conduct.[426]

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[422] Information provided by the Social Security Administration.
[423] *Id.*
[424] Information provided by the Social Security Administration.
[425] *See* 5 U.S.C. 101-11.
[426] Specifically, the form is designed to: "A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Ethics in Government Act or permitted public access to reports must be given sufficient information by reporting individuals concerning the nature of their outside interests and activities so that an

Each year, ALJs, like many other federal employees, are required to submit OGE Form 278 and disclose "certain interests in property and items of income."[427] The reported items include, among other things, any income earned other than a govrnment salary over $200 and any outside "compensation" or "gift."[428]

Unexplained Cash Deposits. For the seven-year period 2005 to 2011, while Judge Daugherty reported bank accounts in the name of himself and his wife, he did not report any income, comrensation, or gifts outside of his government salary and benefits.[42] From 2005 to 2010, he reported no transactions; gifts, reimbursements, travel expenses; liabilities; agreements or arrangements; positions held outside U.S. government; or compensation in excess of $5,000 paid by one source. In 2011, he reported the purchase of a condominium in Myrtle Beach, South Carolina valued at $50,000-$100,000 and a 50% interest in a "House & Lot" in Huntington, West Virginia valued at $50,000-$100,000. That same year he also reported mortgages related to both properties as liabilities.[430]

Records obtained by the Committee regarding Judge Daugherty's bank accounts raise questions, however, regarding certain unexplained cash deposits. Over the course of nine years, his bank records list a series of cash deposits totaling $69,800, the .source of which is unexplained in the judge's financial disclosure forms. "Given the value and frequency of these cash deposits, it would appear disclosure of the existence and source of these deposits may have been required.

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informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations." Instructions for Completing OGE Form 278, http://www.oge.gov/Forms-Library/OGE-Form-278-Automated-CPDF)/.

[427] Instructions for Completing OGE Form 278, http://www.oge.gov/Forms-Library/OGE-Form-278-Automated-CPDF)/.

[428] Other items to be disclosed include: any asset owned for investment worth more than $1,000; any "purchase, sale, or exchange" "of any real property, stocks, bonds, commodity futures, or other securities" worth more than $1,000; "gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $350; 'travel-related cash reimbursements received from one source totaling more than $350; any "liabilities over $10,000 owed to any one creditor;" any "agreements or arrangements for continuing participation in an employee benefit plan, continuation of payment by a former employer, leaves of absence, and future employment; any positions held outside federal employment, regardless of whether the position is paid; and "sources of more than $5,000 compensation received ...for services provided" by the individual.[428] *See* Instructions for Completing OGE Form 278, http://www.oge.gov/Forms-Library/OGE-Form-278-Automated-CPDF)! .

[429] In certain years, Judge Daugherty reported he owned automobiles and a boat. *See* 2005-11 Executive Branch Personnel Public Financial Disclosure Reports for David B. Daugherty. Sealed Exhibit.

[430] *See* 2011 Executive Branch Personnel Public Financial Disclosure Report for David B. Daugherty. Sealed Exhibit

Bank records show that Judge Daugherty made the $69,800 in cash deposits into either a savings account opened in his name only or into a joint checking account he shared with his wife. [431]

Cash Deposits Made to Judge Daugherty's Accounts

Date	Amount	Account
09.30.03	$ 1,000	Savings Account
10.06.03	$ 1,000	Savings Account
10.28.04	$ 5,000	Savings Account
11.26.04	$ 4,000	Savings Account
01.31.05	$ 2,900	Savings Account
02.16.06	$ 1,500	Savings Account
02.24.06	$ 3,000	Savings Account
06.09.08	$ 2,000	Joint Checking Account
06.09.09	$ 2,000	Joint Checking Account
06.10.09	$ 2,000	Joint Checking Account
07.20.09	$ 3,000	Joint Checking Account
08.24.09	$ 2,000	Joint Checking Account
08.24.09	$ 2,000	Joint Checking Account[432]
09.24.09	$ 2,500	Joint Checking Account
09.24.09	$ 1,500	Joint Checking Account
09.24.09	$ 2,000	Joint Checking Account[433]
05.15.10	$ 2,000	Joint Checking Account
07.02.10	$ 3,000	Joint Checking Account
07.08.10	$ 3,000	Joint Checking Account
08.19.10	$ 400	Savings Account
09.28.10	$ 1,000	Joint Checking Account
10.19.10	$ 4,000	Savings Account
10.25.10	$ 4,000	Savings Account
11.09.10	$ 4,000	Savings Account
11.10.10	$ 2,000	Savings Account
11.16.10	$ 4,000	Joint Checking Account
11.16.10	$ 4,000	Savings Account
01.21.11	$ 1,000	Savings Account
Total Amount of Cash Deposits to Both Accounts		**$ 69,800**

Very few cash deposits were made into either account during the years 2007 and 2008. During that same period, however, similar cash deposits were made to the personal checking account of Judge Daugherty's daughter, Amy Daugherty.[434] Bank records show that those cash deposits were made primarily between July 2007 and October 2008, the same period during which she was running for the office of Cabell

[431] Committee analysis of records provided by Judge Daugherty's financial institutions. Sealed Exhibit.
[432] The two cash deposits made on August 24, 2009 were made 17 minutes apart and at different tellers. Sealed Exhibit.
[433] The three cash deposits made on September 24, 2009 were all made within 17 minutes and at different tellers. Sealed Exhibit.
[434] Committee analysis of records provided by Ms. Daugherty's financial institutions. Sealed Exhibit.

County, West Virginia Magistrate in an election scheduled to take place in November 2008.

The bank records list cash deposits to Ms. Daugherty's account that, together, total another $26,200. The bank records also show that, on most occasions after receiving a cash deposit, Ms. Daugherty wrote a check for a similar amount to "Trish Burns," who was then serving as her Campaign Manager. Campaign financial statements filed by Amy Daugherty with the State of West Virginia list Tresha or Trisha Burns as the campaign's Treasurer.[435] Ms. Daugherty's campaign financial statements also indicated she loaned money to her campaign, memorialized in corresponding promissory notes.[436]

Transactions from Amy Daugherty's Personal Checking Account

Date	Amount	Description of Transaction
07.06.07	$ 4,000	Cash Deposit
07.06.07	$ 2,800	Amy Daugherty check to Judge Daugherty
07.20.07	$ 4,000	Cash Deposit
07.23.07	$ 4,000	Amy Daugherty check to Trish Burns
07.24.07	$ 4,000	Promissory Note for Loan to Campaign
10.11.07	$ 1,000	Cash Deposit
10.11.07	$ 1,000	Amy Daugherty check to Trish Burns
10.15.07	$ 1,000	Promissory Note for Loan to Campaign
10.29.07	$ 2,000	Cash Deposit
10.29.07	$ 2,000	Amy Daugherty check to Trish Burns
10.30.07	$ 2,000	Promissory Note for Loan to Campaign
03.07.08	$ 2,600	Cash Deposit
03.07.08	$ 2,700	Amy Daugherty check to Trish Burns
03.11.08	$ 2,700	Promissory Note for Loan to Campaign
04.11.08	$ 3,000	Cash Deposit
04.11.08	$ 3,000	Amy Daugherty check to Trish Burns noting "Loan to Committee to elect Amy Daugherty"
04.14.08	$ 3,000	Promissory Note for Loan to Campaign
04.15.08	$ 3,000	Cash Deposit
04.15.08	$ 3,000	Amy Daugherty check to Trish Burns noting "Loan to Committee to elect Amy Daugherty"
04.17.08	$ 3,000	Promissory Note for Loan to Campaign
04.21.08	$ 2,000	Cash Deposit
04.21.08	$ 2,000	Amy Daugherty check to Trish Burns noting "Loan to Committee to elect Amy Daugherty"
04.22.08	$ 2,000	Promissory Note for Loan to Campaign
05.27.08	$ 1,000	Promissory Note for Loan to Campaign
10.01.08	$ 2,000	Cash Deposit
10.01.08	$ 2,000	Amy Daugherty check to Trish Burns noting "Loan to Committee to elect Amy Daugherty"
10.01.08	$ 2,000	Promissory Note for Loan to Campaign
12.21.10	$ 900	Cash Deposit
02.25.11	$ 1,700	Cash Deposit
Total Amount	**$26,200**	

[435] See State of West Virginia Campaign Financial Statement (Long Form) in Relation to the 2008 Election Year Reports filed by Amy Daugherty. Exhibit 51.
[436] *Id.*

Amy Daugherty's campaign was unsuccessful. Her final campaign filing reported that her campaign had received $17,790 in total contributions and expended a total of $37,095.05. The filing also stated that the campaign owed an outstanding loan balance to Amy Daugherty of $19,700.[437] Once Ms. Daugherty's campaign ended in November 2008, the cash deposits to her personal account also mostly ended. At that same time, the cash deposits resumed appearing in the bank records of Judge Daugherty.

The total amount in unexplained cash deposits from the accounts held by both Judge Daugherty and his daughter was $96,000. The Committee was unable to determine the origin of the cash deposits or why they were not reported on Judge Daugherty's financial disclosure forms. When questioned by the Committee about the cash deposits, Mr. Daugherty refused to explain the source of the cash or to answer other questions about the deposits.[438]

Mr. Conn Conducted Certain Business in Cash. When the Committee asked Mr. Conn about his use of cash, his legal counsel indicated that Mr. Conn's law firm routinely maintained cash on hand and that "a variety of business expenses were paid for in cash." His legal counsel also disclosed that, "until very recently, the Conn Law Firm did not have a company credit card,"[439] which presumably also led to the law firm dealing in cash payments.[440]

Documents produced by the Conn Law Firm indicated petty cash was used to reimburse employees when items were purchased for use by the firm.[441] Bank records also indicated Mr. Conn's law firm made regular cash withdrawals from its accounts, usually in increments of $9,000 to $10,000 up to twice a month.[442] The funds were typically described as needed for "petty cash" expenses. In fact, from November 2005 to May 2011, Pat Conn of Mr. Conn's Law Office withdrew a total of $616,500 in cash through checks drawn on the law firm accounts, with every check noting that the funds were to be used for "petty cash."[443]

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[437] *Id.*
[438] September 18, 2013 email from David B. Daugherty to the Committee.
[439] May 17, 2012 Memorandum from Pamela J. Marple, Esq., attorney for Eric C. Conn, to the Permanent Subcommittee on Investigations. Exhibit 9.
[440] At least one bank, however, produced documents indicating as early as July 2007, Mr. Conn held a "business card" in the name of "Eric Conn PSC" with the address of 12407 S US HWY 23, Stanville, Kentucky, the address of his firm. Sealed Exhibit.
[441] The majority of receipts for petty cash appeared to be for office supplies, catering, and gas for vehicles. Exhibit 52.
[442] Committee analysis of records produced by Mr. Conn's financial institution. Sealed Exhibit.
[443] See Appendix III.

c. Mr. Conn's Doctors were Paid for Providing Medical Opinions

Doctors and medical professionals hired by Mr. Conn to examine his clients and provide opinions for use in disability claims were paid large sums of money for the services they performed. At times, this required minimal effort by some of the doctors, including signing forms previously filled out by Mr. Conn and passing off as their own previous reports filed by other doctors.

Medical Professional	Date Range of Payments	Amount Paid by Mr. Conn[444]
Frederic Huffnagle, M.D.	January 2006 to September 2010	$ 979,782
David Herr, D.O.	March 2008 to February 2012	$ 600,465
Dr. Brad Adkins, Ph.D.	January 2006 to October 2011	$ 198,800
Phil Pack, M.S.	November 2006 to April 2011	$ 110,190
Srini Ammisetty, M.D.	May 2009 to February 2012	$ 41,300

d. Huntington ODAR Employees Received Bonuses and Salary Increases

As a self-professed "numbers guy" specifically hired by Judge Andrus, Mr. Hall, the hearing office director, received several bonuses for moving cases through the Huntington ODAR. In total, from 2006 to 2010 Mr. Hall received $11,432 in bonuses and awards. This was in addition to his salary that reached as much as $112,804.[445]

As early as 2000, Judge Andrus noted in the description of Mr. Hall's accomplishments and contributions on the awards nomination form that Mr. Hall "has made major contributions to the efficient running of the Huntington Hearing Office."[446] In nominating Mr. Hall for his 2006 bonus, Judge Andrus emphasized Mr. Hall's ability to motivate staff to move cases through the Huntington ODAR.[447]

[444] Committee analysis of records produced by Mr. Conn's financial institution. Sealed Exhibit.
[445] Information provided by the Social Security Administration.
[446] ROC/CAS/OTS Awards Nomination Form for Gregory Hall, period covered 10/1/00 to 9/30/01. Exhibit 53.
[447] Specifically, Judge Andrus noted "insures that our reports are timely and accurate, and his use of management information is excellent." ROC/ECSA/ERA Awards Nomination Form for Greg Hall, period covered 10/05 to 9/06. Exhibit 53.

Greg Hall, Hearing Office Director, Salaries and Awards[448]

Year	Salary	Award Amount
2006	$ 96,286	$ 1,300
2007	$ 98,026	$ 2,132
2008	$ 104,018	$ 1,650
2009	$ 107,681	$ 3,150
2010	$ 112,804	$ 3,200

Mr. Hall also received national agency recognition, as the agency looked to him to help train other hearing office directors. In 2007, Mr. Hall "serve[d] on the the Hearing Office Director's National Training Cadre; he helped to establish and organize the original national training packet for new Hearing Office Directors."[449]

At the same time, the ALJs in the Huntington Office received high salaries in a city where the median household income is $28,483.[450]

Annual Salaries for Certain Huntington ODAR Administrative Law Judges[451]

ALJ	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Charlie P. Andrus	$148,526	$151,163	$155,736	$161,226	$164,048	$164,048
David B. Daugherty	$148,526	$151,163	$155,736	$161,226	$164,048	$164,048
William H. Gitlow	$148,526	$151,163	$155,736	$161,226	$164,048	$164,048
Algernon W. Tinsley	$107,457	$117,596	$126,157	$129,931	$145,896	

Judge Andrus also enjoyed national recognition for the quick processing times at Huntington ODAR and was promoted to Assistant Regional Chief Administrative Law Judge in March of 2009.[452]

He was also tapped by the Agency to mentor other ALJs in a number of ways. Judge Andrus "was selected to serve as an instructor to the national Electronic Business Process training cadre, training in seven different offices around the country…Additionally, in November 2010, Judge Andrus served as a panel member to interview and recommend new judges to be hired by the Agency." [453] After the new ALJs were hired, "Judge Andrus served as instructor for [] two separate classes designed to teach the new hires how to become an ALJ for the Agency."[454]

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[448] Information provided by the Social Security Administration.
[449] Huntington ODAR Submission for Team Award nomination. Exhibit 50.
[450] United States Census, Quickfacts, Huntington, West Virginia, http://quickfacts.census.gov/qfd/states/54/5439460.html
[451] Information provided by the Social Security Administration.
[452] March 18, 2009 Memorandum from Jasper J. Bede, Regional Chief Administrative Law Judge – Region III to All Region III HOCALJs. Exhibit 54.
[453] Huntington ODAR Submission for Team Award nomination. Exhibit 50.
[454] *Id.*

XII. THE AGENCY FAILED TO PREVENT ABUSES OF THE DISABILITY PROGRAMS IN HUNTINGTON ODAR

Despite the numerous abuses to the disability program by certain judges, lawyers and doctors, agency officials did little or nothing to stop them. The Committee investigation found agency officials were aware of many of the abuses as they were happening. These abuses included failing to comply with agency time and attendance rules and ignoring agency rules and regulations in deciding disability cases.

a. Judge Daugherty's Time and Attendance Problems Overlooked

According to Huntington ODAR staff, Judge Daugherty's time and attendance was a constant source of tension in Huntington ODAR and was found to be a problem by high-level agency officials. Since as early as 1997, Judge Daugherty would routinely sign in to work, but then leave immediately. He would later return to the office to sign out as if he had been in the office for an entire work day. However, despite knowing about this problem, and even documenting it thoroughly, agency officials failed to put a stop to it while Judge Daugherty wrote a high volume of decisions.

Many of the disputes over Judge Daugherty's time and attendance problems centered on time sheets used by ALJs to sign in and out of the office each day. Unlike other employees at Huntington ODAR, ALJs are required under their contract with SSA to use sign-in sheets for the times they are in the office. Stemming from the independent nature of their work ALJs were not eligible for performance bonuses, but were instead allowed to earn extra leave if they worked longer hours. It was therefore important to accurately record the hours an ALJ worked.

According to a number of staff, it was a running office joke that if you were looking for Judge Daugherty, you should not look in his office.[455] When questioned about where they believed Judge Daugherty spent his days away from the office, staff and other ALJ's said they did not know.

The time and attendance problems grew to such a level that Judge Daniel Kemper, another ALJ within Huntington ODAR, filed allegations of misconduct against Judge Daugherty with the agency's Office of Inspector General. Judge Kemper believed because Judge Daugherty decided a high number of cases, which made the Huntington office look

[455] July 25-27, 2011 Committee interviews of Huntington ODAR employees, ALJs, and former ALJs.

good with regard to its monthly disposition goals, Judge Andrus and agency management let Judge Daugherty do as he pleased.[456]

Internal agency memoranda and e-mails documented Judge Daugherty's time and attendance issues dating back to 2001. However, Judge Andrus told the Committee that, Judge Daugherty's compliance with agency time and attendance rules was problematic as far back as 1997.[457]

2001. In one instance, Judge Daugherty failed to attend a morning of schedule hearings, but later took credit for a full day's work. Mr. Hall recorded what happened in a memo dated May 10, 2001, in which he explained that the day before, on May 9, 2001, Judge Daugherty "had hearings scheduled at 10:00 AM; 10:30 AM; and another for 11:00 AM," but the Judge was nowhere to be found. Gregory A. Hall, a group supervisor at the time, "searched the building and could not find the judge. [The judge's] auto was not where it usually is parked." Mr. Hall reached Judge Daugherty by phone at his house and the judge "stated he had forgotten about the hearings. [Judge Daugherty] then came immediately into the office and conducted the three hearings."[458]

Despite being absent the morning before, "[o]n Thursday, May 10, 2001 [Mr. Hall] noticed that Judge Daugherty had shown eight (8) hours worked and also some credit hours worked. There was no mention of leave."[459]

2002. On June 18, 2002, Judge James Kemper emailed Judge Andrus and alerted him that the office timesheet showed Judge Daugherty signing in at 7:15 a.m., which was the same time Judge Judith Showalter signed in. Judge Showalter, however, "assured [Judge Kemper] that [Judge Daugherty] was nowhere in sight when she signed in at 7:15."[460] Further, when Judge Showalter went downstairs at 8:10 a.m., Judge Daugherty's car was gone.

In the same correspondence, Judge Kemper explained one particular instance, noting it had been happening for "years:"

> This is the usual procedure [Judge Daugherty] follows every day. When Judge Paris is here, he usually signs in at 6:30 and if no one signs in earlier than about 7:15, Daugherty will sign in directly below Judge Paris' name at the same time of

[456] July 26, 2011 Committee interview of Judge Daniel Kemper.
[457] June 19, 2012 Committee interview of Judge Charlie Andrus.
[458] See May 10, 2001 Memorandum from Gregory A Hall, Group Supervisor to Charlie Andrus, HOCALJ. Exhibit 55.
[459] *Id.*
[460] June 18, 2002 email from Judge Daniel Kemper to Judge Charlie P. Andrus, PSI-SSA-96D2-003358. Exhibit 56.

> 6:30. If you will speak with Judge Paris, I am sure he will tell you that he never sees Daugherty when he comes in. One of us will be sending you periodic E-mails to show you this pattern of cheating on time and attendance which, by the way, Judges Gitlow, Chwalibog, and I have consistently informed you about through the years.[461]

As was often the case, Judge Andrus was reluctant to take action against Judge Daugherty. Judge Andrus forwarded the email to Judge Cristaudo at the Philadelphia regional office – carbon copying Valerie Loughran and Gregory Hamel – and reported that he checked with the Inspector General "a few days ago and they declined to get involved and suggested [Judge Andrus] go through [Judge Cristaudo.]" While Judge Andrus said he was willing to initiate an investigation, but felt reluctant to do so because he had "to live in this town and if [SSA] do[es] an investigation with documentation we had better be willing to do something."

The next day Valerie Loughran responded to Judge Cristaudo and made clear Judge Andrus as HOCALJ was responsible for ensuring Judge Daugherty properly documented his time and attendance:

> First of all, The IG should not and will not get involved in Time and Leave problems. This is absolutely absurd. This is a clear cut administrative action and the responsibility of the HOCALJ. Second, bargaining unit employees and that includes other judges, and security guards do not investigate time and leave problems, nor should they be asked to document abuse by other employees. This is a management issue and responsibility. (period, period, period.) As I said previously, if this judge's conduct is so egregious and occurs so frequently that everyone else observes it, it should be very simple for management to document it. He allegedly goes to breakfast every morning. Please – how hard can this be. I believe that Judge Andrus wants someone else to do his job. This is not going to happen. And even if it did, it would not hold up anywhere. I believe if Judge Andrus wanted to do something, he could have done it long ago. But he doesn't. He is just waiting for something to happen and/or trying to shift the responsibility to someone else. It simply doesn't work. I also believe that the mitigating factors in the recent outburst by this judge, weakens the case considerably. As far as I recall there have been no actions against this judge in many years, so there is no progressive pattern of behavior here (that is documented). Judge Andrus needs to counsel

[461] *Id.*

> him and put it in writing. That is my recommendation. We have bigger fish to fry than this and we do little in the big cases, what are the chances in this one, particularly when the HOCALJs only role is to duck any real responsibility to take appropriate action.[462]

As such, Judge Cristaudo responded to Judge Andrus and advised he "believe[s] you need to investigate this matter by doing some checking yourself based on the allegations that you have received. If it is as routine as alleged it should not be that difficult to determine firsthand the violations."[463] Judge Cristaudo then laid out a plan of action if Judge Andrus determined that Judge Daugherty was violating time and attendance rules, suggesting that the problems could lead to termination:

> If you are satisfied that Judge Daugherty is violating the rules of conduct, I suggest you work with Howard Goldberg [on the employee relations team][464] to draft a counseling memo that you would present to Judge Daugherty both orally and in writing. If Judge Daugherty engages in further time and attendance abuses, we will have a better chance of having the Associate Commissioner or Chief Judge issue a letter of reprimand. And if the problem persists beyond that, it is more likely the agency would consider a suspension and eventually a termination action. I think we need to proceed progressively here. I do not recall if we counseled or reprimanded Judge Daugherty in the past for time and attendance abuses. If we have, the progressive discipline should be moved to the next level, i.e, reprimand or suspension.[465]

A little over a week later on June 28, 2002, Judge Kemper emailed Judge Andrus again regarding Judge Daugherty improperly logging his time on the sign-in sheet:

> This is another memo sent to you regarding Judge Daugherty's continuing practice of cheating on time and attendance. On this date (June 28, 2002) I arrived at the office at 7:15 a.m. and noted that Judge Showalter had signed

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[462] June 19, 2002 email from Valerie Loughran to Frank Cristaudo and Gregory Hammel, PSI-SSA-96D2-003356-57. Exhibit 56.

[463] June 19, 2002 email from Frank Cristaudo to Charlie P. Andrus, Jesse Butler, George Lowe, Valerie Loughran, Gregory Hamel, and Howard Goldberg, PSI-SSA-96D2-003146-49. Exhibit 57.

[464] See Philadelphia Region, Office of the Regional Commissioner, http://www.ssas.com/wp-content/uploads/2012/01/philadelphia.pdf.

[465] June 19, 2002 email from Frank Cristaudo to Charlie P. Andrus, Jesse Butler, George Lowe, Valerie Loughran, Gregory Hamel, and Howard Goldberg, PSI-SSA-96D2-003146-49. Exhibit 57.

> at 7:05 and Daugherty had signed in just below her name at the same time. She did not see him when she arrived. His car was not parked in front and he was not in his office when I arrived at 7:15. I turned out his light at that time. Thereafter, Judge Gitlow noted that Daugherty was not in his office when he signed in at 7:30. At 7:50, I went downstairs and noted that his car was still not in front. At 8:30 Judge Gitlow and Judge Showalter informed me that the car was still not parked in front or anywhere on either side of the street. Finally, at 9:30, he was seen in the building. It is clear, therefore, that he was gone from the office from at least 7:15 to 9:15, a period of two hours. Will he be taking leave or use credit hours like everyone else is required to do?[466]

Judge Andrus once again forwarded the email from Judge Kemper to Judge Cristaudo and stated the following:

> I did not ask these judges to do any investigation, but I did receive this memo. I checked the serial time and attendance sheet and Judge Daugherty signed out without accounting for this absence. I was in a hearing this week, and I have not had the opportunity to investigate the allegations that Judge Daugherty left the office after signing in to go to breakfast. I plan to do so starting Monday unless you advise me not to []. I plan to arrive early and personally observe whether or not the judge leaves after signing in without notation on the sign-in sheet.
>
> I will advise you as to the results.[467]

Judge Cristaudo responded on July 7, 2002, memorializing the discussion between he and Judge Andrus about a plan to document whether Judge Daugherty misrepresented his time and attendance:

> As we discussed, please confront Judge Daugherty this morning about your observations of this morning about apparent failure to comply with time and attendance rules, and send us an email today outlining your observations and the results of your investigatory discussion with Judge Daugherty.[468]

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[466] June 28, 2002 email from James Kemper to Charlie P. Andrus, William H. Gitlow, and Judith Showalter, PSI-SSA-96D2-003391-92. Exhibit 58.
[467] *Id.*
[468] July 1, 2002 email Chain from Frank Cristaudo to Charlie P. Andrus, Valerie Loughran, Howard Goldberg, and Gerri Polito, PSI-SSA-96D2-003391. Exhibit 58.

A conference call was arranged for the next day "to discuss the action [that] should be taken."[469] It is unclear if this call took place.

Four months later, Judge Andrus had still not resolved the matter, prompting renewed attention from the regional office. On November 8, 2002, Judge Cristaudo emailed Judge Andrus regarding Judge Daugherty's continued alleged failure to properly document his time and attendance. He emphasized that it was Judge Andrus's responsibility to document any such abuses by Judge Daugherty, and noted the failure to follow up:

> You have often mentioned that Judge Daugherty fails to comply with time and attendance rules. We asked you to monitor his compliance with the time and attendance rules and to deal with any failures to comply. Please let me know of the status of his compliance with the time and attendance rules.
>
> Only by actually documenting incidence of unapproved absences will there be any opportunity to take action for such abuse. Therefore I am asking you to monitor the timesheet and whereabouts of Judge Daugherty. If he cannot be located in his private office or elsewhere in the office environment, you should leave a note in his office asking him to see you as soon as he returns. You of course should keep detailed notes to document periods of absences and times you left notes for him, etc. If he cannot be located in the office and has no approved leave for that time period, you need to direct someone from the management team to watch for his return to the office. The first time he is absent without approved leave, you should give him a leave slip and caution him that further time and attendance abuse will lead to AWOL assessments and disciplinary action. It is very important that you document each instance with notes and copies of leave slips as well as a summary of each incident and the discussion with him. If he persists with abuse of the time and attendance rules, with the record you will have created we will seek disciplinary action against him.[470]

Judge Kemper, meanwhile, continued to document Judge Daugherty's time and attendance abuse by sending a letter outlining his concerns to the Assistant Inspector General for Investigations on November 18,

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[469] *Id.*

[470] November 8, 2002 email from Frank Cristaudo to Charlie P. Andrus, Valerie Loughran, Gregory Hamel, Howard Goldberg, PSI-SSA-96D2-003589. Exhibit 59.

2002.[471] Judge Kemper sent a three-page detailed letter that specifically described his observations of Judge Daugherty abusing time and attendance on November 8 and 9, 2002. Judge Kemper alleged Judge Daugherty inaccurately recorded when he arrived and left for the day on the timesheet, spent hours away from the office without preparing leave slips, and represented having worked full eight-hour days, including additional credit hours.

Judge Kemper noted he believed the continued failure to stop the abuses was directly related to Judge Daugherty's high volume of cases.

> It appears the primary reason that no action has been taken is because Judge Daugherty puts out the largest number of cases in the Office. How does he do this? He grants, or finds an individual disabled and entitled to permanent disability benefits, on many cases without ever seeing the individual claimant at a hearing. When he does have hearings, the vast majority of such hearings are held in less than 10 minutes, hardly enough time to evaluate any individual properly. His "numbers" therefore make the administration look good. At the end of the fiscal year, he signed over 100 cases in a one month period. Most of these were favorable, and a large number of these were decided on-the-record, without ever seeing the claimant.[472]

It is unclear what action, if any, the IG took in response to Judge Kemper's allegations.

2005. Several years later the problems continued. In April 2005, Judge Kemper contacted Ms. Loughran at the regional office directly to complain about Judge Daugherty's continued alleged falsification of time sheets. Judge Kemper told Ms. Loughran that "he ha[s] talked to Judge Andrus, [Judge Cristaudo] and [Office of Inspector General] and no one has ever done anything about his blatant fraud."[473] She relayed her conversation with Judge Kemper in an email to Judge Cristaudo, and said the agency needed to "do something":

> [Judge Kemper] says that Judge Daugherty continues to do as he has always done. He falsifies timesheets; when he does come in he disappears for long stretches without signing out and without charge to leave; and no one really seems to care. He feels that this is a totally wrong and unfair situation since

[471] November 18, 2002 Memorandum of Record from James D. Kemper, Jr. to Assistant Inspector General for Investigations, Attention: Mr. Paul Ragland. Exhibit 60.
[472] *Id.*
[473] April 18, 2005 email from Valerie Loughran to Frank Cristaudo, PSI-SSA-96D2-004395. Exhibit 61.

> no one else in the office is allowed to do this. (Not to mention, it is illegal.)
>
> He says that Judge Daugherty parks in the alley, where he really isn't supposed to park, comes in and then leaves. One assumes that if his car is gone, then he is gone as well. I think we need to do something.[474]

On April 18, 2005, Ms. Loughran continued to urge that something be done about Judge Daugherty and his alleged absences:

> I had suggested that the timesheets be moved to where they can be visible to someone in management, but that has not happened. This might keep him from falsifying the time sheets. We have an allegation that an employee is leaving the office regularly, without charge to leave. We need to have someone establish whether this is true or not true and if it's true, we need to take appropriate action. If it is not true, we need to document our findings and close the book.[475]

She went on to note the "timesheets are right outside Greg Hall's [Hearing Office Director] office, and he could see someone signing in, but I stood at the sign in sheet twice this morning and he did not notice me." Therefore, Ms. Loughran suggested asking Mr. Hall to "note exactly when Judge Daugherty signs in."[476]

Judge Cristaudo "agree[d] something needed to be done" and noted how he "directed Judge Andrus on several occasions to take care of this." He concluded Judge Andrus "is either unwilling or unable to handle the situation."[477] To remedy the situation, Judge Cristaudo questioned whether he "should ask Judge Kemper if he wants to be appointed the Acting [Hearing Office Chief Judge] to deal with the situation if Judge Andrus refuses to do so."[478]

In response, Ms. Loughran explained "Judge Andrus went on and on about how he has tried to do something but no one supports him." She also "told [Judge Andrus] that nothing has ever been documented sufficiently to address this matter" and she believed he "is a master at wiggling out of things he doesn't want to do and aggressive in getting

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[474] *Id.*

[475] *Id.*

[476] April 19, 2005 email from Valerie Loughran to Frank Cristaudo, PSI-SSA-96D2-004395. Exhibit 61.

[477] April 20, 2005 email from Frank Cristaudo to Valerie Loughran, PSI-SSA-96D2-004394. Exhibit 61.

[478] April 20, 2005 email from Valerie Loughran to Frank Cristaudo, PSI-SSA-96D2-004395. Exhibit 61.

into things he does want to do."[479] Further, Ms. Loughran noted that "the other reason Judge Andrus said he didn't want to do anything, was that he was subjected to [the] false allegation that he was sniffing or smoking cocaine in his office."[480]

On May 23, 2005, Judge Cristaudo emailed Judge Andrus to let him know that he had "received another complaint about Judge Daugherty's alleged abuse of the time and attendance rules. As you know, this is not the first time we have received such a compliant" and noted his "concern[] these allegations continue to surface."[481] Judge Cristaudo requested a conference call with Judge Andrus and his staff to discuss the complaint and the need for an investigation. Following such an investigation, Judge Cristaudo requested Judge Andrus send him a "written report of [his] findings and recommendations" by June 3, 2005.[482]

Judge Andrus emailed Judge Cristaudo his investigatory findings on June 16, 2005, nearly two weeks after the deadline he was given, writing:

> I have conducted an investigation into the allegations made by Judge Kemper regarding Judge Daugherty signing in at the wrong time. Judge Daugherty related that he had come in and started working at his computer and forgot to sign in on the roster. He then went to the sign in sheet and signed in for the time he arrived in the office.
> I spoke with him on the importance of accuracy in the sign in sheet and that the incident had been brought to my attention. I also reviewed his 7B file and there were no current memos in the file. The last time we had specific problems was three years ago.[483]

With regard to the proper response to Judge Daugherty's actions, Judge Andrus "decided that oral counseling is sufficient to cover this incident."[484] He also said that he would "send an e-mail to all judges reminding everyone of the importance of accurate sign in and sign out whenever they are out of the office."[485] Before concluding, however, Judge Andrus pointed out that "Judge Kemper does not bother to sign

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[479] April 21, 2005 email from Valerie Loughran to Frank Cristaudo, PSI-SSA-96D2-004395. Exhibit 61.
[480] *Id.*
[481] May 23, 2005 email from Frank Cristaudo to Charlie Paul Andrus, Valerie Loughran, Gregory Hamel, Howard Goldberg, PSI-SSA-96D2-004408-09. Exhibit 62.
[482] *Id.*
[483] June 16, 2005 email from Charlie P. Andrus to Frank Cristaudo and Howard Goldberg, PSI-SSA-96D2-004416-17. Exhibit 63.
[484] *Id.*
[485] *Id.*

out when he takes a long lunch, but he does not claim the time when he works late to cover the long lunch."[486]

2007. By spring of 2007, Judge Kemper concluded the agency was not going to take any action regarding his claim against Judge Daugherty for abusing time and attendance policies as he prepared to retire. Judge Kemper expressed his frustration in an email to a fellow ALJ, Robert Habermann in the Roanoke, Virginia ODAR:

> Unfortunately, there were a lot of complaints from several of the judges here in the past, but no one has the backbone (I would like to use a less delicate term) to back me up if push comes to shove. I will be retiring about October 1, 2007 so if no one cares about Daugherty's conduct but me, then so be it. As far as your colleague's comment about personal animosity, if by reporting fraudulent conduct (putting out 100 cases per month and spending less than 30 hours in the office, cheating on time and attendance, etc.) amounts to personal animosity, then I am guilty of this. However, I would do the same whether the judge was Daugherty, John Doe, or your colleague if I observed such behavior on a daily basis...As far as falsifying his time and attendance, everyone in this Office has seen him do this. (Entering the earliest possible time on arrival and the latest time on departure and leaving the Office for hours at a time without reporting annual leave. Several years ago, he forged my initials on a time and attendance sheet when I was the first one in the Office at 8:00 a.m. He tore off the original sheet that showed me as the first in the Office that morning, put his initials on line one of the new sheet, entered his arrival time as 6:30, and forged my initials on line 2 as coming in at 8:00).[487]

Judge Kemper noted that the implications of Judge Daugherty's actions were broader than the public's perception of one ALJ and stated "[u]nfortunately, in the long run, this type of performance and conduct by a judge, whether it be Daugherty or anyone else, can only hurt the reputation of ALJ's everywhere. More importantly, it hurts the integrity of the entire disability program."[488]

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[486] *Id.*
[487] April 30, 2007 email from James D. Kemper, Jr. to Robert S. Habermann, PSI-SSA-95-032853-55. Exhibit 64.
[488] *Id.*

2008. Judge Daugherty's alleged abuse of time and attendance policy continued for an additional three years. On October 14, 2008, Huntington ODAR Senior Case Technician Sarah Carver informed Judge Andrus:

> An employee was looking for ALJ Daugherty to sign something at 3:20 today, I went to the sign out sheet and he had signed out at 3:30 and it was only 3:20. Apparently someone was looking for him on Friday also, Vicky mentioned that [Judge Daugherty] forgot to sign out on Friday, however, she could not find him all day and he claimed 8 hours.[489]

2009. Despite Judge Andrus's inability to determine if Judge Daugherty was abusing time and attendance policies, the agency designated him as Assistant Regional Chief Administration Law Judge for the Philadelphia region in March 2009.[490] This brought increased responsibility to oversee and manage the affairs of the region, including increased oversight of the regions ALJ's. In doing so, Judge Cristaudo's successor, Regional Chief Judge Bede, praised Judge Andrus for bringing a "wealth of management and leadership experience" to his new assignment.[491]

b. Judge Andrus Used Time and Attendance to Push a Low Producing ALJ out of the Agency

While Judge Daugherty's time and attendance problems dragged on for nearly a decade without any disciplinary action, similar problems with another Huntington ALJ, Algernon Tinsley, were dealt with swiftly.

In both cases, it came to Judge Andrus' attention that the judges may have improperly signed in and out on their time sheets. And in both cases as well there was evidence not only that the infractions had taken place, but also that they occurred in the same general time period. However, Judge Daugherty, a high-producing ALJ, was never reprimanded and Judge Tinsley, a low-producing ALJ, was suspended for a month.

Judge Gitlow explained that management went after Judge Tinsley for his low production, which he said was directed from the top of the agency.[492] He added that then-Commissioner Michael Astrue was

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[489] October 14, 2008 email from Sarah Randolph [Carver] to Charlie P. Andrus. Exhibit 65.
[490] March 18, 2008 Memorandum from Jasper Bede, Regional Chief Administrative Law Judge – Region III to All Region III HOCALJs. Exhibit 54.
[491] *Id.*
[492] July 26, 2011 Committee interview of Judge William Gitlow.

"creative as hell" in dealin with low producers, but "looks the other way" for high producers.[49]

Over the course of his career as an ALJ, which began in 2005 and ended in 2010, Judge Tinsley was known as a "low producer" in the Huntington ODAR office.[494] According to Judge Andrus, Judge Tinsley struggled to produce twenty cases per month – or approximately 240 per year -which fell well short of the agency's 500-700 case-per-year goal.[495] In his final year at the agency, Judge Tinsley wrote 148 decisions by the time he retired at the end of February 2010.[496] Coming half way through the fiscal year, he ,was on pace to decide a little over 300 cases.

Judge Tinsley's time and attendance problems arose in 2007, when on three occasions he was scheduled to hear cases at the office's remote site in Prestonsburg, Kentucky. Since it was more than an hour away from the Huntington ODAR office, judges would typically stay in a hotel during weeks they heard cases at the remote site. This meant that instead of signing in an out for the day on the sheet in Huntington, the judges would fill out time sheets and submit them upon their return. After Judge Andrus discovered some possible discrepancies, the agency filed a case with the U.S. Merit Systems Protection Board (''MSPB'') to suspend Judge Tinsley.

The first incident occurred over a few days from Tuesday, May 15 through Friday, May 18, 2007. According to MSPB records, Judge Tinsley submitted time cards for both May 16th and 18th stating he signed out at 5:30 p.m.[497] According to an affidavit provided by Judge Andrus, "[o]ne of my management support assistants who was charged with preparing Judge Tinsley's travel voucher, [that individual], came to me and indicated he could not prepare the voucher as Judge Tinsley had requested because of some inconsistencies that he saw."[498] And so, he went on, "I conducted an investigation."[499]

Unlike when similar allegations surfaced about Judge Daugherty, Judge Andrus thoroughly investigated Judge Tinsley. "The first thing I did," he explained, "was go into the electronic file and ascertain what time the

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493 *Id.*

494 July 26, 2011 Committee interview of Judge William Gitlow.

495 July 27, 2011 Committee interview with Judge Charlie Andrus.

496 Social Security Administration, FY 2010 -ALJ Disposition Data, http://www.ssa.gov/appeals/DataSets/Archive/03 FY2010/03 September ALJ Disp Data FY2 010.html.

497 U.S. Merit Systems Protection Board, Social Security Administration v. Algernon W. Tinsley, Statement of Charges and Specifications, PSI-SSA-96D2-018249-54. Exhibit 67.

498 Undated Affidavit of Charlie P. Andrus regarding Equal Employment Opportunity Complaint of Algernon Tinsley. Exhibit 68.

499 *Id.*

hearings ended."[500] He discovered that Judge Tinsley rescheduled all of his hearings originally set for Wednesday, May 16 and that his hearings on Friday, May 18 ended at 4:00 p.m. Immediately, he became suspicious about Judge Tinsley's time sheet, which showed he signed out at 5:30 p.m. from the Prestonsburg office on both days.[501]

To confirm his suspicions, Judge Andrus turned next to the building security logs, which recorded when the last person left each day. "Our hearing site has a security alarm to it," said Andrus, "The guard does not have a code to activate or deactivate it, nor does he have a key. So he leaves when the last SSA employee or contract hearing reporter leaves. His sign out sheet indicated that he left before 5:30 [on both days]."[502] According to the MSPB records, the last guard signed out at 5:15 p.m. on Wednesday and 4:00 p.m. on Friday.[503] This created discrepancies between the security logs and Judge Tinsley's time sheet of 15 and 90 minutes respectively.

After confirming the time with the guard, Judge Andrus said he "first spoke with Judge Tinsley about his actions in June 2007, right after the first incident."[504] Judge Tinsley claimed he signed out at 5:30 p.m. both days because he was at his hotel working until then. However, Judge Andrus said judges do not get credit for such work and so "he falsified the time sheets."[505] "He wasn't at the hearing site when he said he was," added Judge Andrus, concluding, "[b]y doing that, it's a felony."[506]

The second and third incidents were similar, happening in August 2007 and again in the following October. In both, Judge Tinsley heard cases in the Prestonsburg office and signed out approximately 90 minutes after the guard was shown to have left the building.[507]

Judge Andrus reported Judge Tinsley to the Philadelphia regional office and subsequently to the chief judge of the agency, who at the time was Judge Frank Cristaudo.[508] Calling it "a very serious offense," Judge Andrus said, "I reported it each time. After the third time, I recommended suspension."[509]

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[500] *Id.*
[501] *Id.*
[502] *Id.*
[503] U.S. Merit Systems Protection Board, Social Security Administration v. Algernon W. Tinsley, Statement of Charges and Specifications, PSI-SSA-96D2-018249-54. Exhibit 67.
[504] Undated Affidavit of Charlie P. Andrus regarding Equal Employment Opportunity Complaint of Algernon Tinsley. Exhibit 68.
[505] *Id.*
[506] *Id.*
[507] U.S. Merit Systems Protection Board, Social Security Administration v. Algernon W. Tinsley, Statement of Charges and Specifications, PSI-SSA-96D2-018249-54. Exhibit 67.
[508] Undated Affidavit of Charlie P. Andrus regarding Equal Employment Opportunity Complaint of Algernon Tinsley. Exhibit 68.
[509] *Id.*

In March 2008, Judge Tinsley was given a 30-day suspension by the agency, which he challenged at the MSPB.[510] The suspension was upheld and he appealed to federal district court, where it was discovered that the policy disallowing credit for work in hotel rooms was never issued in written form. According to the court records:

> During cross-examination, ALJ Andrus stated that it is the Agency's policy that a judge working at a remote site may work on cases in a hotel room, but they cannot claim credit hours for time spent outside the building where the hearings are held. When pressed on the issue, ALJ Andrus further stated he did not know if the policy was written down anywhere and he had no knowledge of the policy ever being disseminated in writing to the ALJs. He did say, however, that he orally advised [Judge Tinsley] he must be at the hearing building to earn credit hours.[511]

Despite this, the court upheld the agency's suspension, which Judge Tinsley finally served in May 2009.[512] According to Judge Tinsley, the suspension without pay cost him $10,000.[513]

Explaining the difference between the time and attendance problems with Judge Tinsley to those of Judge Daugherty, Judge Andrus said he handled them in the same way. The difference was that he was never able to catch Judge Daugherty abusing the rules, and that after the problems first surfaced in 2001 they never came up again:

> Time and attendance issues have come up before with other judges, but not involving travel status. It came up with Judge Dougherty [sic] in Huntington several years ago, before 2001. I conducted an investigation in a comparable way to the investigation I conducted with regard to Judge Tinsley, except that I didn't have to contact the alarm service because it was before we had an alarm system. I personally observed it. Judge Dougherty [sic] did not refute it, he admitted it. I forwarded it to Judge Cristaudo, who was then the Regional Chief Judge, and from our conversations, I understand he sent it to Judge Boyer, then the National Chief Judge. I did not recommend a penalty as I was asked to just submit a report. Nothing happened after that, to my knowledge. I have no idea if there was any recrimination. It has not come

[510] Algernon W. Tinsley v. Michael J. Astrue, Civil Action No. 3:09-0600, Memorandum and Order (S.D.W.V. Dec. 7, 2010). Exhibit 69.
[511] *Id.*
[512] *Id.*
[513] July 26, 2011 Committee interview with Judge Algernon Tinsley.

> up since. Allegations have been made about Judge Dougherty, but when I go to check the time and attendance records, there is no evidence of abuse.[514]

Several months after his suspension ended, in late 2009, Judge Tinsley said he was approached by Judge Andrus and asked to attend a conference in Washington D.C. for retiring federal employees.[515] This was a surprise to Judge Tinsley, though, since he was not preparing to retire.[516]

Judge Tinsley was then approached by Eric Conn, who said Judge Andrus told him Judge Tinsley was retiring.[517] According to Judge Tinsley, Mr. Conn said they were trying to build a case against him to force retirement, commenting that, "the barbarians are gathering at the gates."[518] In the following months, Judge Tinsley would discuss the possibility of a job with Mr. Conn, which he would ultimately take in early 2010. As explained below, the details about how this came about, however, are a matter of dispute.

Judge Tinsley believed Judge Andrus and Mr. Conn brokered a deal aimed at getting him out of his job, while also benefiting Mr. Conn's law practice. At some point before the end of 2009, Judge Tinsley said Mr. Conn offered him a job at his law firm representing clients in front of Huntington ODAR ALJ's.[519] Judge Andrus subsequently approached him to discuss it, he said, and immediately took Judge Tinsley off of all of Mr. Conn's cases.[520] He said at this point he was still not planning to retire.

When asked about the incident, Judge Andrus said that in November 2009 he was approached by Mr. Conn about his interest in hiring a judge, which would be something he could use in his advertising.[521] He responded to Mr. Conn, saying, "[i]f you talk to my judges, it needs to be only in the most hypothetical. If you get serious, I need to take that judge off the job."[522]

The following month, Judge Andrus said Mr. Conn called him and said he had settled on Judge Tinsley. "I just got done with Judge Tinsley at dinner and made him an offer," Mr. Conn explained, adding that he

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[514] Undated Affidavit of Charlie P. Andrus regarding Equal Employment Opportunity Complaint of Algernon Tinsley. Exhibit 68.
[515] July 26, 2011 Committee interview with Judge Algernon Tinsley.
[516] *Id.*
[517] *Id.*
[518] *Id.*
[519] *Id.*
[520] *Id.*
[521] July 27, 2011 Committee interview with Judge Charlie Andrus.
[522] *Id.*

accepted.[523] The next day, he said, he called Judge Tinsley to take him off of Mr. Conn's cases and also called the general counsel's office at SSA for advice.[524]

A third account of the incident, however, was provided by Jamie Slone, the former office manager for Mr. Conn's law practice. Ms. Slone said she was present for several conversations between Mr. Conn and Judge Andrus, which took place in the hearing room at the Prestonsburg remote site.[525] During one of the conversations, she said, Judge Andrus said to Mr. Conn about Judge Tinsley, "I want him out now. I can't put up with him."[526] Mr. Conn then asked Ms. Slone to contact Judge Tinsley about ajob, and even to help him complete his retirement papers.[527] He asked her to hurry as well, because "Andrus is chewing my butt out for it."[528]

By early 2010, Judge Tinsley claimed he was given an ultimatum through another staff member that Judge Andrus wanted him to sign retirement papers by the end of February.[529] At that point, he explained, he "saw the writing on the wall."[530] At the end of February, Judge Tinsley retired. On March 8, 2010 Mr. Conn issued a press release announcing that "[j]ust a day after J:fis retirement as ajudge from the local Social Security Administration Hearing Office, Al Tinsley joined the Eric C. Conn Law Firm.[531] The press release stated

> Former Social Security Judge Tinsley is enthusiastic about his return to the private practice of law. Tinsley added, "I have seen the quality of the work from the Eric C. Conn Law Firm and I am excited about joining their already successful practice." Conn added that "I have respected Former Judge Tinsley for many years as a lawyer regularly appearing before him in the representation of my Social Security Disability and SSI clients.
>
> Tinsley retires from the local Social Security Administration Hearing Office, which covers a large part of the Tri-State Area which includes Huntington, Ashland, Pikeville, and

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523 *Id.*
524 *Id.*
525 June 12, 2012 Affidavit of Jamie Lynn Slone; 18 (Exhibit 16).
526 *Id.*
521 *Id.*
528 *Id.*
529 July 27, 2011 Committee interview with Judge Algernon Tinsley.
530 *Id.*
531 Press Release, Retired Social Security Judge Al Tinsley Joins Eric C. Conn Law Firm (March 8, 2010), http://www.ereleases.com/pr/retired-social-security-judge-al-tinsley-joins-eric-conn-law-firm-32714.

> Prestonsburg. In a time when most firms are shrinking the Eric C. Conn law Firm is continuing to grow.[532]

Mr. Tinsley is no longer employed by Mr. Conn.

c. The Agency was Aware of Judge Daugherty's Conduct for Years, but Took No Action

SSA officials were aware of allegations that Judge Daugherty regularly side-stepped agency rules and failed to decide his cases properly. It was well known, for example, that Judg Daugherty held hearings scheduled in 15 minutes increments, while other judges held hearings lasting 45 minutes to an hour.[533] This allowed Judge Daugherty to conduct a large number of hearings over a very short period of time, helping support his high case load.

Judge Daugherty's approach was unusual, Judge Gitlow explained, because he would bring in a large number of claimants to the Prestonsburg, Kentucky hearing office at 9 or 9:30 am and then call them in one after the other, rather than set hearing times like other ALJs.534

As Judge Kemper explained to a colleague:

> You certainly saw the manner in which Daugherty conducts "hearings" when you were with him in Prestonsburg, Ky. several years ago. His conduct has not changed, as evidenced by my most recent trip there last week. People coming in and out of the hearing room in five minute intervals after being told that their case would be granted.[535]

During these hearings, Judge Daugherty would go on the record, state his name, and announce to the claimant that he was approving the claimant for disability benefits. He would schedule these hearings 15 minutes apart, but many times claimants would show up first thing in the morning and wait for their turn in front of the Judge, since he moved through hearings so quickly. Judge Daugherty would schedule up to 20 hearings per day.[536]

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[532] Press Release, Retired Social Security Judge Al Tinsley Joins Eric C. Conn Law Firm (March 8, 2010), http://www.ereleases.com/pr/retired-social-security-judge-al-tinsley-joins-eric-conn-law-firm-32714.

[533] Schedule Information for Judge David Daugherty produced by the Social Security Administration.

[534] May 29, 2012 Committee interview of Judge William Gitlow.

[535] April 30, 2007 email from James D. Kemper, Jr. to Robert S. Habermann, PSI-SSA-95-032853-55 (Exhibit 64).

[536] Schedule Information for Judge David Daugherty produced by the Social Security Administration.

While the claimant and his or her attorney were present at these hearings, the agency also employed vocational experts to attend the hearings at a rate of $121.00 for the first hearing and $83.00 for each hearing after.[537] Therefore, a VE in one day would cost the agency $1,698.00 for 20 hearings. The vocational expert rarely, if ever, spoke and since little happened at the hearings, the court reporter had little to transcribe. A typical day before any other judge, who held hearings lasting 45 minutes to an hour, would be much less.

[537] For additional hearings, the VE is paid $44.00 to review the claimant file and $39.00 to appear at the hearing for a total of $83.00. *See* Table C-1, Social Security Office of Inspector General, "Availability and Use of Vocational Experts, Report No. A-12-11-11124, May 2012.

XIII. AGENCY RESPONSE TO PUBLIC ALLEGATIONS OF MISCONDUCT IN HUNTINGTON

In mid-May 2011, problems within the Huntington ODAR office were exposed to a wider audience when the *Wall Street Journal* ran a news story about the seemingly inappropriate relationship between Judge David Daugherty and attorney Eric Conn. This article set in motion a range of responses across the agency, including attempts by some to cover over past inappropriate actions and even to target individuals with retaliation.

a. The Wall Street Journal Exposed Judge Daugherty's Relationship with Mr. Conn

On May 5, 2011, *Wall Street Journal* reporter Damian Paletta reached out by email to Judge Andrus, as HOCALJ, to ask a number of questions about Judge Daugherty. Judge Andrus responded to the questions the next day, May 6. When questioned as to why Judge Daugherty's approval rate was so high, Judge Andrus responded "I do not know why the rate is high, nor would I as a manager question a judge about how he or she may decide a case. Under the Administrative Procedures Act a judge has independence in how to decides [sic] a case."[538]

Regarding Mr. Paletta's questions about Mr. Conn, Judge Andrus responded with several bullet points:

- Mr. Conn has a large percentage of cases in the Prestonsburg Kentucky service area.

- I directed Mr. Conn's cases to be assigned to the judges in strict rotation as soon as they arrived in the office; as he had so many cases that it was hard to schedule, and to insure that each judge had an equal amount of this workload.

- I was informed on one occasion that a staff member had not assigned these cases as soon as they came into the office and Judge Daugherty had decided them as they were not assigned. I had the supervisor take corrective action to insure that the cases were assigned as soon as they arrived.

- I was informed some months later that Judge Daugherty had changed judicial assignments [of cases]. I spoke with him and reminded him of the office policy that Eric Conn cases

[538] May 6, 2011 email from Charlie P. Andrus to Jasper J. Bede forwarding answers to *WSJ* questions. (Exhibit 70).

are not to be reassigned to another judge on a routine basis. He agreed.

- About one year later I was notified that this happened again. I went to Judge Daugherty and he related that he did not know it was assigned to another judge as he did not know where to look in our computer system for the information. I asked him to go through a supervisor when any cases were to be reassigned to him.

- About a year later I was informed that this happened once again. At that time, on April 29, 2011, I issued a written directive that no case was to be reassigned between judges by anyone unless I gave specific permission.[539]

The same day Judge Andrus forwarded his answers to the reporter's questions, May 6, he called and requested to speak with Mr. Conn at his office.[540] When reminded of this phone call by the Committee, Judge Andrus claimed he could not remember the subject of the discussion with Mr. Conn, but asserted he did not discuss the *Wall Street Journal* article with him prior to its publication.[541] The same "incoming call log" that documented Judge Andrus's call to Mr. Conn had the name of Mr. Conn's attorney written at the top of the page.[542] Since no information regarding the WSJ story was publicly available, it is unclear why Mr. Conn would reach out to his attorney on this day.

Mr. Palleta also sent a similar questionnaire to Judge Daugherty, who responded in the following way (in pertinent part):

- Every decision I make is fully supported by relevant medical reports and physical and/or mental residual functional capacity assessments from treating or examining doctors or other medical professionals. And in all of my hearings, there is also competent testimony of a vocational expert.

- The agency has, for years, ask [sic] the ALJs to review assigned and unassigned cases for possible on-the-record decisions in an effort to reduce the serious backlog of cases pending before us nationally. In all of those cases, I weigh the evidence in the same manner as in cases requiring a hearing. In addition, disposing of a case on-

[539] *Id.*
[540] See Conn Law Firm Incoming Call Log, CLF00085. Exhibit 71.
[541] June 19, 2012 Committee interview of Judge Charlie Andrus.
[542] See Conn Law Firm Incoming Call Log, CLF00085. Exhibit 71.

the-record saves the agency a great deal of money and work hours.

- I have always been under the impression that an ALJ may review all assigned and unassigned cases for possible on-the-record decisions, so long as no other ALJ has seen or reviewed the file. I was recently reminded that that is no longer true and I promptly returned those said cases to the original assignees. All of my career, all of my efforts have been to help my office reach its "numbers" goals each month.

- It has always been my opinion that if an ALJ spends 10 working days (about half of his/her time) in the courtroom each month, it is virtually impossible to adequately do the many, many other things we must do to move a case through the system. Some do, others do not. I am dyslexic and I simply cannot spend that much time in the courtroom. The agency has also asked us to try to handle cases wherein the files have not been worked up by a clerk (raw form – nothing in order). I have been doing that for years. To my knowledge, no other ALJs in my office do it. This, of course requires more time for review and preparation for a hearing or an OTR. Thus, it is necessary to schedule all of my hearings (about 60-80 per month) on 4 or 5 days during the month. This allows me sufficient time to review and prepare for hearings, resulting in full and complete knowledge of the documents in the case prior to hearing.[543]

On May 19, 2011, the *Wall Street Journal* published an article about Judge Daugherty and Mr. Conn entitled "Disability-Claim Judge Has Trouble Saying 'No.'"[544] The article reported that in fiscal year 2010, Judge Daugherty "decided 1,284 cases and awarded benefits in all but four. For the first six months of fiscal 2011, Mr. Daugherty approved payments in every one of his 729 decisions, according to the Social Security Administration."[545]

The same article exposed the fact that Judge Daugherty gave special treatment to cases represented by Mr. Conn. It stated that "judges, staff, and local attorneys began complaining about the volume of case brought before the judge by one Kentucky lawyer," identifying that lawyer as

[543] Response by Judge Daugherty to questions from *Wall Street Journal*. Exhibit 72.
[544] Damien Paletta, *Disability-Claim Judge Has Trouble Saying 'No,' Near-Perfect Approval Record: Social Security Program Strained*, The Wall Street Journal, May 19, 2011, http://online.wsj.com/article/SB10001424052748704681904576319163605918524.html.
[545] *Id.*

Mr. Conn.[546] The article further relayed that "[j]udges and staff in the Huntington office [] complained to supervisors that Mr. Daugherty assigns himself Mr. Conn's cases, including some that were assigned to other judges."[547]

According to Judge Andrus, following the release of the article, the office went into "chaos and production took a nosedive."[548] The WSJ story was widely circulated within SSA, including to top agency management.[549]

Once a formal investigation had begun, Judge Daugherty's computer was seized and its files searched. A document on Judge Daugherty's hard drive with a creation date of September 24, 2007 offered his take on the situation:

> Because I love my work,
> Because I do numerous OTRs (the agency has, for years, ask us to do so),
> Because most of my decisions are in cases wherein the files are not worked-up (likewise, the agency has, for, ask us to do so),
> Because I write many of my own decisions,
> Because I do much of my own scanning,
> Because I issue more than 100 decisions per month, and
> Because I tend to be a little energetic, if not aggressive, about my production,
>
> I find myself defending my work ethic because of allegations made against me by two of our most unreliable and unproductive employees. One finds it difficult not to feel some degree of resentment under the circumstances.
>
> Yes, there have been times that I have assigned other ALJ's cases to myself, or had someone else assign them to me. I was under the distinct impression that it was OK to do that if the other ALJ had not seen the file. When I was informed by Judge Andrus that I should not do it, I immediately stopped.

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[546] *Id.*
[547] *Id.*
[548] June 19, 2012 Committee interview with Judge Charlie Andrus.
[549] Top agency management weighed in on the WSJ story, including Commissioner Astrue. In response to a summary of the WSJ story sent by Mr. Palleta to the agency the day before it ran, Commissioner Astrue commented "[a]ll told though it could have been much worse." Commissioner Astrue also stated he "would have liked [Mr. Palleta] to note that ALJ allowances are down on my watch, but he's been fair." May 19, 2011 email from Michael J. Astrue to Mark Lassiter, PSI-SSA-96D3-000952-53. Exhibit 73.

> I was the first ALJ in our office to volunteer to handle electronic cases. Only four of our ALJs are now doing them, and these cases are accumulating rapidly, resulting in noticeable backlogs.
>
> One particular lawyer in eastern Kentucky handles probably 2 of every 3 Kentucky cases. This means that each ALJ should be trying to schedule, or otherwise address, this lawyer's cases, accordingly. It is quite difficult to accomplish this, but I have always tried.
>
> One of my accusers scheduled Prestonsburg cases for me last summer. A had about a half dozen cases penciled in on one particular day of my itinerary for another particular lawyer, but when I began my hearings that day, I discovered that she had added about 5-6 more of his cases, none of which I had reviewed, or even seen. I have since learned that both of my accusers are, and have been, particularly partial toward said lawyer. I didn't say anything because I was able to dispose of them without any problems. If it had been most any other ALJ, something likely would have been said or done.
>
> The other one of my accusers has for months bugged me to schedule, or do OTRs in, cases for that same lawyer. I have done nothing but try to accommodate her.
>
> It seems as though you just cannot be nice to some people, especially those who will use anything or anyone in order to have their way.[550]

In an interview with a local reporter, Judge Daugherty explained his reasoning for deciding disability claims without a hearing stating, "[i]f the documentary evidence is there, I find no reason to waste time and money holding a hearing, delaying benefits they're so deserving of."[551] When the reporter questioned Judge Daugherty about when he approved so many cases, he responded "[b]ecause I can. I enjoy the job. I'm a workaholic; I love the job."[552]

The Committee requested information from Judge Daugherty, but through his attorney, he refused to cooperate.

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[550] Undated document stored on Judge David Daugherty's harddrive with creation date of September 24, 2007 recovered from Judge Daugherty's SSA computer hard drive. Exhibit 74.
[551] WSAZ News Staff; The Associated Press, "New Info: EKy Attorney, Former Htn Judge Accused of Fraud in Lawsuit, March 1, 2013, http://www.wsaz.com/news/headlines/Local_Social_Security_Judge_Under_Scrutiny_122259399.html.
[552] *Id.*

b. Mr. Conn and Judge Daugherty Continued to Communicate, Potentially By Pre-paid Cellular Phones

In the year before the release of the article, former employee of the Conn Law Firm, Jamie Slone, questioned Mr. Conn about his interactions with Judge Daugherty.[553] She said to Mr. Conn she "had a theory about [him], I think that you go and meet [Judge Daugherty] once a month," to which he replied, "Where there's smoke there's fire," which she said she interpreted as an admission of guilt.[554] Following the article, she told the Committee Mr. Conn said to her he was scared he could end up going to jail. According to Ms. Slone, Mr. Conn added, "I was never dumb enough to leave a paper trail."[555]

In the days immediately following the article's publication, Judge Daugherty frequently called the Conn Law Firm, sometimes up to three times a day, and requested to speak with Mr. Conn.[556] Mr. Conn, however, refused to speak with Judge Daugherty on CLF phones.

One Sunday afternoon, Judge Daugherty left a message on Mr. Conn's home voicemail and stated only, "we need to talk."[557] Judge Daugherty later left another message on Mr. Conn's home answering machine and insisted on speaking to Mr. Conn right away.[558] Judge Daugherty left a third message on Tuesday afternoon, which he stated:

> OK. There are those of us who know the D.A [District Attorney]. There are those of us who know the circuit judge. There are those of us who have an inside track and hear some things. We need to talk. If you don't want to, it's your loss. You need to contact me. I gave David [Hicks] the phone number. You need to do it. There are things you need to know. Good-bye.[559]

It is unknown if Mr. Conn returned this call to Judge Daugherty.

However, according to former CLF staff, Mr. Conn and Judge Daugherty developed a system of communication through prepaid cellular telephones.[560] Mr. Conn used these phones, purchased at the nearby Family Dollar and Dollar General, to communicate with Judge

[553] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶4.
[554] February 22, 2012 Committee interview of Jamie Slone.
[555] *Id.*
[556] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 21 (Exhibit 16).
[557] Voicemail produced by Mr. Conn.
[558] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 22 (Exhibit 16).
[559] Voicemail produced by Mr. Conn.
[560] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶ 21 (Exhibit 16).

Daugherty.[561] For example, on May 20, 2011 – the day following the Wall Street Journal Story – Mr. Conn purchased a TRACFONE LG 420 at the Betsy Layne, Kentucky Family Dollar.[562] According to Ms. Martin, he bought the phones so the two could speak without being tracked.[563]

c. Judge Daugherty Placed on Administrative Leave

Judge Daugherty was placed on administrative leave beginning on May 26, 2011. After placing Judge Daugherty in this status, Judge Andrus reported to Judge Bice:

> As instructed, I read the statement to Judge Daugherty and was with him until he left the office...I directed him not to come into the office, nor is he to do any government work. I told him if he needed any personal effects to request them in writing to me and we would get them to him. I have directed the timekeeper to put him on administrative leave as of today.[564]

The next day, the Wall Street Journal ("WSJ") reported the agency placed Judge Daugherty on administrative leave. According to the article, Judge Daugherty spoke via telephone to the reporter and "he said he had 'no idea' why he was placed on leave, but said it would probably last until the investigation was complete."[565] When the reporter questioned Judge Daugherty about his approving "all of [his] cases in the first six months of the year," Judge Daugherty asserted it was "pretty much coincidence."[566] In defending his record, Judge Daugherty explained "lawyers are just so extremely well-prepared, and the medical evidence was all there...There's not a soul in this tri-state area, not a lawyer...who would tell you I would award benefits to somebody unless the medical evidence is plump up right there in the file."[567] He went on to state "lawyers have 'discovered the combination to the lock.'"[568]

In another interview Judge Daugherty gave after the WSJ story, he explained he approved a high number of cases, "[b]ecause I can. I enjoy

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[561] *Id.*
[562] *See* CLF01022, May 20, 2011 receipt from purchase of TRACFONE LG 420. *See also* CLF01036, receipt for the purchase of two TRACFONE LG 420s on April 28, 2011. Exhibit 75.
[563] February 23, 2012 Committee interview with Melinda Martin.
[564] May 26, 2011 email from Charlie Paul Andrus to Debra Bice, PSI-SSA-10-027678. Exhibit 76.
[565] Damian Paletta, Disability Judge Put on Leave From Post, Wall Street Journal (May 26, 2011), http://online.wsj.com/article/SB10001424052702303654804576347790598676096.html.
[566] *Id.*
[567] *Id.*
[568] *Id.*

the job. I'm a workaholic; I love the job."[569] When questioned about his practice of deciding claims on the record, Judge Daugherty responded "[i]f the documentary medical evidence is there, I find no reason to waste time and money holding a hearing, delaying benefits they're so deserving of."[570]

Judge Daugherty officially retired from the agency on July 13, 2011.

d. Chief Administrative Law Judge Debra Bice Removed Judge Andrus as Hearing Office Chief Administrative Law Judge

In response to the WSJ article on May 23, 2011, Marsha Stroup, Regional Chief Administrative Law Judge for Denver, emailed Chief Administrative Law Judge Debra Bice and noted the long term problems exposed by the WSJ, stating

> the agency should have stopped this years ago but raw numbers have been valued too much and the claimants obviously love this kind of judge...Judges shouldn't be allowed to troll for OTRs anymore and should only be scheduled, say no more than 60-80 cases a month. I'd be interested in seeing the quality of writing on [Judge Daugherty's] cases. I also wondered how many cases with the same attorney.[571]

With regard to Judge Andrus specifically, Judge Stroup suggested "[d]epending on what the [OIG Report] says, I'd take a hard look on how Andrus has been running the office. I like Charlie but there are a lot of questions swirling around in the field about him now." In response, Chief Judge Bice commented she "like[d Judge] Andrus but I think there is going to be some fallout from this – unfortunately. I'm not sure any office could withstand this scrutiny."[572]

Judge Bice stated she relied on the local HOCALJs to bring any issues in their particular office to her. When she questioned Judge Andrus about Judge Daugherty he "couldn't give an honest assessment of what was going on." Judge Bice decided Judge Andrus should step down.[573]

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[569] New Info: EKy Attorney, Former Htn Judge Accused of Fraud in Lawsuit, March 4, 2013, http://www.wsaz.com/news/headlines/Local_Social_Security_Judge_Under_Scrutiny_122259399.html.
[570] *Id.*
[571] May 23, 2011 email between Debra Bice to Marsha Stroup, PSI-SSA-100-030524-25. Exhibit 77.
[572] *Id.*
[573] August 3, 2012 Committee interview of Chief Judge Debra Bice.

Judge Bice traveled to Prestonsburg, Kentucky on June 8, 2011 to speak with Judge Andrus, who was at the satellite location for hearings. Judge Bice told Judge Andrus she had "lost confidence in his ability to serve as HOCALJ."[574] According to Judge Andrus, he was told that SSA Commissioner Michael Astrue personally requested he step down on a temporary basis.[575] She reported Judge Andrus "agreed to step down temporarily as HOCALJ" and gave him the option of resigning to save face.[576] She then "went to the Huntington office and spoke with Greg Hall and then the staff. [Judge Bice] told them Judge Andrus had requested to step down temporarily and [she] had approved his request."[577] According to Judge Andrus, 20 minutes after Judge Bice's announcement a reporter from the WSJ "called my home gloating about my losing my job."[578]

The next day, Judge Andrus emailed Huntington ODAR and explained

> [a]s HOCALJ I carry a full load of cases as a judge as well as having administrative duties in the office. Recent events have added even more stressful duties. After my heart surgery I have been very cognizant of the stresses in my life. Some of you have expressed concern with things you have seen indicating I am adversely reacting to the stress.[579]

Judge Andrus continued by asserting his removal was only temporary and at his request:

> Given my doctor's warning about too high levels of stress, I requested that Judge Bice relieve me of the HOCALJ responsibilities on a temporary basis until the investigation is over...Judge Bice agreed to my request. When the extra stressors are resolved, I plan to reassess the situation and in conjunction with my doctor, decide if I could safely request to resume HOCALJ duties.[580]

Judge Bice previously approved the above cited email.[581]

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[574] *Id.*
[575] June 19, 2012 Committee interview with Judge Charlie Andrus.
[576] June 8, 2011 email from Debra Bice to Jasper J. Bede and John Allen, PSI-SSA-100-030480. Exhibit 78.
[577] *Id.*
[578] June 9, 2011 email from Charlie Paul Andrus to Debra Bice, PSI-100-030471-2. Exhibit 79.
[579] June 9, 2011 email from Charlie Paul Andrus to Huntington, WV ODAR, Jasper J. Bede, and John Allen, PSI-SSA-95-031007-08. Exhibit 80.
[580] *Id.*
[581] June 9, 2011 email from Charlie Paul Andrus to Debra Bice, PSI-SSA-100-030472. Exhibit 79.

After Judge Andrus was removed as HOCALJ, the agency installed a series of temporary HOCALJs from other offices. In August 2011, Judge Michael Devlin served as the Huntington HOCALJ and emailed his concern to Judge Bice that "at lunch [], Charlie Andrus mentioned that he can't wait for things to get back to normal so he can run the office again."[582] Judge Devlin questioned whether Judge Andrus "is delusional or whether [Judge Bice] or Judge Bede have given him some assurance that he would return as HOCALJ."[583] Judge Devlin indicated he planned to make some changes in the Huntington office and was concerned because he thought Judge Andrus was "capable of being a mean SOB. He has been cordial and pleasant with me, but then again we have not had any disagreements yet."[584]

Judge Bice responded to Judge Devlin "while no promises have been made to Charlie Andrus, at the same time he has not been given any assurances that he will return." Judge Bice confirmed Judge Devlin had the authority to make changes to the office and noted "if Andrus starts to act up let me know and I will take care of it."[585]

In October 2011, Judge Bice told Judge Andrus that he would not be returning to the position of Huntington HOCALJ.[586] In September 2013, the agency placed Judge Andrus on administrative leave.

e. Judge Andrus and Mr. Conn Worked Together to Target a Perceived Whistleblower

Following the *Wall Street Journal* article, Judge Andrus and Mr. Conn worked together to target Sarah Carver, an employee of Huntington ODAR they believed to be responsible for the story. Using Mr. Conn's employees to conduct video surveillance of Ms. Carver, they attempted to build a case for having her fired for allegedly violating SSA's work-at-home rules. While the plan was ultimately unsuccessful, the surveillance operation last several months. When asked about it by the Committee, Judge Andrus at first denied, but then later admitted in a written statement to the SSA his role in the effort to discredit Ms. Carver.[587]

Mr. Conn and Judge Andrus Target Ms. Carver. The effort to discredit Ms. Carver began with a telephone call between Mr. Conn and Judge Andrus. One of Mr. Conn's employees, Melinda Martin, was present for

[582] August 27, 2011 email from Michael Devlin to Debra Bice, PSI-SSA-10-029427. Exhibit 81.
[583] *Id.*
[584] *Id.*
[585] *Id.*
[586] June 19, 2012 Committee interview of Judge Charlie Andrus.
[587] In the presence of officials from both SSA and SSA OIG, Judge Charlie Andrus signed a statement related to his involvement in working with Mr. Conn regarding a plan to film Sarah Carver. *See* January 15, 2013 Statement of Judge Charlie Andrus. Exhibit 82.

the conversation. She told the Committee that Mr. Conn and Judge Andrus wanted to try to catch Ms. Carver not working during the days she said she was working from home.

In a signed statement, Judge Andrus provided further details of the arrangement:

> It started off – we were having a general conversation – Eric Conn had mentioned that Sarah Carver and Grover Arnett and retired Judge Kemper had met with the Wall Street Journal reporter about Judge Daugherty. And he was not happy with Sarah Carver. I had mentioned that she was probably not performing time and attendance while on flexiplace; that generally it was very difficult to do anything. She couldn't be disciplined unless there was video sent to her supervisor. Eric Conn said he'd be willing to hire a private investigator to check.
>
> Then I got real stupid and said that sounds like an idea."[588]

After Mr. Conn spoke with Judge Andrus, Mr. Conn explained the plan to Ms. Martin. According to Ms. Martin's sworn affidavit, Mr. Conn stated, "Judge Andrus called me and we have to do something about Sarah Carver, so here's what we came up with."[589] According to Ms. Martin, Mr. Conn explained that they would place Sarah Carver under video surveillance on the days she worked from home or her "flex-day."

Judge Andrus Recruits Ms. Nease. To assist in the plan to discredit Ms. Carver, Judge Andrus looked for help from Sandra Nease, one of his subordinates. A few months earlier, on November 19, 2010, despite "many very qualified applicants from both inside and outside the office," Judge Andrus had promoted Ms. Nease "to be the new paralegal writer."[590] After promoting her, Judge Andrus recruited her to assist in the plan to retaliate against Ms. Carver.

As he later explained in his written statement, he thought of Ms. Nease during his initial telephone call with Mr. Conn:

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[588] *Id.*

[589] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶¶ 22-23 (Exhibit 17).

[590] The selection of Ms. Nease was the subject of an Equal Employment Opportunity ("EEO") complaint filed by another office employee Brandee E. McCoy. Ms. McCoy, who had a law degree, alleged the selection of Ms. Nease over her was due to racial discrimination. Despite being the highest producing Senior Case Technician and the only applicant with a law degree, Ms. McCoy did not make the list of 27 eligible candidates. See Equal Employment Opportunity Complaint filed by Ms. Brandee McCoy dated March 28, 2011. Sealed Exhibit. In making the selection of Ms. Nease, Judge Andrus indicated it would be controversial. In an email to Mr. Hall, Judge Andrus stated: "Let the games begin – those of us who [are] about to die salute you!" November 19, 2010 email from Charlie P. Andrus to Gregory Hall. Exhibit 83.

> Then we discussed how to let him [Mr. Conn] know when she was on flexiplace since it was not on a regular basis. He asked if there was anyone on staff who would be willing to call him – and I thought of Sandra Nease, a writer, because she had had personal problems with Sarah Carver and Sandra Nease agreed.
>
> Eric Conn gave me a note for Sandra Nease indicating a cell number of a contact in his office and I gave it to Sandra Nease. She said she would call the person when she knew that Sarah Carver was on flexiplace.[591]

When the Committee interviewed Ms. Nease, she explained that, prior to the news story's publication, her relationship with Ms. Carver was strained. "I don't like Sarah," she said, calling her a "snake" and one of the office "malcontents."[592] Ms. Nease also explained that it was unfair for Ms. Carver to make allegations against Judge Daugherty, and the surveillance operation was simply to "level the playing field." When asked if she thought it was appropriate, Ms. Nease responded, "everybody operates in different shades of gray."[593]

To ensure Mr. Conn knew Ms. Carver's "flexiplace" days, Judge Andrus asked Ms. Nease to call Ms. Martin to report the days Ms. Carver planned to work from home.[594] If Ms. Nease could not reach Ms. Martin, she left a voicemail.[595] According to Ms. Martin, the first time Ms. Nease called to report Ms. Carver's flex-day, Ms. Martin was in Mr. Conn's office. Ms. Martin answered the call on speakerphone and Ms. Nease spoke directly to Mr. Conn. Ms. Nease stated Judge Andrus wanted Ms. Martin and Mr. Conn to know the following information regarding Ms. Carver: the date of Ms. Carver's flex-day; Ms. Carver's address; the types of cars that Ms. Carver and her husband drove; directions to Ms. Carver's house; and that the house was surrounded by a tall privacy fence that might be difficult to record over. Ms. Nease also stated that Ms. Carver's children had band practice at a certain time, which might create an opportunity to record her.[596]

For several months, Ms. Nease continued to call Ms. Martin when Ms. Carver was out of the office on her flex-day. According to Ms. Martin, on at least seven occasions, Ms. Nease left messages on Ms. Martin's

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[591] January 15, 2013 Statement of Judge Charlie Andrus. Exhibit 82.
[592] June 13, 2012 Committee interview of Sandra Nease.
[593] *Id.*
[594] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 24 (Exhibit 17); January 15, 2013 Statement of Judge Charlie Andrus. Exhibit 82.
[595] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 24 (Exhibit 17).
[596] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 25 (Exhibit 17).

personal mobile phone.[597] On February 10, 2012, Ms. Nease left the following voicemail message, which Ms. Martin said was typical:

> Melinda this is Sandy, just going to let you know the children are going to be out of school on Monday, February the 13th [2012], thought that you might want to know, give me a call if you need anything else. Bye.[598]

Ms. Nease explained the phrase "the children are going to be out of school" was code for the days on which Ms. Carver was working from home.[599]

On February 13, 2012, Ms. Nease called again and left the following message on Ms. Martin's personal mobile phone:

> Melinda, this is Sandy, I was just calling to let you know that I believe that Sarah is in Washington, D.C., that's what I heard today on the floor, apparently. I am not sure why she is there. But, just wanted to let you know. Thank you. Bye.[600]

When asked by the Committee why she made these phone calls, Ms. Nease stated Judge Andrus "inferred" she should call Mr. Conn's employee. She added she could not remember how she acquired Ms. Martin's phone number.[601]

When questioned by the Committee whether he asked Ms. Nease to call Mr. Conn's employee, Judge Andrus stated: "not that he could recall."[602] In his later signed statement, however, Judge Andrus confirmed he gave the number on a note to Ms. Nease "by hand, in her office."[603]

In the same signed statement, Judge Andrus said he approached Ms. Nease "shortly after the conversation with Eric Conn."[604] His statement also documented the topics discussed with Ms. Nease:

> We discussed what might happen to Sarah Carver once management found out about her time and attendance abuse. We had a discussion about – because there was a video of

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[597] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 26 (Exhibit 17).
[598] Voicemail provided by Ms. Melinda Lynn Martin.
[599] June 13, 2012 Committee interviews with Melinda Martin; June 13, 2012 Committee interview of Sandra Nease.
[600] Voicemail provided by Ms. Melinda Martin.
[601] June 13, 2012 Committee interview of Sandra Nease.
[602] June 19, 2012 Committee of Judge Charlie Andrus.
[603] January 15, 2013 Statement of Judge Charlie P. Andrus. Exhibit 82.
[604] *Id.*

> some kind – it would be more difficult for Sarah Carver to claim retaliation as a basis for any action.[605]

Mr. Conn's Employees Follow and Film Ms. Carver. On the days Ms. Nease alerted Ms. Martin that Ms. Carver was working from home, Mr. Conn had his employees follow Ms. Carver to attempt to film her performing activities other than work.[606] After several attempts, however, Mr. Conn was unable to successfully film Ms. Carver on her flex-day.

Instead, a secondary plan was hatched simply to film Ms. Carver during non-work hours and then use a fabricated video to assert she was violating agency rules during work hours. To do so, an employee of Mr. Conn hid in the parking lot across the street from the Huntington ODAR office and filmed Ms. Carver as she walked into work one day. To make it appear as if it was being videotaped on one of Ms. Carver's flex-days, the employee held up a newspaper with the same date in view of the camera.[607] To further the deception, he then played a recording of a National Public Radio ("NPR") show from the same day.[608]

In his statement, Judge Andrus explained what he believed to be on the video: "[Mr. Conn] saw her leave her house, pick up her son, and go shopping. In another incident, she left for the afternoon and went to a law office. She stayed there for some time and came out with a sheaf of papers."[609] It is unclear whether he knew the date of videotaped activity had been altered.

According to his statement to the agency and OIG, Judge Andrus told Mr. Conn the video "should go to her first line supervisor and then OIG. [Mr. Conn] asked for the address of the senate committee who was investigating at the time; I gave him the address."[610] Judge Andrus did not directly know if Mr. Conn sent the video, but "assumed he did" because "OIG later interviewed [Judge Andrus] about [it] – indicating that they got it."[611]

Stephen Hayes, the current Huntington ODAR Hearing Office Director, told the Committee the video of Ms. Carver was, in fact, sent to the Huntington ODAR office. He stated the office received the DVD wrapped in a computer print-out of a NPR article about penguins; the

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[605] *Id.*
[606] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 27 (Exhibit 17).
[607] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 28.
[608] *Id.*; *see also* June 13, 2012 Committee interview of Hearing Office Director Stephen Hayes.
[609] January 15, 2013 Statement of Judge Charlie Andrus.
[610] *Id.*
[611] *Id.*

document indicated the story played on NPR the same day as one of Ms. Carver's flex-days.[612]

Mr. Hayes told the Committee that he watched the video at the time and that it was a video of Ms. Carver taken by an individual sitting in the driver's seat of a vehicle. The background audio was the same penguin-related NPR story wrapped around the DVD, which was intended to establish Ms. Carver was not working on her flex-day. According to Mr. Hayes, he gave the DVD to Acting HOCALJ Michael Devlin, but no action was taken by the agency in response to the video.[613]

Mr. Hayes stated the receipt of the video followed an anonymous phone call the Huntington ODAR office received in Fall of 2011 from a Kentucky mobile phone number in which the caller reported Ms. Carver was not working on her flex-days. The caller refused to identify themselves. Mr. Hayes stated he reported the call to Acting HOCALJ Devlin.[614]

In his statement, Judge Andrus confirmed he "told Sandra Nease what [Mr. Conn] had said about filming Ms. Carver:

> I related that [Mr. Conn] told me that they had video tape about her shopping and the incident where she went to the law office – [Judge Andrus and Ms. Nease] speculated why she was there, Ms. Nease thought she was moonlighting. I said I had no clue.

Judge Andrus explained why Ms. Nease stopped calling Mr. Conn's employee: "There wasn't anything happening and then [Ms. Nease] had the discussion with the Senate Committee staffers. That's when it dawned on me how incredibly stupid this had been."[615]

When the Committee interviewed Judge Andrus, he was specifically asked if he was part of a plan to have Sarah Carver followed; Judge Andrus said: "No."[616] When asked if he ever directed, or implied, that Ms. Nease call Mr. Conn's office about Ms. Carver's flex-days, he replied: "Not that I can recall."[617] "I can't recall ever knowing" that Ms. Nease was repeatedly calling Ms. Martin, he said, adding, "it wouldn't

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[612] It appears a story did run on NPR on February 12, 2012 on penguins. *See* NPR Staff, "Virtual Penguins A Prescription for Pain?," Feb. 12, 2012, http://www.npr.org/2012/02/12/146775049/virtual-penguins-a-prescription-for-pain.
[613] June 13, 2012 Committee Interview of Hearing Office Director Stephen Hayes.
[614] *Id.*
[615] January 15, 2013 Statement of Judge Charlie Andrus. Exhibit 82.
[616] June 19, 2012 Committee interview with Judge Charlie Andrus.
[617] *Id.*

surprise me the way she and Sarah got along."[618] His statements to the Committee directly contradict his later written statement to the SSA.

f. Mr. Conn Destroyed Disability Claimants' Medical Records and Office Computers

Following the WSJ article on May 19, 2011, Mr. Conn either personally destroyed documents, including medical records for active disability claims, or directed one of his employees to destroy the documents.[619] Documents were also destroyed following the SSA Office of Inspector General's interview of Mr. Conn, which took place on the grounds of the Conn Law Firm.[620] According to correspondence provided by Mr. Conn's attorney, the SSA Inspector General's office visited Mr. Conn "regarding a situation involving an apparent OIG investigation being conducted out of the Huntington, WV office" in spring of 2011.[621]

Prior to these events, the Conn Law Firm had no document retention policy containing a schedule for destroying documents. As such, none of these documents were destroyed in the normal course of business.[622]

Ms. Martin stated she witnessed Mr. Conn destroy a wide range of documents, including financial records maintained by the former Conn Law Firm Office Manager, Mr. Conn's mother Pat Conn. Mr. Conn also ordered an employee to hand over to him all hard copies of "DB Lists" and he immediately shredded the lists in the office shredder.[623] Mr. Conn also instructed each Conn Law Firm employee to delete everything on their computers related to DB Lists. Ms. Martin's computer had a number of DB Lists saved electronically on its hard drive. Mr. Conn asked Ms. Martin to take her computer home and destroy it.[624]

With regard to the other computers within the Conn Law Firm, over the course of 2011 Mr. Conn replaced the majority of the computers in the office. In July 2011, Mr. Conn directed an employee to remove the hard drives from all the old computers currently not being used and destroy the hard drives with a hammer.[625] Ms. Martin watched as the employee destroyed the hard drives as Mr. Conn requested. The employee, at Mr. Conn's direction, then burned the computers and what was left of the

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[618] *Id.*
[619] June 13, 2012 Affidavit of Melinda Lynn Martin; ¶¶ 29-34 (Exhibit 17).
[620] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶¶ 31; 32 (Exhibit 17).
[621] May 17, 2012 Letter from Pamela J. Marple, Esq., attorney for Eric C. Conn, to Richard A. Rohde, Assistant Inspector General for Investigations. Exhibit 9.
[622] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 29 (Exhibit 17).
[623] *Id.*
[624] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 31 (Exhibit 17).
[625] June 13, 2012 Affidavit of Melinda Lynn Martin, ¶ 33 (Exhibit 17).

hard drives, which left a patch of scorched grass for weeks behind one of the CLF mobile homes.[626]

Mr. Conn also contracted with Shred-All Documents ("Shred-All"), a shredding company located in Pikeville, Kentucky. On June 23, 2011, Shred-All sent Mr. Conn an invoice for destroying 26,532 pounds of documents for the Conn Law Firm, the equivalent of 2.65 million sheets of paper.[627] To destroy these documents, Shred-All invoiced CLF for $3,183.84.[628] Around six months later, January 9, 2012, Shred-All destroyed an additional 8,821 pounds of documents for CLF, or around 882,100 pages of documents. CLF paid Shred-All $1,058.52 to destroy these documents.[629]

On both invoices, Shred-All certified "that all materials for confidential destruction throughout the proceeding schedule of services were confidentially handled, completed destroyed beyond recognition and recycled."[630]

Prior to the WSJ article, Shred-All destroyed documents for Mr. Conn in much smaller batches in the following increments and on the following dates:

- 5,612 pounds of documents on June 8, 2010 at a cost of $673.44;
- 5,881 pounds of documents on September 30, 2010 at a cost of $705.72; and
- 7,256 pounds of documents on November 15, 2010 at a cost of $870.72.[631]

Therefore, the amount of documents destroyed by CLF following the WSJ article was significantly larger than those destroyed prior to the article. Both Ms. Slone and Ms. Martin made clear that following the WSJ article and the meeting with the Office of Inspector General, Mr. Conn destroyed a wide range of documents.[632]

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[626] *Id.*

[627] Calculations based on 500 sheets of 20 pound bond paper. *See* http://home.howstuffworks.com/question329.htm.

[628] Shred-All Documents invoice dated June 30, 2011, PSI-Shred_All_Docs-01-0015. Exhibit 66.

[629] Shred-All Documents invoice dated January 9, 2012, PSI-Shred_All_Docs-01-0017. Exhibit 66

[630] Shred-All Documents invoices dated June 30, 2011 and January 9, 2012, PSI-Shred_All_Docs-01-0015 and 0017. Exhibit 66.

[631] Shred-All Documents invoices dated June 6, 2010, September 30, 2010, and November 30, 2010, PSI-Shred_All_Docs-01-0001-0014. Exhibit 66.

[632] June 12, 2012 Affidavit of Jamie Lynn Slone ¶¶28-33 (Exhibit 16); June 13, 2012 Affidavit of Melinda Lynn Martin ¶¶ 29-34 (Exhibit 17).

g. SSA Approved the Purchase of Shredders for Huntington Management

On July 6, 2011, several weeks after the *Wall Street Journal* article was published and in the middle of investigations by OIG and this Committee, Huntington ODAR requested authorization from Region 3 to purchase five cross-cut shredders.[633] Region 3 authorized the purchase from Huntington's supply budget and the shredders arrived onsite on July 11, 2011.[634] The Committee learned the shredders were located in the offices of all group supervisors, the Hearing Office Director, and the acting HOCALJ.

While Committee investigators were in Huntington conducting interviews on July 27, the acting HOCALJ, was questioned regarding the purchase of the shredders in the middle of two investigations into the office. He stated that he had not considered the implications of purchasing shredders at a time when the agency was required to preserve all relevant documentation.

On July 28, 2011, the Chairman and Ranking Member of the Permanent Subcommittee on Investigations sent a letter to Commissioner Astrue informing him that "[i]t has come to our attention that some SSA staff in the Huntington, West Virginia Office of Disability Adjudication and Review Field Office may be engaged in the destruction of records related to this investigation, possibly in violation of several statutes, including the Federal Records Act and 18 U.S.C § 1505 relating to obstruction of an investigation by a Congressional Committee."[635] As such, the Committee requested the Commissioner "provide confirmation that you have taken appropriate steps to ensure the preservation of these documents at all SSA offices" and "ensure no documents are shredded at the Huntington Field Office outside the normal document retention policies and procedures."[636]

The next day, on July 29, a SSA OIG criminal investigator entered the office and confiscated the shredders, preventing any further shredding of documents by members of management and Judge Andrus. The SSA Inspector General reported the agent reviewed the available materials that were shredded and stated the materials "were appropriate for destruction."[637] "With cross cut shredders, however, it is impossible to actually review the shredded material by piecing it together and

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[633] July 6, 2011 email from Bridgette Campbell to Vickie Moreland. Exhibit 84.
[634] See Order Conformation dated July 8, 2011. Exhibit 85.
[635] July 28, 2011 Letter from Senators Levin and Coburn to Commissioner Astrue. Exhibit 86.
[636] *Id.*
[637] See August 1, 2011 Letter from Commissioner Astrue to Sens. Levin and Coburn. Exhibit 87.

determine what was shredded."[638] Unable to review materials shredded by the cross-cut shredders, the OIG agent was limited to interviewing the individuals in possession of the shredders, including former HOCALJ, Charlie Andrus.

On August 1, 2011, Commissioner Astrue responded, saying he "directed that all documents, of any type and regardless of our other policies, be preserved in the Huntington Hearing Office and that any shredders immediately be moved out of the building to another Social Security facility until further notice."[639]

[638] August 2, 2011 email from the SSA Office of the Inspector General to Committee Staff. Exhibit 88.
[639] August 1, 2011 Letter from Commissioner Astrue to Senators Levin and Coburn. Exhibit 87.

XIV. MR. CONN SOUGHT TO GAIN FAVOR WITH HUNTINGTON ALJS AND KENTUCKY STATE COURT JUDGES

Mr. Conn used the income he earned to finance certain acts to gain favor with Huntington ALJs and Kentucky state court judges who could decide cases involving Mr. Conn.[640]

a. Mr. Conn Produced a Music CD for a Sitting Kentucky State Court Judge

Mr. Conn provided gifts and contributions to a district court judge with responsibility for cases directly related to his disability practice.

Darrel H. Mullins was the Chief District Judge for Pike County resident in Pikeville, Kentucky, during the period under review by the Committee.[641] Mr. Conn not only hired Judge Mullins to play at the reception for one of his weddings, Mr. Conn also financed the production and distribution of a compact disc ("CD") of Judge Mullin's music.

The CD is titled "The Eric C. Conn Law Complex Presents We the People: Songs by Darrel Mullins and Dan Huff." The internal cover of the CD specifically noted "[t]hanks to Eric C. Conn for making this project possible, for his service as a veteran, and for believing in American and in us for telling our stories in songs."[642] The back cover of the CD makes clear that Judge Mullins is responsible for "[a]ll lead and background vocals, harmonica, and rhythm guitar" on certain tracks.[643]

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[640] Federal ALJ's are prohibited from accepting gifts from outside sources, just like all other federal employees. See Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. §2635, Subpart B, Gifts from Outside Sources. Both Judges Gitlow and Andrus admitted to taking gifts from Mr. Conn. Judge Gitlow requested Mr. Conn have his tailor, located in Thailand, make custom shirts for the Judge. According to Jamie Slone, former Conn employee, Judge Gitlow sent his measurements straight to Mr. Conn's tailor in Thailand. When Mr. Conn returned from Thailand with the shirts, however, Judge Gitlow said he refused them because the shirts did not fit properly. Judge Gitlow never paid Mr. Conn for the shirts. Judge Gitlow estimated the shirts cost Mr. Conn around $20 a piece. On October 31, 2010, Mr. Conn returned from Thailand and declared $600 worth of men's suits and $100 in men's shoes to the U.S. Department of Homeland Security. Former employees of Mr. Conn confirmed these were items Mr. Conn brought back from Thailand for Judge Gitlow. As mentioned above, Mr. Conn offered to take Judge Andrus to Brazil and Russia at his expense. Judge Andrus also admitted in his signed statement he accepted a package of DVD's "for the office" that he believed were "probably pirated from Thailand" and claimed he "shredded them."

[641] Kentucky Court of Justice, Address List, http://apps.courts.ky.gov/ContactList/Addresslist.aspx?County=Pike.

[642] Internal CD Jacket, The Eric C. Conn Law Complex Presents We the People: Songs by Darrel Mullins and Dan Huff. Exhibit 89.

[643] Back CD Jacket, The Eric C. Conn Law Complex Presents We the People: Songs by Darrel Mullins and Dan Huff. Exhibit 89.

While Mr. Conn received payment directly from SSA when his claimants were approved for benefits, he also required reimbursement by the claimant of any expenses related to securing a review of the claimant by one of his chosen physicians. Mr. Conn's physicians would provide an opinion on the claimant's ability to work given their alleged disability.[644] Each claimant evaluated by Mr. Conn's doctor would sign a contract stating they would reimburse the firm for the cost of the evaluation.[645] Another firm employee would film the claimant signing the contract promising to reimburse the firm for the cost.[646]

If the claimant was awarded disability benefits, but refused to reimburse Mr. Conn for the cost of the physician, Mr. Conn would file a lawsuit against them in Kentucky District Court, where Judge Mullins served as Chief Judge.

b. Mr. Conn Attempted to Skirt State Election Campaign Laws

In Kentucky, state election law directs "no person...shall contribute more than one thousand dollars ($1,000) to any one (1) candidate...in any one election."[647] In order to get around the law and contribute to Will T. Scott's campaign for Kentucky Supreme Court Justice, Mr. Conn ordered an employee to purchase 10 money orders in the amount of $1,000 each.[648] At the direction of Mr. Conn, a firm employee filled out the money orders in the name of ten different firm employees. The campaign returned the money orders to the individuals whose names appeared on the order.[649]

After the return of the money orders, David Hicks, an attorney at CLF, requested another money order for $1,000 from CLF funds that he stated would be used for his wife to write a check to the Will T. Scott Campaign.[650] Mr. Conn also instructed Ms. Slone to give another individual $1,000 for him to write a check to the Scott campaign.[651]

Documents filed Franklin County, Kentucky Circuit Court confirm "[o]n February 8-09, 2013, the defendant [Mr. Conn] attempted to make a gift of money to another person to contribute to a candidate for the Kentucky Supreme Court on his behalf."[652]

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[644] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶8 (Exhibit 16).
[645] *Id.*
[646] *Id.*
[647] Kentucky Revised Statutes §121.150(6).
[648] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶35b (Exhibit 16).
[649] *Id.*
[650] June 12, 2012 Affidavit of Jamie Lynn Slone, ¶35c (Exhibit 16).
[651] *Id.*
[652] *Commonwealth of Kentucky v. Eric C. Conn*, Case No. 13-CB-00231 (Franklin Cir. Ct. Sept. 9, 2013). Exhibit 90.

Court documents indicated Mr. Conn was initially charged with a Class D Felony of "making a gift of money to another person to contribute on his behalf. In Kentucky, the authorized maximum term of imprisonment for a Class D felony is between one and five years.[653] The charges against Mr. Conn, however, were amended to "criminal attempt to make a gift to another person to contribute to a candidate on his behalf," which is a Class A Misdemeanor. Mr. Conn pled to the lesser charge and was sentenced to "twelve months, conditionally discharged for two years" and was ordered to "make restitution in the amount of $5,600.00 to the Office of the Attorney General for investigative costs."[654]

A local newspaper reported that, through his attorney, "Mr. Conn said he deeply, deeply regrets this mistake and apologizes."[655]

[653] Kentucky Revised Statutes §532.060 Sentence of imprisonment for felony.
[654] *Commonwealth of Kentucky v. Eric C. Conn*, Case No. 13-CB-00231 (Franklin Cir. Ct. Sept. 9, 2013). Exhibit 90.
[655] Bill Estep, Lexington Herald-Leader, *Kentucky disability lawyer pleads guilty to campaign-finance violation*, September 23, 2013, http://www.kentucky.com/2013/09/23/2839382/kentucky-disability-lawyer-eric.html#.

APPENDIX I:
SUMMARY OF A SAMPLE OF ERIC CONN CLAIMANT CASE FILES DECIDED FAVORABLY BY JUDGE DAUGHERTY

1. Medical Opinions Procured by Mr. Conn Were Inconsistent with Other Medical Evidence

Most of Judge Daugherty's written decisions stated that the opinions of the consulting doctors paid by Mr. Conn were "more consistent with the record as a whole." As such, Judge Daugherty adopted Dr. Huffnagle's findings, including his residual functional capacity assessments, as the basis for determining that the claimants could not work. However, the Committee found many instances in which Dr. Huffnagle's opinions differed significantly from other evidence contained in the claimants' case files, a fact that Judge Daugherty always failed to address.

Case B: Judge Daugherty awarded benefits in August 2010 to a claimant who had previously been denied because the agency determined he could work.[656] While several doctors contributed to the agency's determination, Judge Daugherty based his fully favorable decision solely on a single examination by Dr. Huffnagle, which described injuries suffered by the claimant in a traffic accident that occurred the year before.[657]

The seriousness of his injuries was thrown into some question, however, since he did not seek medical attention until the day after his accident.[658] Medical records from St. Mary's Medical Center dated the day after his accident stated:

> This is a young man who apparently presents with a history [of a traffic accident]. He was able to get up, move around, he went home. As a matter of fact, he mowed his yard.[659]

Exam notes indicated that, because of his fractures, "He will require an MRI in the morning and a brace with a cervical collar with a chest extension and a TLSO brace on his dorsal spine for 6 weeks."[660] Records also indicated that the claimant was not wearing a helmet.[661] He saw his regular physician 6 days later, who noted the claimant was

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[656] See Exhibit B-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 1 and 5.
[657] *Id.* at 3. and see Exhibit B-2, June 24, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D.
[658] See Exhibit B-3, June 2009 Medical Records at 1.
[659] *Id.* at 1.
[660] *Id.* at 1.
[661] *Id.* at 3.

wearing a "hard brace and cervical collar" and made a notation " off work – disability- 4 weeks."[662]

Later that month, the claimant saw the same physician who treated him while in the hospital, and exam notes from that visit state that the claimant was still wearing his hard brace and cervical collar, and that "X rays show good alignment in the cervical and dorsal spine."[663] The patient was advised to "take Tylenol #3 and I will see him back here with x-rays in [six weeks]."[664]

He hired Eric Conn as his attorney a few months after his accident and applied for disability benefits on the same day.[665]

Subsequent visits with the claimant's treating physician indicate that the claimant was still experiencing back and neck pain during subsequent months in 2009 as a result of the accident, but also that he was receiving pain relief as a result of medications.[666]

In November 2009, the claimant was sent by DDS for a consultative exam in which the physician said that the claimant had few work-related limitations, concluding:

> As far as the claimant's work capabilities are concerned, he certainly hears and understands normal conversational tone. He moves about the exam room today using no assistive devices and without any obvious gait disturbance. He does not complain of chest pain. He has normal strength and dexterity in both upper extremities, although with his tender wrist, repetitive heavy use of his hands may be prohibitive. He should be able to lift 10-15 pounds, but heavier lifting may bother his back. Walking is not a problem and mobility should not be an issue with this patient. He should be able to ambulate a reasonable distance. However, bending and stooping may present problems as well because of the back difficulties.[667]

His application was denied in January 2010 following the consultative exam and then again on May 17, 2010 upon reconsideration.[668] An examiner at the DDS level explained, "This claimant has a residual functional capacity for light work, is a younger individual, has a high

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[662] See Exhibit B-4, June 2009 Medical Records at 1.
[663] See Exhibit B-5, June 2009 Medical Records at 1.
[664] *Id* at 1.
[665] See Exhibit B-6, August 26, 2009, Appointment of Representative and Fee Contract at 1 and 2.
[666] See Exhibit B-7, August 2009 and September 2009 Medical Records at 1 and 2.
[667] See Exhibit B-8, November 2009 Consultative Examination at 4-5.
[668] See Exhibit B-9, January 13, 2010 Notice of Disapproved Claims and Exhibit A-10, May 17, 2010 Notice of Reconsideration.

school education, and work experience as a contractor ... There are a significant number of occupations for which this claimant qualifies."[669]

Claimant Added to DB List. The claimant was placed by Mr. Conn and Judge Daugherty on the July 2010 "DB List," marked as needing a "physical" examination and scheduled to see Dr. Huffnagle.[670] He was seen by Dr. Huffnagle on June 24, 2010, who concluded the claimant was not only experiencing a number of severe conditions, but faced significant functional limitations as well.[671]

However, in diagnosing the claimant he got key pieces of information wrong. According to Dr. Huffnagle, the claimant was involved in a "severe" traffic accident in which he fractured C1 to T11, L5-S1. Upon leaving her hospital, "he was in a body cast and a halo."[672] The claimant's records, however, do not show that he was in a "body case and a halo," but rather in a cervical collar and TLSO brace.[673] While the former restricts the neck and back from any movement at all – and often requires extreme bed-rest – the latter allows for mobility, including the ability to walk around.

On the same day, Dr. Huffnagle also signed the Conn Law Firm's residual functional capacity (RFC) form Version #3 on behalf of the claimant.[674] As previously described, Mr. Conn's clients were assigned one of 15 RFC's used by the law firm, which were signed by doctors he hired. His findings on the RFC, however, were inconsistent with Dr. Huffnagle's exam notes. For example, the exam notes suggested the claimant could not return to construction or coal mining, but in the section of the RFC evaluating him for "moving machinery" said he could do so "constantly."[675] Again, the exam notes showed back pain with little flexibility, but the RFC showed the claimant could "constantly" perform "stooping," "crouching" and "kneeling."[676]

Claimant Awarded Benefits. Judge Daugherty issued a fully favorable decision on August 3, 2010, based solely on the exam conducted by Dr. Huffnagle.[677] In the decision he concluded, "Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and

[669] See Exhibit B-11, Simplified Vocational Rationale at 1.
[670] See Exhibit B-12, DB July 2010, CLF030809.
[671] See Exhibit B-2, June 24, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 4, 5-9.
[672] *Id.* at 1.
[673] See Exhibit B-3, June 2009 Medical Records at 1.
[674] See Exhibit B-2, June 24, 2010 Social Security Disability Medical Assessment, Frderic T. Huffnagle, M.D. at 5-9.
[675] *Id.* at 9.
[676] *Id.* at 7.
[677] See Exhibit B-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 1 and 5.

limitations. Therefore, the claimant is limited to less than sedentary work at best."[678]

Case C: The claimant in this case alleged a number of physical ailments, including blindness in one eye, as well as depression.[679] However, after several doctors determined that neither his physical or mental problems would not prevent him from working, he was sent by Mr. Conn to see Dr. Brad Adkins for a mental exam.[680] Based on this exam, Judge Daugherty awarded full disability benefits for depression and anxiety.[681]

Prior to applying for disability, the claimant worked as a mechanic for 25 years, but stopped in 2005.[682] He explained to one doctor, "he simply has been unable to continue due to orthopedic complaints."[683] A year later, on July 19, 2006, the claimant hired Eric Conn to represent him and applied for disability the next day.[684]

The claimant applied on the basis of the following conditions: "vision problems, right eye is legally blind, pain in wrist, right knee, both legs, back, hands shake, hands sweat, depression, 7th grade education, can't read, learning disability."[685] He described his challenges with personal care, including that it took him longer to get dressed when his knee swelled up; that he had to step in to bathe with his left leg and put weight on the right leg because of pain; and that holding his arms up in the air to care for his hair caused pain.[686]

However, the claimant's file contained conflicting evidence. His mother was also asked to fill out a questionnaire, which described the claimant's abilities differently. She wrote that she saw her son every day, and that they ate together, went shopping, and did chores.[687] She added that the claimant did not have any limitations in personal care, could drive himself around in a car, cook complete meals of "whatever he wants to eat that day," do laundry, dishes, and some yard work, and could shop for food and clothes on average two days per week for about three hours.[688]

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[678] *Id.* at 3.
[679] See Exhibit C-1, Disability Report-Adult-Form SSA-3368 at 2.
[680] See Exhibit C-2, January 9, 2007 Psychological Evaluation, Brad Adkins, Ph.D.
[681] See Exhibit C-3, January 23, 2007 Decision, Administrative Law Judge David B. Daugherty.
[682] See Exhibit C-1, Disability Report-Adult-Form SSA-3368 at 2 and 3.
[683] See Exhibit C-4, August 2006 Consultative Examination at 2.
[684] See Exhibit C-5, July 19, 2006 Appointment of Representative and Fee Contract.
[685] See Exhibit C-1, Disability Report-Adult-Form SSA-3368 at 2.
[686] See Exhibit C-6, Function Report-Adult at 2.
[687] See Exhibit C-7, Function Report Adult Third Party at 2.
[688] *Id.* at 3-5.

During the initial consideration of the case, the agency sent the claimant out for a consultative mental exam in August 2006, performed by Phil Pack, M.S., who also performed evaluations for Eric Conn's clients. Mr. Pack noted at the beginning of the exam write up "On the formal testing, he tends to give up very easily on items. His scores may be an underestimation of his actual potential, given his general test behavior."[689] The exam notes also state "Regarding alcohol use, he tells me he drinks approximately 15 to 18 beers on Friday and Saturday nights, but does not see this as a particular problem."[690] Under the "Behavioral Observations and Validity of Testing" section, the examiner said:

> "His chief complaint is multiple physical difficulties. He describes himself as being nervous or depressed and seems to use these terms interchangeably. He does not present with a clear pattern of affective disturbance. He has some worry and stress over his financial situation and lack of medical coverage. He does not report of any suicidal, homicidal, or psychotic symptoms. On the formal testing, he tends to give up somewhat quickly on tasks. His scores place him in the upper end of the mild range of mental retardation. He seems to present with significant reading deficits and alleges illiteracy. However, the Rey [a test for malingering] suggests a less than optimal effort. Some caution would be urged in interpretation on the following data, particularly in the absence of collateral information."[691]

The IQ test administered in this exam yielded a full scale IQ of 66, but the examining doctor reiterated his skepticism about the score because of a Rey test "score of 5, which indicates a less than valid effort on this task."[692] He diagnosed the claimant with "life circumstance problems" and "mild mental retardation on today's testing, more probable borderline intellectual functioning, reading disorder."[693]

A consultative physical exam took place in September 2006, at which the physician concluded that other than blindness in his right eye, the claimant had no serious limitations.[694] His blindness resulted from an injury in 1998, when the claimant had emergency surgery to repair his right eye.[695]

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[689] See Exhibit C-4, August 2006 Consultative Examination at 1-2.
[690] *Id.* at 3.
[691] *Id.* at 3-4.
[692] *Id.* at 5.
[693] *Id.* at 5.
[694] See Exhibit C-8, September 2006 Internal Medicine Evaluation at 4.
[695] *Id.* at 1.

On October 11, 2006, the agency denied his initial application, noting: "We realize that your condition prevents you from doing some types of work, but it does not prevent you from doing work which is not demanding and requires little or no training."[696] No additional evidence was submitted for reconsideration, and as a result, the application was denied again on November 29, 2006,[697] with the DDS examiner making the following conclusion:

> The claimant has a limited education, is a younger individual, and retains the capacity to perform unskilled work ... Since the claimant has the capacity to perform a broad range of work activity, disability is not established.[698]

A week later the claimant appealed to have a hearing before an ALJ.[699]

Claimant Added to DB List. Mr. Conn and Judge Daugherty placed the claimant on the January 2007 "DB List."[700]

On January 9, 2007, Eric Conn referred the claimant to see Dr. Brad Adkins for a second mental evaluation.[701] Dr. Adkins completed an exam report, which found the claimant to have severe mental limitations. However, the report also noted that the claimant had a "history of alcohol abuse." Dr. Adkins detailed the claimant's use of alcohol: "He has been arrested [multiple] times for public intoxication. He has a history of two arrests for DUI (Driving Under the Influence) about ten years ago. He said that he still drinks alcohol about [e]very two to three weeks on the weekend."[702]

Dr. Adkins also administered an IQ test, which yielded a score of 77, placing him in the borderline range for mental retardation.[703] Where the examining doctor several months earlier who found the claimant likely failed the IQ test on purpose, Dr. Adkins judged the results as valid.

In the section of Dr. Adkins' report titled "Summary and Conclusions" Dr. Adkins copied, word-for-word, the claimant's subjective information and allegations that were contained in the "Background" section and summarized the IQ test results.[704] Based on this information, Dr. Adkins concluded that the claimant had "Major Depressive Disorder, Single Episode, Moderate; Generalized Anxiety Disorder; Pain Disorder

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[696] See Exhibit C-9, October 11, 2006 Notice of Disapproved Claim at 1.
[697] See Exhibit C-10, November 29, 2006, Notice of Reconsideration
[698] See Exhibit C-11, Simplified Vocational Rationale.
[699] See Exhibit C-12, December 5, 2006 Request for Hearing by Administrative Law Judge
[700] See Exhibit C-13, D.B. January, CLF030654 at 2.
[701] See Exhibit C-2, January 9, 2007 Psychological Evaluation, Brad Adkins, Ph.D.
[702] *Id.* at 2-3.
[703] *Id.* at 6.
[704] *Id.* at 7-8.

Associated with Both Psychological Factors and a General Medical Condition" as well as "History of Alcohol Abuse."[705] He did, however, add *"RIO* Panic Disorder," indicatit:ig that panic disorder should still be ruled out by further examination.[706]

Claimant Awarded Benefits. Two weeks after the claimant was examined by Dr. Adkins, Judge Daugherty issued a fully favorable decision on January 23, 2007, based solely on this exam.[707] He concluded that the claimant had a large number of severe impairments, which were copied word-for-word from Dr. Adkins' exam report, including: "blind right eye; major depressive disorder, single episode, moderate; generalized anxiety disorder; pain disorder" and "history of alcohol abuse."[708] In addition, he added that one of the claimant's severe limitations was "rule out panic disorder."[709]

Despite including a history of alcohol abuse in the claimant's list of conditions, Judge Daugherty provided no additional explanation as to whether that history was a factor in the other disabling conditions.

To support his conclusion he said the claimant had "moderate restriction of activities of daily living; mild difficulties in maintaining social functioning; mild difficulties in maintaining concentration, persistence, or pace; and no episodes of decompensation."[710] However, this information came from a mental exam conducted on November 20, 2006, by a doctor who concluded that a finding of disability would not be warranted. [711]

Judge Daugherty concluded, "The State agency medical opinions are given little weight," and that, "I find Dr. Adkins assessment to be reasonable and consistent with the medical evidence of record."[712] However, other than those related to the claimant's eye surgery in the late 1990's, the only other medical records in the file were provided by State agency doctors.

Moreover, the judge added: "The State agency did not have the opportunity to observe the claimant but Dr. Adkins did. Therefore, I find the assessment of Dr. Adkins to be more persuasive and I will

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[705] *Id.* at 8.
[706] *Id* at 8.
[707] See Exhibit C-3, January 23, 2007 Decision, Administrative Law Judge David B. Dougherty at 1, 3-4, and 7.
[708] *Id* at 3.
[709] *Id.* at 3.
[710] *Id.* at 3-4.
[711] *Id* at 3 and see Exhibit C-14, Mental Residual Functional Capacity Assessment at 12.
[712] See Exhibit C-3, January 23, 2007 Decision, Administrative Law Judge David B. Dougherty at 5.

therefore adopt."[713] He made this claim, despite earlier in the paragraph referring to results of a state exam of the claimant. Indeed, the state agency sent the claimant to an in-person consultative mental exam in August 2006.[714]

2. Awards Based on Medical Conditions Discovered by Mr. Conn's Doctors

In some cases reviewed by the Committee, Judge Daugherty awarded benefits on the basis of a medical condition the claimants themselves did not identify in their applications and which were unsupported in the other medical evidence included in the files. However, the conditions that formed the basis of the award were in each instance discovered by Dr. Huffnagle in exams conducted at the request of Mr. Conn.

Case D: Judge Daugherty awarded benefits to a claimant on the basis of osteoarthritis and a quintuple heart bypass surgery, which he concluded limited the claimant to "less than sedentary" work.[715] However, while the claimant's heart surgery was well-documented in the file, there was nothing related to osteoarthritis until he was examined by Dr. Huffnagle.[716] Judge Daugherty based his decision solely on Dr. Huffnagle's exam, but did not explain why prior evidence, or in this case, the lack of evidence, was disregarded.[717]

In 2009, the claimant was hospitalized for chest pain and records from the visit indicate he had a history of hypothyroidism and hyperlipidemia, or high cholesterol.[718] The physician noted that the claimant had been "laid off and has been noncompliant with his cholesterol medications for economic reasons. The patient does follow up in my office on an erratic basis." The claimant was diagnosed with an acute myocardial infarction, or heart attack, and was admitted to the Intensive Care Unit, where he was treated with a cardiac catheterization and angioplasty.[719]

Approximately one month later, in August 2009, the claimant applied for disability.[720] In his application, he cited "heart attack with upcoming open heart surgery" as the illness that limited his ability to work.[721]

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[713] *Id.* at 5.
[714] See Exhibit C-4, August 2006 Consultative Exam.
[715] See Exhibit D-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 3.
[716] See Exhibit D-2, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D.
[717] See Exhibit D-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 3.
[718] See Exhibit D-3, July 27, 2009 Medical Records at 1-2.
[719] *Id.* at 2 and see Exhibit D-4, August 2009 Discharge Summary at 1.
[720] See Exhibit D-5, Application Summary for Disability Insurance Benefits at 1.
[721] See Exhibit D-6, Disability Report-Adult-Form SSA-3368 at 2.

The next day,, the claimant underwent coronary artery bypass surgery.[722] According to the surgical report, the claimant tolerated the procedure well and there were no complications.[723] The claimant's discharge summary stated that the claimant was to:

> "walk daily, increase distance gradually. Do not lift anything heavier than 10 pounds. Avoid pulling or pushing. Shower and wash incisions with mild soap. Daily weights and daily temperatures. Continue breathing exercises. Wear TED hose during the day. Take medications exactly as ordered."[724]

He was ordered to follow up with his cardiac and primary physicians over the course of the next few weeks, although there are no records of any such visits included in the claimant's case file.[725]

In early 2010, the claimant underwent a DDS-level consultative exam that noted few limitations to his ability to move, and indicated upon physical exam that the claimant was able to walk and squat without difficulty.[726]Nonetheless, the examiner found the claimant to be limited in his "ability to perform work-related activities like bending, stopping, lifting, crawling, squatting," and other functions were impaired as a result of his heart disease.[727] However, a DDS examiner looked at the exam record two weeks later and came to the opposite conclusion, writing, "As this is inconsistent with the medical evidence provided and obtained, this is given little weight."[728]

As such, DDS denied his claim on February 2, 2010 and a few weeks later in February, he hired Eric Conn as his representative.[729] His request for reconsideration was then also denied on May 7, 2010, with which the agency included the following explanation:

> "The medical evidence shows you have been treated for your conditions. Although you had a heart attack and then open heart surgery, the medical evidence shows you are recovering well and there are no signs of complications at this time. Even though you are not able to work now, your condition is expected to improve. It will not prevent you from working for 12 months."[730]

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[722] See Exhibit D-7, August 2009 Operative Report at 1.
[723] *Id.* at 2.
[724] See Exhibit D-4, August 2009 Discharge Summary at 2.
[725] *Id.* at 2.
[726] See Exhibit D-8, January 2010 Internal Medicine Examination at 1 and 6.
[727] *Id.* at 7.
[728] See Exhibit D-9, Physical Residual Functional Capacity Assessment at 7 and 8.
[729] See Exhibit D-10, February 2, 2010 Notice of Disapproved Claims and Exhibit C-11, February 22, 2010 Appointment of Representative and Fee Agreement
[730] See Exhibit D-12, May 7, 2010 Notice of Reconsideration at 1.

Claimant Added to DB List. On May 24, 2010, the claimant requested a hearing before an administrative law judge.[731] He was likewise included by Mr. Conn and Judge Daugherty on the July 2010 "DB List" and marked for a "physical" examination.[732]

Dr. Huffnagle saw the claimant on June 23, 2010 and concluded the claimant had degenerative arthritis, which was not previously documented by any doctor.[733] He added that the claimant's arthritis was not going to improve with time, also noting that the claimant was unable to afford medical care, and that his prognosis for the future was "guarded."[734]

However, Dr. Huffnagle's exam notes were inconsistent with the rest of the claimant's medical record. He wrote the claimant "is having mid back pain. He is also having pain in the right and left shoulder ... This man's pain came on gradually after he had cardiac surgery in 2009."[735] The evidence reflected the opposite, that the claimant reported no pain at all in his shoulders. At the time the claimant was hospitalized for his heart condition, exam records from July 27, 2009 indicate that the claimant "denies any acute or chronic joint pain" and from July 28, 2009 visit indicate "Musculoskeletal: No claudication [limping], edema [swelling], joint pain, or gait disturbance."[736] Likewise, records from an emergency room visit for pneumonia on September 5, 2009 indicate no issues with any movement or pain in the claimant's extremities that might be expected with severe osteoarthritis.[737] Furthermore, the claimant provided no indication of back or joint pain at the consultative examination performed in early 2010.[738]

Also on June 23, 2010, Dr. Huffnagle signed RFC form Version #5, which found the claimant to have extreme physical limitations.[739]

Dr. Huffnagle's conclusions in the RFC were significantly different from a DDS-level doctor who reviewed the claimant on May 6, only a month-and-a-half prior.[740] While the DDS doctor concluded the claimant could lift 50 pounds occasionally and 25 pounds frequently, Dr. Huffnagle concluded the claimant could only lift 10 and five pounds

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[731] See Exhibit D-13, May 24, 2010 Request for Hearing by Administrative Law Judge at 1.
[732] See Exhibit D-14, DB July 2010 CLF030809 at 1.
[733] See Exhibit D-2, June 23, 2010 Social Security Disability Medical Assessment at 4.
[734] *Id.* at 4.
[735] *Id.* at 1.
[736] See Exhibit D-3, July 2009 Medical Records at 4 and see Exhibit D-15, July 2009 Medical Records.
[737] See Exhibit D-16, September 2009 Medical Records at 1-3.
[738] See Exhibit D-8, January 2010 Internal Medicine Examination at 1-2.
[739] See Exhibit D-2, June 23, 2010, Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 5 and 8.
[740] See Exhibit D-17, Physical Residual Functional Capacity Assessment at 8.

respectively.[741] Also, while the DDS doctor found the claimant able to stand and walk for six hours a day, Dr. Huffnagle said it was not possible for the claimant to do so for more than an hour.[742]

Claimant Awarded Benefits. Judge Daugherty issued his fully favorable decision on August 3, 2010, writing: "Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best."[743]

Case E: Judge Daugherty awarded benefits to a claimant who he said was limited to performing "less than sedentary" work due to degenerative arthritis and a dislocated patella.[744] His decision solely cited the medical opinion of Dr. Huffnagle and disregarded the other medical evidence in the file.[745] Prior to being seen by Dr. Huffnagle, however, the claimant's medical record contained no evidence to indicate that the claimant was ever diagnosed with degenerative arthritis.

In the fall of 2009 the claimant injured her knee while playing volleyball at a family reunion, and an MRI performed shortly after the injury indicated that her kneecap was dislocated.[746] The claimant underwent arthroscopic knee surgery, and was ordered to attend physical therapy.[747] She attended physical therapy sessions over the following months, and while she still had pain and some complications,was making progress.[748] Notes from a visit about three months later state "[Patient] states Doctor wants her to finish the two visits left on her script and then hold on therapy and try doing normal activities at home. Doctor stated after visit with next time he may try to send her back to work at 4 hours per day."[749]

Several days later on December 17, 2009 she filed her initial application and cited a "left knee injury, trouble walking, bulging disc in back and upper neck, pain in low back, numbness in arms, depression, anxiety, and trouble sleeping" as the illnesses and injuries that prevented her

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[741] *Id.* at 2 and see Exhibit D-2, June 23, 2010, Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 5.
[742] See Exhibit D-17, Physical Residual Functional Capacity Assessment at 2 and see Exhibit D-2, June 23, 2010, Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 5.
[743] See Exhibit D-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 1 and 3.
[744] See Exhibit E-1, August 2, 2010 Decision, Administrative Law Judge David B. Daugherty at 3.
[745] *Id.* at 3.
[746] See Exhibit E-2, September 2009 Medical Records at 1; see Exhibit E-3, February 2010 Consultative Examination at 1-2; and see Exhibit E-4, September 2009 Medical Records
[747] See Exhibit E-5, September 2009 Operative Report at 1 and see Exhibit E-6, September 2009 Physical Therapy Evaluation at 2.
[748] See Exhibit E-7, November 2009 Medical Records at 1.
[749] See Exhibit E-8, Evaluation and Progress Notes at 1.

from able to work.[750] The application made no specific mention of arthritis.[751] She hired Eric Conn as her attorney on December 23, 2009.[752]

Following a physical therapy session that month, the claimant remarked to her therapist, "she is having less pain ... and thinks she is stronger but still has a slight limp [when] walking." During the sessions, she was able to use the treadmill for 12 minutes and an exercise bike for 15 minutes.[753]

Records from a follow-up appointment in February 2010 indicate that the claimant made slow progress, was continuing to complain of symptoms related to her knee cap, but also stated she had returned "back to work" despite being in the process of applying for permanent disability.[754]

Regarding her claim of a bulging disc in her upper back and neck, an MRI performed on February 23 showed only "mild degenerative disc disease with a "right paracentral disc protrusion [bulging disc] at the C5-C6 level[755] She also claimed numbness in her arms, but a nerve conduction study performed in March 2010 returned normal results.[756] The claimant's file did not include any records related to depression, but a consultative mental exam from February 2010 identified other mental impairments, stating that:

> [T]he claimant has no impairment to understand, retain, and follow simple instructions. The claimant has no impairment to sustain concentration and persistence to complete tasks in a normal time. The claimant has marked impairment to maintain social interactions with supervisors, friends, and the public. The claimant has marked impairment to adapt and respond to the pressures of normal day-to-day work activity. Based on the claimant's statements, it appears she may have additional impairments resulting from physical problems.[757]

When the agency denied the initial SSDI application on April 21, 2010, it noted that while she had some limitations, she was still able to work:

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[750] See Exhibit E-9, Disability Report-Adult-Form SSA-3368 at 2 and 9.
[751] *Id.* at 2.
[752] See Exhibit E-10, December 23, 2009 Appointment of Representative and Fee Contract at 1-2.
[753] See Exhibit E-8, Evaluation and Progress Notes at 1.
[754] See Exhibit E-11, February 2010 Medical Records at 1.
[755] See Exhibit E-12, February 2010 Diagnostic Imaging Report at 1.
[756] See Exhibit E-13, March 2010 Nerve Conduction Study Report at 1.
[757] See Exhibit E-3, February 2010 Consultative Examination at 7.

> You are somewhat limited by your knee, back and neck problems. Your ability to lift and carry objects is decreased. Although you do have some problems with your arms, you are still able to grasp, hold and use most objects effectively with normal breaks. Although you do have some concentration problems, you are still able to remember and follow simple instructions. The evidence does not show any other conditions which significantly limit your ability to work. ... We have determined that your condition is not severe enough to keep you from working.[758]

She appealed the decision several days later and asked for reconsideration.[759] On May 17, 2010, a DDS examiner reviewed her file and found not only that she had minimal limitations, but had returned to work.[760] The same day, she was denied again with the following rationale, "This claimant has a residual functional capacity for Medium work, is a younger individual, has a college education, and work experience ... there are a significant number of occupations for which this claimant qualifies."[761]

Claimant Added to DB List. A week later she appealed to have her case heard before an administrative law judge.[762] Mr. Conn and Judge Daugherty put the claimant's name on the July 2010 "DB List" and indicated the need for a "physical" exam."[763]

During the application process the agency asked the claimant – in late April and again in late May – whether her condition had improved or was worsening, and each time she replied, "No."[764] During her visit with Dr. Huffnagle on June 23, 2010, he discovered and diagnosed degenerative arthritis affecting her lumbar spine, cervical spine, and her knees, which was not mentioned by any other doctor in her file, along with the claimant's dislocated kneecap, for which she received treatment sufficient enough for her to go back to work.[765]

In his exam report he described her current medical symptoms the following way: "This woman is experiencing low back pain with pain in her right leg. She also has severe pain in her left knee. She has neck pain with pain that radiates into her right shoulder and headaches."[766]

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[758] See Exhibit E-14, April 21, 2010 Notice of Disapproved Claim at 1.
[759] See Exhibit E-15, April 26, 2010 Request for Reconsideration at 1.
[760] See Exhibit E-16, May 17, 2010 Physical Residual Functional Capacity Assessment at 2-3 and 8.
[761] See Exhibit E-17, Simplified Vocational Rationale at 1.
[762] See Exhibit E-18, May 26, 2010 Request for Hearing by Administrative Law Judge at 1.
[763] See Exhibit D-14, DB July 2010 CLF030809.
[764] See Exhibit E-19 Disability Report – Appeal-Form SSA-3441 at 2, 6, 7, and 10.
[765] See Exhibit E-20, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 1 and 4.
[766] *Id.* at 1.

He noted as well that, "This woman's work history is significant in that her job required her to lift...repetitively."[767]

After diagnosing the claimant with degenerative arthritis, he concluded that her condition would not improve with time, noting that she would need medical care for the rest of her life.[768]
The same day, Dr. Huffnagle signed RFC Version #1.[769] However, the findings of this RFC were inconsistent both with his own exam report as well as with the claimant's medical record. For example, his exam report found, "She cannot walk on her heels. She cannot walk on her toes."[770] In the RFC signed by Dr. Huffnagle, though, it found she could stand and walk "without interruption" for 30 minutes and for three hours in an 8-hour work day.[771]

Moreover, Dr. Huffnagle concluded the woman's back and knee problems were so severe as to prevent her from bending or walking, yet the RFC he signed said she could "Constantly" perform "Balancing," "Stooping," "Crouching" and "Kneeling."[772]

Finally, in a RFC completed by the agency in May, only a month prior to Dr. Huffnagle's exam, the agency found the claimant able to lift 50 pounds occasionally, and 25 pounds frequently.[773] Yet, Dr. Huffnagle's RFC found her able to lift only 8 and 5 pounds respectively.[774]

Claimant Awarded Benefits. On August 2, 2010, Judge Daugherty issued a fully favorable decision, which gave Dr. Huffnagle's exam exclusive weight relative to the other medical evidence.[775] He concluded the claimant had two severe impairments, "degenerative arthritis and dilocated [sic] patella" – the same conclusion reached by Dr. Huffnagle.[776]

He failed, however, to explain that the claimant's other medical files contained no reference to degenerative arthritis, indicated that she was recovering from her knee injury, and that she had gone back to work. In his opinion, he concluded, as he did in many of the cases reviewed by the Committee:

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[767] *Id.* at 1.
[768] *Id.* at 4.
[769] *Id.* at 6 and 9.
[770] *Id.* at 3.
[771] *Id.* at 6.
[772] *Id.* at 3 and 7.
[773] See Exhibit E-16, May 2010 Physical Residual Functional Capacity at 2.
[774] See Exhibit E-20, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 6.
[775] See Exhibit E-1, August 2, 2010 Decision, Administrative Law Judge David B. Daugherty at 1, 3, and 5.
[776] *Id.* at 3.

> Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best.[777]

Case F: Here, Judge Daugherty awarded benefits to a claimant for "osteoarthritis, sciatica, and diabetes," which he determined limited her to performing sedentary work.[778] However, the claimant's case file contained no evidence at all of diabetes until she was seen by Dr. Huffnagle, who made that diagnosis without any indication of laboratory results to confirm the diagnosis.[779] Of note, Dr. Huffnagle's exam write-up bore similarities to his write-up for the claimant in case E above, whom he examined on the same day.

The claimant alleged on onset date of her symptoms of April 2, 2008, which she said was the day she stopped working due to back and hip pain, along with other symptoms.[780] Despite her complaints of severe pain, her medical records do not clearly indicate a precise problem.

A lumbar X-ray performed two weeks after she left her job in April 2008 indicated no abnormalities.[781] A subsequent MRI performed in May of that year identified some issues that could have been causing the claimant's pain, however, including a left lateral disc protrusion producing moderate foraminal stenosis [narrowing] affecting the exiting L4 nerve root.[782] At a subsequent visit in August, the claimant's physician found her to be improving and wrote:

> This lady was evaluated in May of this year with back and left leg pain. An MRI revealed a left lateral disc protrusion at L4-L5. She continues to have these symptoms, but has improved since being off work since 4.2.2008. She is now 50-70% better. ... I discussed options with her, including surgical intervention. Her sciatica seems to be improving and she has a resolving left L4 radiculopathy [nerve pain]. She will continue with conservative therapy and remain off work for six weeks.[783]

In November, this same treating physician wrote a letter clearing her to return to work, writing: "[The claimant] has been on medical leave for

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[777] *Id.* at 3.
[778] See Exhibit F-1, August 3, 2010 Decision, Administrative Law Judge Davud B. Daugherty at 3.
[779] See Exhibit F-2, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 4.
[780] See Exhibit F-3, Disability Report – Adult-Form SSA-3368 at
[781] See Exhibit F-4, April 2008 Medical Records at 1.
[782] See Exhibit F-5, May 2008 Medical Records at 1.
[783] See Exhibit F-6, August 2008 Medical Records at 1-2.

some time. Our most recent correspondence notes [she] may return to work with restrictions ... it is our recommendation that she complete a functional capacity evaluation to address specifics."[784] In December, 2008 she visited an orthopedist for testing, which found she could work: "The results indicate that [she] is able to work at the LIGHT Physical Demand Level" as well as that she could lift and carry 20 pounds.[785]

She applied for disability on September 1, 2009, claiming a large number of conditions: "complications from chronic varicosities, Raynaud's phenomenon, posterior tibial tendon dysfunction, low back pain, hip pain, knee pain, osteoarthritis, hypertension, depression, anxiety, and sleep deprivation."[786] However, she did not allege diabetes.[787]

In November 2009, the agency sent her for a physical examination during which the claimant specifically denied having diabetes at all.[788] In the exam notes explaining her past medical history, it was written: "Endocrine Rx [History]: Claimant denies diabetes."[789]

The claimant's initial application was denied on January 20, 2010, and then again at reconsideration on April 13, 2010.[790] The agency determined she could work, but at a pace that was less physically demanding than her previous job as a medical assistant.[791] The reconsideration denial stated:

> Although you are somewhat limited by your conditions, medical evidence shows you are still capable of doing some work related activities. ... We realize that your condition.prevents you from doing any of your past work, but it does not prevent you from doing work which is less demanding and requires less physical effort.[792]

She appealed the decision the next day and requested a hearing in front of an administrative law judge.[793] In a statement faxed to the agency at the same time she reiterated her conditions, but still made no mention of diabetes.[794]

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[784] See Exhibit F-7, November 2008 Medical Records at 1.
[785] See Exhibit F-8, December 2008 Functional Capacity Evaluation at 1.
[786] See Exhibit F-3, Disability Report -Adult-Form SSA-3368 at 2,
[787] *Id* at 2.
[788] See Exhibit F-9, November 2009 Internal Medicine Evaluation at 1.
[789] *Id* at 1.
[790] See Exhibit F-10, January 20, 2010 Notice of Disapproved Claim at 1 and see Exhibit F-11, Notice of Reconsideration at 1.
[791] See Exhibit F-11, April 13,2010 Notice of Reconsideration at 1.
[792] *Id* at 1.
[793] See Exhibit F-12, April 14,2010 Request for Hearing by Administrative Law Judge at 1.
[794] See Exhibit F-13, April 13,2010 Statement of Appeal Filing at 2.

Claimant Added to DB List. On May 14, 2010, she hired Mr. Conn as her representative.[795] Mr. Conn and Judge Daugherty placed her on the July 2010 "DB List" and marked her as needing a "physical" exam.[796]

Dr. Huffuagle examined the claimant on June 23, 2010, and his exam notes found: "This woman is experiencing low back pain with pain into both the right and left leg. She has more pain in the right leg than in the left leg. She also has her right ankle wrapped up and tells us that she has stretched tendons in the right ankle,that she is currently being treated for."[797]

However, his exam notes bore a striking similarity with another claimant's diagnosis. For the the claimant discussed above in case D, who Dr. Huffnagle examined on the same day, he determined the claimant's back issues related to her career, stating:

> This woman's work history is significant in that... her job required her to lift...repetitively. Her pain came on gradually over time.[798]

For both claimants as well, he wrote a nearly identical description of their conditions, in this case writing:

> This woman's work history is significant in that she...repetitively lifted...during the course of her work. Her problems with her back came on gradually over time. She has osteoarthritis and degenerative arthritis.[799]

In addition, Dr. Huffuagle also diagnosed the claimant with diabetes, without the benefit of any objective diagnostic testing, which is not mentioned in any of the claimant's other medical records, and which she denied having only six months prior.[800] He also diagnosed the claimant with "Osteoarthritis," "Degenerative arthritis," and "Sciatica."[801]

Dr. Huffuagle signed the Conn Law Office's RFC Version #6 on the same day.[802]

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[795] See Exhibit F-14, May 14, 2010 Appointment of Representative and Fee Contract at 1 and 2.
[796] See Exhibit D-14, DB July 2010 CLF030809 at 1.
[797] See Exhibit F-2, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 1.
[798] See Exhibit E-20, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle M.D. at 1.
[799] See Exhibit F-2, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 1.
[800] *Id.* at 4 and see Exhibit F-13, April 13, 2010 Statement of Appeal Filing at 2.
[801] See Exhibit F-2, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 4.
[802] *Id.* at 5 and 8.

Claimant Awarded Benefits. On August 3, 2010, Judge Daugherty wrote a brief, four-page fully favorable decision awarding benefits to the claimant.[803] He based his decision solely on the findings of Dr. Huffnagle and found the claimant to have "the following severe impairments: osteoarthritis, sciatica and diabetes."[804]

He found the claimant disabled since April 2, 2008 when she last stopped working, though did not explain why this was the case in light of her being cleared to work several times after that date.[805] His opinion did not also explain why he believed the claimant had diabetes in light of the evidence otherwise.[806] He instead wrote that the agency doctors were "given little weight because another medical opinion is more consistent with the record as a whole" and concluded:

> Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best....Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform.[807]

3. Judge Daugherty Failed to Address Claimant Noncompliance

According to agency regulations, individuals are required to follow physician-prescribed treatments in order to qualify for disability benefits. This prevents someone with a treatable condition from receiving benefits when they might otherwise work. Judge Daugherty failed to address this issue in the cases reviewed, and instead awarded benefits to individuals who may have been ignoring their doctors.

According to SSA rules: "Individuals with a disabling impairment which is amenable to treatment that could be expected to restore their ability to work must follow the prescribed treatment to be found under a disability, unless there is a justifiable cause for the failure to follow such

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[803] See Exhibit F-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 4.
[804] *Id.* at 3.
[805] *Id.* at 1 and see Exhibit F-7, November 2008 Medical Records at 1 and Exhibit F-8, December 2008 Functional Capacity Evaluation at 1.
[806] See Exhibit F-1, August 3, 2010 Decision, Administrative Law Judge David B. Daugherty at 3-4.
[807] *Id.* at 3-4

treatment."[808] Failure to follow prescribed treatment is referred to as noncompliance. These rules prevent claimants from manipulating a manageable illness in order to qualify for benefits. At a minimum, in instances where the medical evidence of record reflects evidence of patient noncompliance, an ALJ is required to develop evidence around issues of noncompliance to determine whether or not it is justifiable in deciding whether to award benefits.[809]

The Committee found cases in which the medical evidence included indications of claimant noncompliance with prescribed treatment, yet Judge Daugherty's written opinions provided neither discussion of that evidence, nor his evaluation of its relevance in choosing to award benefits.

Case G: In this case, Judge Daugherty awarded benefits to a claimant who injured his arm in a traffic accident, but based his decision on inaccurate information.[810] Whereas the claimant's accident occurred in December 2009, Judge Daugherty awarded benefits as of April 2009 when the man stopped working – but confused the two dates.[811] Moreover, the claimant failed to follow his doctor's instructions following his accident, delaying surgery and failing to participate in physical therapy, which greatly inhibited his recovery.[812]

When the accident occurred, the claimant was driving his truck through the woods, but injured his arm when it struck a tree outside of the window.[813]

Notes from the emergency room visit on that date indicate that the claimant was diagnosed with fractures in both the radius and ulna bones in his left forearm.[814] The emergency room physician reset the fractures and put the claimant in a splint.[815] Since surgery was a strong possibility he was given the name and address of an orthopedic surgeon and instructed: "Be at his office at 8am in the morning. DO NOT EAT OR DRINK ANYTHING AFTER MIDNIGHT TONIGHT."[816]

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[808] SSR 82-59: Titles II and XVI: Failure to Follow Prescribed Treatment, http://www.ssa.gov/OP_Home/rulings/di/02/SSR82-59-di-02.html
[809] Ibid.
[810] See Exhibit G-1, August 2, 2010 Decision, Administrative Law Judge David B. Daugherty at 1.
[811] See Exhibit G-2, December 2009 Medical Records at 1 and see Exhibit G-1, August 2, 2010 Decision, Administrative Law Judge David B. Daugherty at 1.
[812] See Exhibit G-2, December 2009 Medical Records at 1.
[813] *Id.* at 2.
[814] See Exhibit G-3, December 2009 Medical Records at 1.
[815] *Id.* at 3.
[816] *Id.* at 5.

However, he failed to show up the next morning and did not see a surgeon for five more days.[817] Notes from the orthopedic physician state:

> Patient, 5 days prior, was driving his truck in the woods. His truck started to slip down the hill…he was found in the Emergency Department to have a left both-bone forearm fracture. He was told to follow up 1st thing in the morning for a clinical evaluation and placed on the OR schedule given the severity of his injury. He did not show up in clinic. The clinical staff tried to contact him given the phone number as listed in the system and were unable to do so, since the numbers were unlisted. Patient showed up in clinic today 5 days out with severe pain in his left wrist, inability to flex and extend his fingers, and numbness in his fingers and hand. This is likely due to some degree of compartment syndrome, which was not treated secondary to the patient's refusal to follow up in a timely manner ... After the risks of surgery were discussed with the patient and the fact that since he did not follow up in a timely manner, he may not get recovery of his nerve or muscle function of his hand…[818]

As such, the claimant's failure to show up the following morning exacerbated the medical condition which formed the basis for his subsequent application for disability benefits.[819]

In a follow up visit in December 2009, the same orthopedic physician noted that the claimant was still experiencing stiffness in his arm, and said, "The necessity of PT [physical therapy] was also described although I doubt, given the financial status of the patient, that he will actually actively participate in PT…"[820] In that same visit, the physician said, "It is anticipated that the patient will most likely be off work approximately 6 months from date of injury."[821]

On December 30, 2009, the claimant hired Eric Conn as his representative.[822] The same day he requested his case be transferred to the Prestonsburg, Kentucky SSA office.[823] In doing so, he signed a "Request for Transfer and Waiver of Travel Expenses," which allowed

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[817] See Exhibit G-2, December 2009 Medical Records at 1.
[818] *Id.* at 1-2.
[819] See Exhibit G-4, Disability Report – Adult – Form-SSA-3368 at 2.
[820] See Exhibit G-5, December 2009 Medical Records at 1.
[821] *Id.* at 1.
[822] See Exhibit G-6, December 30, 2009 Appointment of Representative and Fee Agreement at 1-2.
[823] See Exhibit G-7, December 30, 2009 Request for Transfer and Waiver of Travel Expenses at 1-2.

his case to be heard nearby Mr. Conn's law offices, but waived his opportunity to have SSA pay for his travel costs.[824]

The claimant filed for disability the next day on December 31, 2009, citing, "pain in arm, had two surgeries on left arm, can't use left hand, pain in knees and legs, and trouble breathing."[825] However, in filing his application he said that his disability began on April 21, 2009, when he stopped working, rather than December, when medical records show he was injured.[826] Moreover, the only medical records he submitted were dated from December 2009 onward – there was nothing related to a disability beginning in April 2009.

As is typical when a claimant submits few medical records, the agency sent him to a consultative exam in March 2010.[827] The doctor determined the claimant "should be able to sit, walk, and/or stand for a full workday with adequate breaks. He would have moderate restrictions in his ability to lift/carry objects due to his left arm pain, weakness and decreased range of motion. He can hold a conversation, respond appropriately to questions, carry out and remember instructions."[828]

Less than two weeks later in April, however, another doctor concluded that even these moderate limitations were not valid and said the prior doctor's view "is given no weight as it is regarding condition now," and would not last more than 12 months.[829] He added that a recent physical exam was "quite unremarkable except for left UE fidings [referring to the claimant's left arm injuries]and that "all-in-all, physical expected to resolve and then have no impact on the ability to do basic work-related activities."[830]

The claimant's initial application was denied on April 8, 2010, and then again on May 7, 2010.[831] In its reconsideration denial, the agency wrote:

> You said you became disabled on 04/21/2009 because of problems with your left arm and hand, pain in your knees, and trouble breathing. The medical evidence shows that you have been treated for your conditions. Although you report some discomfort following your surgery, your medical records show good healing. Although you report pain in your hands, you are still able to do basic grasping and handling of

[824] *Id.* at 1-2.
[825] See Exhibit G-4, Disability Report – Adult-Form-SSA-3368 at 2.
[826] *Id.* at 3.
[827] See Exhibit G-8, March 2010 Medical Records at 1.
[828] *Id.* at 3.
[829] See Exhibit G-9, April 2010 Case Analysis at 1.
[830] *Id.* at 1.
[831] See Exhibit G-10, April 9, 2010 Notice of Disapproved Claim at 1 and see Exhibit G-11, May 7, 2010 Notice of Reconsideration at 1.

> objects with your right hand. Although you report breathing difficulties, you are able to breathe in a satisfactory manner. We have reviewed your claim and determined that your conditions are not considered disabling. Even though you are not able to work now, your condition is expected to improve. It will not prevent you from working for 12 months.[832]

Claimant Added to DB List. A week later he appealed to request a hearing before an ALJ.[833] Mr. Conn and Judge Daugherty placed his name on the July 2010 "DB List" and marked him down for a "physical" exam.[834]

Dr. Huffnagle's medical exam, conducted on June 23, 2010, described the claimant's current medical symptoms the following way: "This man is experiencing low back pain. He also has right and left knee pain. He has neck pain with pain that radiates into the left shoulder. He is experiencing headaches, which he attributes to his cervical pain. He also has left wrist pain."[835]

In his exam report, however, he also inaccurately said the claimant's truck accident and injury occurred in April 2009 rather than in December 2009: "On 4/21/09 this man had his left arm resting on the door of his truck with the window down...which resulted in displacement of the bone in his left arm, and jarring of his left shoulder."[836] His description of the claimant's surgical history was also inaccurate, which suggested the claimant had surgery the same day he was injured, rather than five days later, writing: "He was taken to [the hospital] and had surgery there and then a few days later had a second surgery."[837]

Dr. Huffnagle diagnosed the claimant with "Traumatic arthritis," "Fracture of the left arm," and "Cervical sprain/strain."[838] Moreover, while several agency doctors said the claimant was sure to heal, Dr. Huffnagle concluded "this man's traumatic arthritis is not going to improve with time. It is affecting his lumbar spine and his shoulder. He will need lifelong treatment for this."[839]

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[832] *Id.* at 1.
[833] See Exhibit G-11, May 18, 2010 Request for Hearing by Administrative Law Judge at 1.
[834] See Exhibit D-14, DB July 2010 CLF030809 at 1.
[835] See Exhibit G-13, June 23, 2010 Social Security Disability Medical Assessment, Frederic T. Huffnagle M.D. at 1.
[836] *Id.* at 1.
[837] *Id.*
[838] *Id.* at 4.
[839] *Id.*

On the same day, Dr. Huffnagle signed the Conn Law Office RFC Version #2.[840]

Claimant Awarded Benefits. Judge Daugherty issued his fully favorable decision on August 2, 2010 after concluding the claimant had several severe limitations, specifically, the same conditions diagnosed by Dr. Huffnagle: "traumatic arthritis, fracture of left arm and cervical strain/sprain."[841] His written decision failed to account for the claimant's noncompliance in showing up for his surgical appointment.[842] By failing to hold a hearing he was unable to question the claimant about why this happened.[843]

He based his determination solely on the opinion of Dr. Huffnagle, who he said most accurately represented the facts of this case.[844] He did not, however, reconcile the numerous factual errors made by Dr. Huffnagle in his exam report.[845]

Judge Daugherty also determined the claimant's disability began on April 21, 2009.[846] This was supported only by the claimant's own statements, and the factual inaccuracy in Dr. Huffnagle's report, which said the claimant's accident occurred in April 2009.[847] However, he concluded:

> Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best.[848]

4. Judge Daugherty Failed to Assess Evidence of Drug and Alcohol Abuse

When evaluating cases in which evidence of drug or alcohol abuse is present, the ALJ is required to determine whether drug addiction or alcoholism is "a contributing factor material to the Commissioner's determination that the individual is disabled."[849] The agency follows a sequential process to determine whether drug and alcohol abuse is a

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[840] *Id.* at 5-8.
[841] See Exhibit G-1, August 2, 2010 Decision, Administrative Law Judge David B. Daugherty at 3 and 5.
[842] *Id.* at 3-4.
[843] *Id.* at 1.
[844] *Id.* at 3.
[845] *Id.* at 3-4
[846] *Id.* at 1.
[847] See Exhibit G-4, Disability Report-Adult-Form SSA-3368 at 3 and see Exhibit G-13, June 23, 2010 Social Security Disability Medical Assessment at 1.
[848] See Exhibit G-1, August 2, 2010 Decision, Administrative Law Judge David B. Daugherty at 3.
[849] Check cite: 42 U.S.C. 1382(c)

material contributing factor. In instances where such abuse is the only factor present, the claim must be denied. In instances where other impairments are also present, the agency must determine whether the individual would still be disabled if the drug or alcohol abuse, and the associated conditions caused by that abuse, went away. The agency's guidance notes that adjudicators, including an ALJ, "must provide sufficient information so that a subsequent reviewer considering all of the evidence in the case record can understand the reasons.....whenever drug or alcohol abuse is an issue."[850]

Despite such guidance, a number of Judge Daugherty's decisions failed entirely to account for and reconcile evidence in the case file of drug or alcohol abuse, and as with other case examples discussed here, relied solely on the opinions provided by Dr. Huffnagle and others to justify the award of benefits.

Case H: Judge Daugherty awarded benefits to a claimant for liver problems, among other conditions, who also had lifelong alcoholism, but failed to address the claimant's alcohol use in his decision.[851] The claimant applied for benefits on the basis of stomach problems, diabetes, fatigue, pain in feet, back, legs, and knees, depression, nervousness, and anxiety.[852] Judge Daugherty awarded benefits on the basis that the claimant had cirrhosis, shortness of breath, and pain that limited him to performing less than sedentary work.[853] Judge Daugherty's decision relied exclusively on the medical opinion of Dr. Huffnagle, who never examined the claimant in person.[854]

Throughout the case file, the claimant's heavy alcohol use was well documented. According to the medical records,, it resulted in the claimant's temporary hospitalization.[855] Records from the visit in early 2006 showed the claimant was "...admitted with 1 week history of diffuse upper abdominal pain. The pain got worse yesterday. The patient has been drinking very heavily for the past few weeks. He has a history of heavy alcohol abuse. He has been drinking all of his life, as per the family."[856] The physician noted that he drank a 12-pack per day for 30 years and smoked a pack and a half of cigarettes per day for 30 years as well.[857] On this particular occasion the claimant's blood

[850] http://www.socialsecurity.gov/OP_Home/rulings/di/01/SSR2013-02-di-01.html *(will fix citations for this paragraph and clean up language)*
[851] See Exhibit H-1, January 18, 2007 Decision, Administrative Law Judge David B. Daugherty at 1.
[852] See Exhibit H-2, Disability Report – Adult-Form SSA-3368 at 1.
[853] See Exhibit H-1, January 18, 2007 Decision, Administrative Law Judge David B. Daugherty at 1 and 2.
[854] *Id.* at 2 and see Exhibit H-3, January 12, 2007 File Review, Frederic T. Huffnagle at 1.
[855] See Exhibit H-4, March 2006 Consultation at 1.
[856] *Id.* at 1.
[857] See Exhibit H-5, March 2006 History and Physical Examination at 2.

alcohol level reached .209 and he was hospitalized for 10 days.[858] Upon discharge, the claimant was diagnosed with multiple conditions, including alcoholism, and chronic pulmonary obstructive disease and was told to stop smoking, stop drinking, and to comply with a strict diet.[859] The discharge instructions did not indicate that the claimant should stop working.[860]

The claimant was hospitalized again on several occasions in which his alcohol abuse either played a role, or was discussed with treating physicians, both before and after the incident described above. In an earlier hospitalization in 2004, the claimant was involved in a motor vehicle accident as a passenger, and admitted to the emergency room with a blood alcohol content of .31 and minor injuries.[861]

On April 10, 2006 he hired Eric Conn as his attorney and applied for disability benefits, alleging: "stomach problems, diabetes, fatigue, pain in feet, back, legs and knees, depression, nervousness and anxiety."[862] He said his problems began on January 15, 2004 when he stopped working.[863]

In late July 2006, the claimant was hospitalized for three days due to noncompliance with diabetes medication and acute gastroenteritis.[864]. The exam notes stated:

> Because of his chronic alcoholism, he was offered detox, but he refused. He also refused any involvement with AA meetings. He stated that he is going to stop drinking on his own.....He was told at this point that he probably has cirrhosis of the liver. He had this diagnosis made in Hazard before with low platelets due to hypersplenism and his LFTs due to chronic alcohol cirrhosis. Again, he was told that he definitely needs to stop the ETOH [ethanol] abuse as mentioned above.[865]

Despite his doctor's instructions to stop drinking, the claimant was again hospitalized in October 2006, admitted to the emergency room with abdominal pain and vomiting.[866] During the exam the doctors found:

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[858] *Id.* at 2 and see Exhibit H-6, March 2006 Discharge Summary at 1.
[859] *Id.*.
[860] *Id.*
[861] See Exhibit H-7, July 2004 Medical Records at 1 and 2.
[862] See Exhibit H-8, April 10, 2006 Appointment of Representative at 1 and see Exhibit H-2, Disability Report – Adult-Form SSA-3368 at 2.
[863] *Id.* at 2.
[864] See Exhibit H-9, July 2006 Discharge Summary at 1.
[865] *Id.* at 2.
[866] See Exhibit H-10, October 2006 Discharge Summary at 1 and 2.

> The patient is a known insulin dependent diabetic. He went to [another state] for 2 weeks and did not take his Humalog insulin. The patient also has history of chronic alcoholism. He drinks about ½ a case to 1 case a day, and smokes about 2 packs a day. ... His blood sugar dropped to around the 200 range but the patient signed himself out against medical advice. He was advised to use Humalog insulin at 30 units a.m. and 30 units p.m. If he needs alcohol rehab, he will call and ask for an appointment. He signed himself out.[867]

During the application process, however, the claimant failed to attend several consultative exams requested by the agency, despite being contacted several times.[868] According to a letter provided to the claimant on December 6, 2006, the agency denied his application for benefits over his failure to appear at these exams: "Due to a lack of medical information regarding your depression, nervousness, and anxiety, you were scheduled for a special medical examination...on Saturday, November 18, 2006. You were notified and reminded of this exam, but you did not keep the exam. Because there is insufficient evidence to make a complete determination, your claim is denied."[869]

On December 14, 2006, he appealed and requested a hearing before an administrative law judge.[870]

Claimant Added to DB List. Mr. Conn and Judge Daugherty put the claimant on the January 2007 DB List and noted "MENTAL AOD [amend onset date] 04/11/06."[871]

On January 12, 2007, Dr. Huffnagle signed a report titled, "Social Security Medical Disability Assessment," which provided his conclusions about the claimant.[872] However, Dr. Huffnagle did not examine the claimant in person, but instead performed a "File Review," which looks only at the paper records available.[873] His brief report, which was little more than half of a page in length, was faxed to SSA on January 16, the day before Judge Daugherty issued his decision.[874]

Dr. Huffnagle's report noted the claimant had cirrhosis of the liver, but otherwise made no specific diagnoses, finding only complaints of

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[867] *Id.* at 1-2.
[868] See Exhibit H-11, November 21, 2006 RE: Special Medical Examination at 1.
[869] See Exhibit H-12, December 6, 2006 Notice of Reconsideration at 1.
[870] See Exhibit H-13, December 14, 2006 Request for Hearing by Administrative Law Judge at 1.
[871] See Exhibit H-14, D.B. January CLF030654 at 2.
[872] See Exhibit H-3, January 12, 2007 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 1-2.
[873] Id at 1 and *See* June 12, 2012 Affidavit of Jamie Lynn Slone ¶12.
[874] See Exhibit H-3, January 12, 2007 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 2.

"stomach problems, respiratory problems."[875] Regarding his alcohol-related problems, he found, "The patient has a history of alcohol which likely accounts for some of his problems. However, his problems have now reached a level of severity that even if he were to stop drinking his problems would remain in the absence of alcohol."[876]

He concluded his report by explaining the claimant would not be able to work, and even made precise judgments about the length of time he could work each day, despite never actually examining the claimant:

> The patient due to severe uncontrolled abdominal pain would have a need for significant breaks that would cause him to be off tasks for long periods of time. It is my opinion within reasonable medical probability that this patient would only be able to stay on task for six hours in an eight hour workday and the six hours would not be continuous. His ability to stay on task at one time would be no more than one hour at a time.[877]

Claimant Awarded Benefits. Dr. Huffnagle's report was faxed to the agency on January 16, 2007.[878] Two days later – little more than a month after the claimant appealed his denial – Judge Daugherty issued a fully favorable decision, without holding a hearing.[879] Moreover, the decision was based exclusively on the brief file review conducted by Dr. Huffnagle.[880]

At no point in the written decision, however, did Judge Daugherty acknowledge the claimant's alcohol abuse, which even Dr. Huffnagle and other treating physicians documented to be the likely reason for his condition.[881] Rather, he found that the claimant had "the following 'severe' impairments: cirrhosis, SOB [shortness of breath], and pain."[882] Judge Daugherty did not specify anything more specific regarding the last impairment – "pain" – but simply found it limited him to less than sedentary work:

> The evidence supports a finding that the claimant retains the following residual functional capacity: needs significant breaks, causing him to be off task for long periods of time and could stay on task no more than 6 hours in a work day.

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[875] *Id.* at 1.
[876] *Id.*
[877] *Id.* at 1-2.
[878] *Id.* at 2.
[879] See Exhibit H-1, January 18, 2007 Decision, Administrative Law Judge David B. Daugherty at 1 and 4.
[880] *Id.* at 2.
[881] *Id.* at 1-4.
[882] *Id.* at 1.

> Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work, at best.[883]

Based on that finding, Judge Daugherty relied on the Medical Vocational Guidelines to award benefits to the claimant.

5. Factual Inaccuracies in Judge Daugherty's Decisions and Misuse of Medical Opinions

The Committee reviewed a number of cases where, in addition to the sole reliance on medical opinions procured by Eric Conn, Judge Daugherty misused information from the opinions themselves. Thus, his decisions contained numerous factual inaccuracies, which were important in the award of benefits.

Case I: Judge Daugherty awarded benefits to a man for a disc prolapse and chronic pain despite being cleared to work by several doctors.[884]

Records in the file indicate that the claimant hired Eric Conn on March 29, 2006 and applied for benefits the next day.[885] His application alleged he became disabled that same month.[886] This claimant applied for benefits due to "problems with both ankles swelling, calcium deposits on ligaments, arthritis in knees, bone spurs and arthritis in disc in back and all joints, left elbow has been broken and unable to straighten arm, pain in hands, limited use of hands, pain in back that goes to legs and knees, borderline cholesterol, and hearing loss in both ears."[887]

Following his application, the agency sent the claimant for a consultative physical exam in May 2006.[888] In the medical history section of the exam report, the claimant traced his ankle pain to a diagnosis of calcium deposits on the tendons in both ankles from 2003, and said that he had pain in his ankles about 4-5 days per week.[889] His elbow fracture was from 2000, and occurred while playing basketball.[890] The claimant said that "he can no longer play sports because of his elbow. He complains

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[883] *Id.* at 2.
[884] See Exhibit I-1, January 16, 2007 Decision, Administrative Law Judge David B. Daugherty at
[885] See Exhibit I-2, March 29, 2006 Appointment of Representative at 1 and see Exhibit I-3, Application Summary for Disability Benefits at 1.
[886] *Id.* at 1.
[887] See Exhibit I-4, Disability Report-Adult-Form SSA-3368 at 2.
[888] See Exhibit I-5, May 2006 Consultative Examination at 1.
[889] *Id.* at 1.
[890] *Id.* at 2.

of pain in his left elbow about 2 times per month and he is unable to use his left arm at those times."[891]

Despite reporting that he stopped working due to his disability, his records also showed that his disability began on the same day he was laid off.[892] In the employment section of the exam notes it stated that, "Patient last worked on March 17, 2006...He worked there for 6 months before being laid off."[893]

Based on the physical exam, the physician concluded that the claimant was fully able to work and had almost no significant limitations:

> [I]t would appear that this claimant does have the ability to do such work related activities as sitting, standing, moving about, lifting, carrying, handling objects, hearing and seeing and speaking and traveling. His routine physical examination today was within normal limits with the exception of some findings of some mild arthritis in the knees....while I do believe he does have findings compatible with some mild arthritis, I do not find that this arthritis is of such an extent that it would prevent him from performing his job functions...Based on his examination today, I found no factors which would limit his ability to do job related activities.[894]

Based on this evidence, the agency denied the claim initially on June 7, 2006.[895] The claimant requested reconsideration of his application, and in the meantime, sought additional medical treatment for his back pain.[896]

In June 2006, the claimant saw an orthopedic specialist who reviewed X-rays the claimant brought with him and concluded that "Disc space is well preserved except for L5,S-1 which has a near complete effacement [narrowing of space]."[897] The physician recommended getting an MRI and beginning exercises, as well as a course of physical therapy.[898] He also, however, noted that with those activities, the claimant was healthy enough to return to work in the future: "Based on MRI findings, an

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[891] *Id.*
[892] *Id.* and see Exhibit I-4, Disability Report-Adult Form SSA- 3368 at 2.
[893] See Exhibit I-5, May 2006 Consultative Examination at 2.
[894] *Id.* at 4.
[895] See Exhibit I-6, June 7, 2006 Notice of Disapproved Claim at 1.
[896] See Exhibit I-7, Request for Reconsideration at 1 and Exhibit I-8, June 2006 Medical Records at 1.
[897] See Exhibit I-8, June 2006 Medical Records at 2.
[898] *Id.* at 2.

epidural would likely be helpful. I think between that and exercises, it is likely he would be able to return to gainful employment."[899]

The next day, the claimant saw another physician in the same practice.[900] Under the "history" section of the exam notes, the claimant described his condition by saying:

> ...over the past six months, the pain has gotten much worse. He states that most of the pain seems to be located in the lower part of the back with very mild radiation into both buttocks. He denies any significant radiculopathy or symptoms going down into the leg. Most of the pain is the dull achy-type pain in the lower back that is made worse by physical activity. He states that he has been dealing with this for approximately 20 years and he gets some mild relief with ibuprofen. Recently the pain has gotten to the point where it affects his daily functioning. He states that he is to the point where ibuprofen is not handling the pain as well. Sitting to standing, lying to sitting, and transition positions increased the pain. He gets some relief when he rests...He denies any numbness, tingling or paresthesis into the leg. He denies weakness in the legs.[901]

The physician concluded that the claimant "on MRI does have a lot of degenerative joint disease in the lower spine. There was apparently no evidence of any nerve root impingement, a formal read is pending."[902] The physician "discussed options, risks, and alternatives with him. He opted to proceed today with an epidural injection. I told him it probably would not give him long lasting relief because of the degenerative joint disease in the back, but we opted to proceed." The physician also "talked to him about exercise program, water aerobics, some weight loss, and probably to avoid smoking."[903]

The exam notes do not indicate the claimant was advised against working or given any other physical limitations.[904]

When the formal report of the MRI arrived later that day it showed the problem to be less severe than his doctor originally believed, and characterized the claimant's back issues as "minimal arthritic change, no evidence of significant lumbar disc pathology."[905] The claimant

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[899] *Id.*
[900] See Exhibit I-9, June 2006 Medical Records at 1.
[901] *Id.* at 1.
[902] *Id.* at 2.
[903] *Id.*.
[904] *Id.* at 1-2.
[905] See Exhibit I-10, June 2006 MRI at 1.

returned to the clinic for another epidural injection a month later in July 2006.[906] Exam notes from that visit stated, "[He] tells me that he has significantly improved. He states he still has some pain. He would describe, maybe 50-60% improvement..."[907] While sitting in the car for the six-hour trip to the clinic exacerbated his pain, he said overall there were signs of improvement.[908] The physician noted that the MRI from the previous visit had been reviewed and showed "just minimal arthritic changes, but no significant evidence of lumbar disc pathology."[909]

The agency reviewed this additional evidence, and on November 28, 2006, once more concluded the claimant was not disabled, and in fact wrote a detailed analysis showing the claimant to be in overall good health:

> The medical evidence shows that you have been evaluated and treated for your conditions. Although you report pain and discomfort, the evidence shows that you have satisfactory movement in your ankles, knees, back, elbows, hands and joints. There is no severe muscle weakness or loss of control due to nerve damage. Your grip strength is satisfactory. There are no significant restrictions in your ability to stand, walk, move about, handle objects and do your normal activities. Although your cholesterol may become higher than normal at times, there is no evidence of end organ damage. Although you report problems with your hearing, your records show that you are able to hear satisfactorily.[910]

Claimant Added to DB List. He requested a hearing before an ALJ on December 6, 2006.[911] Judge Daugherty and Mr. Conn placed the claimant on the January 2007 "DB List."[912]

On January 5, 2007 he was sent by Mr. Conn to see Dr. Huffnagle.[913] However, according to Dr. Huffangle's brief exam write-up, the claimant's conditions were not severe.[914] After performing his physical exam, Dr. Huffnagle concluded that the claimant had "chronic low back pain, status post disc prolapsed, which is healed."[915]

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[906] See Exhibit I-11, July 2006 Medical Records at 1.
[907] *Id.* at 1.
[908] *Id.*
[909] *Id.*
[910] *Id.*
[911] See Exhibit I-13, Request for Hearing by Administrative Law Judge at 1.
[912] See Exhibit H-14, D.B. January CLF030653 at 2.
[913] See Exhibit I-I4, January 5, 2007 Social Security Disability Medical Assessment, Frederic T. Huffnagle, M.D. at 1.
[914] *Id.* at 2.
[915] *Id.*

The same day he signed the Conn Law Office RFC Version #16.[916] The RFC, though, contradicted the claimant's own allegations of hearing loss in both ears, indicating he did not have any problems at all.[917]

Claimant Awarded Benefits. Judge Daugherty issued a fully favorable decision eleven days later on January 16, 2007.[918] He cited only the medical opinion of Dr. Huffnagle and found the claimant to have "the following 'severe' impairments: disc prolapse and chronic pain."[919] He noted that:

> Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to sedentary work, at best.[920]

Judge Daugherty failed to note, however, that rather than characterizing the claimant's disc prolapse as being severe, Dr. Huffnagle characterized it as being healed.[921] In other words, the very condition Judge Daugherty used as the basis for awarding benefits was healed.

6. Reassignment of Cases from Judge Gitlow to Judge Daugherty

Case J: In this instance, the claimant's case was before Administrative Law Judge Gitlow.[922] However, before Judge Gitlow could issue a decision, the claimant requested that his case be dismissed, and reapplied for benefits.[923] Under the new application, his case was ultimately decided favorably by Judge Daugherty, who based his decision solely on a mental exam conducted by Dr. Brad Adkins.[924]

Claimant Denied Benefits in a Prior Application: Medical records in the file document a long history of treatment for the claimant's leg injury, which stemmed from a traffic accident in 1993.[925] Following the accident, he underwent several surgeries in 1993 and 1995, including the placement of a rod in his fractured femur.[926] His file contained medical

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[916] *Id.* at 4 and 7.
[917] *Id.* at 6.
[918] See Exhibit I-1, January 16, 2007 Decision, Administrative Law Judge David B. Daugherty at 1 and 4.
[919] *Id.* at 2.
[920] *Id.*.
[921] *Id.*
[922] See Exhibit J-1, November 20, 2006 Notice of Dismissal at 3.
[923] *Id.* at 3 and see Exhibit J-2, Disability Report – Adult-Form SSA-3368 at 1 and 7.
[924] See Exhibit J-3, August 3, 2007 Decision, Administrative Law Judge David B. Daugherty at 1.
[925] See Exhibit J-4, November 1999 Medical Records at 1.
[926] *Id.* at 1.

records from the claimant's main treating physician focusing mainly on this condition up through 2006.

At a visit in 1999, the physician ordered a functional capacity evaluation to see if he could work.[927] The evaluation was performed a few days later, but the therapist who performed the evaluation found the results to be invalid due to what the therapist classified as a "manipulation effort" by the claimant.[928] Based on the results that were demonstrated, the therapist stated "This assessment, although invalid, would qualify [the claimant] to be able to do light work as a physical demand level."[929]

Several years later in August 2002, the claimant was ordered off work by this same treating physician, but records also show he was able to return to work by December of that year.[930] The claimant continued to see his physician and receive treatment for his pain for the next few years.

In May 2004, the physician stated that the claimant was "...unemployed at present. The company with which he was employed has closed their offices."[931] The claimant's application for disability benefits indicated, however, that he became unable to work in April 2004 because of his medical conditions.[932] In 2005, the physician noted in a write-up, "[The claimant] is in today for follow-up. He still describes persistent right lower extremity pain and some radiculopathy. He has yet to find any type of work, and therefore, has signed up for disability."[933]

Notes from a May 2006 exam with the claimant's treating physician stated:

> He is still having some knee pain and this pops at times. He hasn't done anything to reinjure this. He is concerned about hardware becoming loose and creating a problem. He is much more inactive and is becoming much more depressed. He is staying in the house a lot and has a non-restorative sleep pattern. He is napping throughout the day. I have had a real heart-to-heart talk with him and basically told him to get his head on straight, that he is not disabled totally, and that there is no reason, with his computer background, that we cannot get him some type of retraining, out of the house, and productive.[934]

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[927] *Id.* at 1 and 2.
[928] See Exhibit
[929] *Id.* at 1.
[930] See Exhibit J-6, August 2002 Medical Records at 2 and see Exhibit J-7, December 2002 Medical Records at 1. .
[931] See Exhibit J-8, May 2004 Medical Records at 1.
[932] See Exhibit J-2, Disability Report – Adult-Form SSA-3368 at 2.
[933] See Exhibit J-9, May 2005 Medical Records at 1.
[934] See Exhibit J-10 May 2006 Medical Records at 1.

His physician recommended that the claimant contact the Department of Rehabilitative Services for re-evaluation and concluded: "He is not totally disabled and there is no reason that he cannot get back into some type of meaningful employment. I only hope that he will heed my constructive advice."[935]

The same physician saw the claimant again, who presented with symptoms related to his leg pain in November 2006.[936] In describing the claimant's symptoms, his doctor said "He says that is to the point that he can't stand the pain anymore and that something has to be done. He has seen orthopedic surgeons in the past, none of whom have recommended removing his hardware. He describes being in significant pain, but he is very stoic and appears to be in no acute distress whatsoever in the exam room, so I question symptom magnification and secondary gain."[937] The physician concluded this visit by making a referral to another orthopedic surgeon, and to the pain clinic for evaluation, and recommended the claimant return to the office in six months.[938] There was no indication that the claimant could not work.[939]

The claimant applied for benefits previously in 2001, but was denied at the Appeals Council level.[940] In a subsequent application, the claimant was denied at the reconsideration level in March 2005.[941] His case was assigned to Administrative Law Judge Gitlow, but before the Judge could render a decision, the claimant withdrew his request.[942] Judge Gitlow dismissed the case, meaning that the denial at reconsideration stood.[943]

Claimant Reapplied for Benefits: The claimant re-applied for benefits, and on November 22nd, 2006, the claimant submitted a new signed fee agreement and notice of representation by Eric Conn.[944] This new application cited the following conditions as the basis for his claim: left leg injury, numbness in right side, shortness of breath, nerve problems, depression, anxiety, and trouble sleeping.[945] The claimant listed his height as 5'6'' and his weight as 300 pounds, and said that he became unable to work because of his injuries in April 2004.[946].

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[935] *Id.* at 2.
[936] See Exhibit J-11, November 2006 Medical Records at 1.
[937] *Id.* at 1.
[938] *Id.* at 1.
[939] *Id.* at 1-2.
[940] See Exhibit J-12, Disability Report – Field Office –Form SSA-3367 at 2.
[941] *Id.* at 2.
[942] See Exhibit J-1, November 20, 2006 Notice of Dismissal at 3.
[943] *Id.* at 3.
[944] See Exhibit J-2, Disability Report – Adult-Form SSA-3368, and see Exhibit J-13, November 22, 2006 Appointment of Representative and Fee Agreement at 1-2.
[945] See Exhibit J-2, Disability Report – Adult-Form SSA-3368 at 2.
[946] *Id.* at 1 -2.

One month later, the agency notified the claimant that his application was denied, based on the fact that his leg injury had healed, and the fact that he could perform most of his usual activities.[947] The agency also noted that while the claimant may become depressed at times, he was still capable of thinking clearly and carrying out normal activities, and that the medical evidence did not give any indication of any other condition that would limit his ability to work.[948]

The claimant was again denied at reconsideration in April 2007 along similar lines.[949] The agency indicated that the claimant was still capable of performing his prior work, noting in its evaluation of his functional capacity that the claimant's treating physician recommended that the claimant perform some kind of job to stay active instead of lying in bed.[950] The claimant requested an Administrative Law Judge hearing on May 23, 2007.[951]

Claimant Added to DB List: The claimant was added to the Conn Law Firm DB list for August 2007, which noted the need for a mental exam with an amended onset date of March 3, 2005.[952] On July 17, the claimant filed a motion to amend his onset date to March 3, 2005 – one day after the denial of benefits in prior application.[953]

The claimant also saw Dr. Adkins on July 17, after being referred there by Eric Conn, for a mental evaluation.[954] In describing background information on the claimant, Dr. Adkins noted that the claimant had been receiving treatment at a local clinic and was diagnosed with depression there, although the claimant's case file included no records from that clinic.[955] Dr. Adkins stated that the claimant reported pain and difficulty when performing toileting, hygiene maintenance, and grooming.[956] This, however, was inconsistent with the claimant's own description of his limitations. In a separate functional report provided to the agency, the claimant listed only that he had difficulty putting on socks because of his leg pain when asked to provide information about performing personal care tasks.[957]

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[947] See Exhibit J-14, Notice of Disapproved Claims at 1.
[948] *Id.* at 1.
[949] See Exhibit J-15, April 4, 2007 Notice of Reconsideration at 1.
[950] See Exhibit J-16, February 2007 Physical Residual Functional Capacity at 7.
[951] See Exhibit J-17, Request for Hearing by Administrative Law Judge at 1.
[952] See Exhibit J-18, D.B. August 2007, CLF030625 at 2.
[953] See Exhibit J-19, July 17, 2007 Motion to Amend Alleged Onset Date at 1.
[954] See Exhibit J-20, July 17, 2007 Psychological Evaluation at 1.
[955] *Id.* at 2.
[956] *Id.*
[957] See Exhibit J-21, Function Report Adult at 3.

Dr. Adkins administered an IQ test, and rated the claimant as having a full scale IQ of 91, in the Average range.[958] He also administered the Personality Assessment Inventory, and found that the claimant was experiencing symptoms associated with depression.[959] The Summary and Conclusions section of the exam restated, word for word, the claimant's reported history, as well as the test results.[960] Dr. Adkins diagnosed the claimant primarily with major depressive disorder, single episode, moderate, as well as social phobia, and pain disorder associated with both psychological factors and a general medical condition.[961] In the prognosis section, Dr. Adkins said that, "with treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression anxiety symptoms."[962]

Dr. Adkins also signed the Conn Law Firm's additional Version 1 form assessing the claimant's ability to do work-related activities that was identical to the forms for 25 other individuals, based on the Committee's analysis.[963]

Claimant Awarded Benefits: On August 3, 2007, two weeks after the claimant's visit with Dr. Adkins, Judge Daugherty issued a fully favorable decision without holding a hearing.[964] His decision relied entirely on Dr. Adkins' exam, and disregarded the remainder of evidence in the file.[965]

However, Judge Daugherty also found the claimant to have more severe depression than even Dr. Adkins had. Where Dr. Adkins diagnosed with claimant with Major Depressive, *Single Episode, Moderate*; Judge Daugherty characterized the claimant's condition simply as "Major Depression" in the written opinion.[966] Judge Daugherty wrote that Dr. Adkins was more consistent with the record as a whole, even though that record contained no evidence to support the claimant's indication that he was seeking treatment for, or had been diagnosed with depression.[967]

Judge Daugherty also provided no further explanation or evaluation to support why he felt the claimant was more severely restricted than was indicated by the agency in its two prior reviews of the claimant's

[958] See Exhibit J-20, July 17, 2007 Psychological Evaluation at 6.
[959] *Id.* at 7.
[960] *Id.* at 7-8.
[961] *Id.* at 9.
[962] *Id.*
[963] *Id.* at 11 and 13.
[964] See Exhibit J-3, August 3, 2007 Decision, Administrative Law Judge David B. Daugherty at 1 and 5.
[965] *Id.* at 3-4.
[966] See Exhibit J-20, July 17, 2007 Psychological Evaluation at 9 and see Exhibit J-3, August 3, 2007 Decision, Administrative Law Judge David B. Daugherty at 3.
[967] *Id.* at 4.

conditions.[968] He also did not address the evidence presented by the claimant's treating physician that the claimant was capable of working.[969]

[968] *Id.* at 4-5.
[969] *Id.* at 1-5.

APPENDIX II:
MONTHLY BREAKDOWN OF MR. CONN'S DISABILITY CLAIMANTS LISTED ON THE DB LIST & FEES EARNED

Month and Year	No. of Claimants on DB List	Amount Paid by SSA in Fees
June 2006	14	$ 23,302.28
July 2006	39	$ 112,479.02
August 2006	49	$ 162,853.98
September 2006	24	$ 59,592.10
October 2006	37	$ 100,086.16
November 2006	41	$ 120,011.92
December 2006	23	$ 59,622.00
January 2007	52	$ 133,751.73
February 2007	36	$ 92,511.33
March 2007	46	$ 104,512.91
April 2007	48	$ 126,864.57
May 2007	46	$ 114,903.21
June 2007	50	$ 129,184.99
July 2007	39	$ 97,235.20
August 2007	46	$ 99,885.60
September 2007	52	$ 128,245.72
October 2007	38	$ 87,911.81
November 2007	40	$ 111,829.79
December 2007	42	$ 87,874.04
January 2008	40	$ 98,129.42
February 2008	33	$ 82,518.50
March 2008	36	$ 82,115.31
April 2008	31	$ 69,343.95
May 2008	36	$ 78,806.42
June 2008	44	$ 104,758.04
July 2008	45	$ 109,376.64
August 2008	46	$ 89,811.67
September 2008	39	$ 72,010.45
October 2008	32	$ 70,579.88
November 2008	32	$ 88,158.54
December 2008	23	$ 42,304.81
January 2009	16	$ 29,608.30
February 2009	44	$ 100,422.79
March 2009	32	$ 68,930.59
April 2009	30	$ 63,099.10
May 2009	41	$ 83,603.23
June 2009	47	$ 143,795.58
July 2009	30	$ 76,754.28
August 2009	40	$ 105,633.02
September 2009	39	$ 101,146.17

October 2009	46	$ 115,169.00
January 2010	48	$ 122,212.31
February 2010	51	$ 146,736.54
March 2010	33	$ 92,038.02
April 2010	41	$ 104,340.14
May 2010	40	$ 96,199.40
July 2010	46	$ 117,981.77
Total	**1,823**	**$ 4,508,242.23**

APPENDIX III:
PETTY CASH WITHDRAWALS MADE FROM THE CONN LAW FIRM BANK ACCOUNT

Date	Amount	Memo	Signature
11.07.05	$ 10,000	"Petty Cash"	Pat Conn
01.13.06	$ 9,000	"Petty Cash"	Pat Conn
02.16.06	$ 9,000	"Petty Cash"	Pat Conn
03.07.06	$ 9,000	"Petty Cash"	Pat Conn
03.23.06	$ 9,000	"Petty Cash"	Pat Conn
04.27.06	$ 9,000	"Petty Cash"	Pat Conn
06.02.06	$ 9,000	"Petty Cash"	Pat Conn
07.10.06	$ 9,000	"Petty Cash"	Pat Conn
08.08.06	$ 9,000	"Petty Cash"	Pat Conn
10.05.06	$ 9,000	"Petty Cash"	Pat Conn
10.23.06	$ 9,000	"Petty Cash"	Pat Conn
12.13.06	$ 9,000	"Petty Cash"	Pat Conn
01.19.07	$ 9,000	"Petty Cash"	Pat Conn
02.06.07	$ 9,000	"Petty Cash"	Pat Conn
03.07.07	$ 9,000	"Petty Cash"	Pat Conn
04.10.07	$ 9,000	"Petty Cash"	Pat Conn
04.20.07	$ 9,000	"Petty Cash"	Pat Conn
05.21.07	$ 9,000	"Petty Cash"	Pat Conn
06.01.07	$ 9,000	"Petty Cash"	Pat Conn
07.30.07	$ 9,000	"Petty Cash"	Pat Conn
08.27.07	$ 9,000	"Petty Cash"	Pat Conn
10.16.07	$ 9,000	"Petty Cash"	Pat Conn
11.20.07	$ 9,000	"Petty Cash"	Pat Conn
12.17.07	$ 9,500	"Petty Cash"	Pat Conn
01.08.08	$ 9,500	"Petty Cash"	Pat Conn
02.06.08	$ 9,500	"Petty Cash"	Pat Conn
03.07.08	$ 9,500	"Petty Cash"	Pat Conn
05.13.08	$ 9,500	"Petty Cash"	Pat Conn
07.15.08	$ 9,500	"Petty Cash"	Pat Conn
07.29.08	$ 9,500	"Petty Cash"	Pat Conn
08.11.08	$ 9,500	"Petty Cash"	Pat Conn
12.23.08	$ 9,500	"Petty Cash"	Pat Conn
02.23.09	$ 9,500	"Cash W/D"	Pat Conn
03.23.09	$ 9,500	"Petty Cash"	Pat Conn
04.08.09	$ 9,500	"Petty Cash"	Pat Conn
04.27.09	$ 9,500	"Petty Cash"	Pat Conn
05.04.09	$ 9,500	"Petty Cash"	Pat Conn
05.28.09	$ 9,500	"Petty Cash"	Pat Conn
06.10.09	$ 9,500	"Petty Cash"	Pat Conn
07.07.09	$ 9,500	"Petty Cash"	Pat Conn

07.27.09	$ 9,500	"Petty Cash"	Pat Conn
08.14.09	$ 9,500	"Petty Cash"	Pat Conn
09.23.09	$ 9,500	"Petty Cash"	Pat Conn
10.21.09	$ 9,500	"Petty Cash"	Pat Conn
11.18.09	$ 9,500	"Petty Cash"	Pat Conn
12.17.09	$ 9,500	"Petty Cash"	Pat Conn
12.28.09	$ 9,500	"Petty Cash"	Pat Conn
01.29.10	$ 9,500	"W/D"	Pat Conn
02.19.10	$ 9,500	"Petty Cash"	Pat Conn
03.01.10	$ 9,500	"Petty Cash"	Pat Conn
04.14.10	$ 9,500	"Petty Cash"	Pat Conn
05.20.10	$ 9,500	"Petty Cash"	Pat Conn
06.14.10	$ 9,500	"Petty Cash"	Pat Conn
07.14.10	$ 9,500	"Petty Cash"	Pat Conn
07.30.10	$ 9,500	"Petty Cash"	Pat Conn
09.01.10	$ 9,500	"Petty Cash"	Pat Conn
10.05.10	$ 9,500	"Petty Cash"	Pat Conn
10.21.10	$ 9,500	"Petty Cash"	Pat Conn
11.22.10	$ 9,500	"Petty Cash"	Pat Conn
12.16.10	$ 9,500	"Petty Cash"	Pat Conn
01.02.11	$ 9,500	"Petty Cash"	Pat Conn
02.01.11	$ 9,500	"Petty Cash"	Pat Conn
03.09.11	$ 9,500	"Petty Cash"	Pat Conn
04.06.11	$ 9,500	"Petty Cash"	Pat Conn
05.02.11	$ 9,500	"Petty Cash"	Pat Conn
05.27.11	$ 9,500	"Petty Cash"	Pat Conn
Total Petty Cash		**$ 616,500**	

Message0013	
Subject:	**FW: November Performance**
From:	ANDRUS, CHARLIE PAUL
Date:	12/2/1999 10:29:21 AM
To:	#PH WV OHA HUNTINGTON ALL

Message Body

I wanted to share this message I received from Judge Cristaudo. Needless to say, I do not like getting messages such as this -- and I hope you don't either. We have some of the best people in OHA in this office. We need to lay aside excuses, blame, recriminations, and do one simple thing -- concentrate on giving the claimant's a fair decision in a timely manner.

We can do this and we have done this many times in the past. I realize that this time of year we have many people on leave, holiday plans, and etc. But please remember each of you has a vital role in this process. We cant' pull cases unless they are on the master docket. We can't schedule cases that aren't pulled, or reviewed by the judges. We can't hear cases that are not scheduled, or decide cases where development is not complete. We cannot write cases without instructions and we can't edit cases that aren't written. Finally we can't mail cases that aren't corrected and signed. As you can see, we are all dependent on each other. Unless all of us do our job, we cannot get the cases out.

Please remember we are not doing this so I don't get e-mail from Judge Cristaudo, or to meet some goal. Hundreds of our fellow citizens are facing the holidays waiting to see if there will be a decision from us. It could mean, and in over half the cases it does mean, the good news of an allowance and an end to worry about where the next mortgage payment is coming from. In others it is an end to uncertainly and shows the need to make other arrangements. Either way, every day the claimant's wait for the mail hoping to get a decision from us. They deserve our utmost efforts to get that decision to them.

I have noticed, and the other supervisors have also noticed, that we, as a whole, are spending too much time visiting and not enough time working. As you all should know by now, I do not believe in having everyone chained to a desk all day like some scene out of a Dickens sweat shop. I believe some socialization makes the job tolerable. However, I have reviewed the individual production statistics for the various functions, as well as the ultimate production numbers, and they show that some of us are not pulling their fair share of the burden. There are reasons that production would fall this time of year with so many taking use or lose leave, holidays, etc., but when we spend as much time visiting instead of working as we have the past few weeks, it just makes the situation worse.

I realize that not everyone has been visiting excessively. However enough are that we all need to pay special attention to putting more of our efforts into getting the claimant's their decision in a timely manner. I would ask all of you to keep visiting to a few minutes on an occasional basis. We do not need to be going to other floors and not only using our time to visit but another employee's as well. We all also need to tell others when we are busy and cannot talk. Also, we all need to ask ourselves if we are doing our fair share of the work. If you are, then keep up the good work. If not, then we need to concentrate on increasing our particular production to allow others to do their work and for us to get the claimant's their decision. In short, would you like your claim or a family member's claim sitting on a desk while the person spends time visiting rather than moving the case?

We face a major challenge this month with the amount of leave that will be taken. However, with the quality of the employees we have, I am confident that we can meet it. We do need to concentrate on the task at hand and re-double our efforts to get the claimant's the decision they have been waiting to get. When we gather for our holiday celebrations secure in the knowledge that every two weeks we have a paycheck, I hope we all can feel good about the efforts we have made to insure our fellow citizens have not had to wait any longer than necessary to get their decision

Judge Andrus
-----Original Message-----
From: Cristaudo, RCALJ
Sent: Thursday, December 02, 1999 6:31 AM
To: ANDRUS, CHARLIE PAUL
Subject: FW: November Performance

Charlie,

On first quick review, I am very disappointed in your office's November performance. RO staff will be contacting you for an explanation and plans for improvement. Anything I can do?

Frank

Outlook Header Information
Conversation Topic: November Performance
Subject: FW: November Performance
From: ANDRUS, CHARLIE PAUL
Sender Name: ANDRUS, CHARLIE PAUL
To: #PH WV OHA HUNTINGTON ALL
Received By: GITLOW, WILLIAM H.
Delivery Time: 12/2/1999 10:29:21 AM
Creation Time: 2/17/2000 4:15:47 PM
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Submit Time: 12/2/1999 10:28:38 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 10095

SOCIAL SECURITY
Office of the Regional Chief Judge

MEMORANDUM

OFFICE OF HEARINGS AND APPEALS
P.O. Box 13496
Philadelphia, PA 19101

Refer To:

Date: July 7, 2004

To: Hearing Office Chief Judges
Hearing Office Directors
Region III - Philadelphia

From: Frank A. Cristaudo /vjl for fac/
Regional Chief Judge
Region III - Philadelphia

Subject: Fourth Quarter Performance

We are rapidly approaching the end of the fiscal year. Thus, we need to focus all our efforts on achieving regional goals. One of our greatest challenges is to achieve is our disposition goal. While we are currently short of this goal, we are committed to doing all we can to achieve the 72,419 dispositions that we need. As we have done in the past, we need to work together to meet this goal.

To ensure that we are all on track, I am asking each office to carefully monitor and report on its progress toward meeting this goal. We are reprising the practice that we used last year. Using the attached form, I would like your office to report for all of the remaining months in the fiscal year the number of hearings scheduled; projected dispositions, and projected surplus or shortfall. Where a shortfall is being reported, I would like you to provide an explanation of what caused the shortfall and what action is being undertaken to make up the shortfall. The July report should be sent to your management analyst **by Friday, July 23rd.** The August and September reports are due on the Wednesday prior to the monthly conference call (ROCC), **August 11 and September 8.** Conference calls will be scheduled at 9:30 a.m. on the last Monday of the work month to discuss projections and performance.

To meet our objective we need to make maximum use of all our available resources. Every office has unique talents and abilities to get the job done and unique issues with which to deal. We need to use those resources, wherever they may be, to assist us in achieving our regional goals. We need to pull, schedule, hear, and write enough cases to ensure that we can meet our goals. It is not always easy for individual offices to meet every demand, but by working together and pooling regional resources effectively, we can do this. We also need to devote as much management time as possible monitoring case movement and finding those cases that can clear.

The Region has several resource options available. Writing and pulling assistance is available from several of our offices. Offices are encouraged to take advantage of these resources and make their needs known to their management analyst.

Offices are also encouraged to make use of their creative talents to overcome obstacles. The Associate Commissioner has issued a compilation of Best Practices throughout the country, and we all need to take time to review this document to see if there are any practices that will help us achieve our goals (see ORCJ *Handbook for Managers*, June 2004, pp WK5-WK-17). Our focus should be on what we need to do to get the job done.

Offices should communicate the importance of meeting goals to their judges and staff and seek individual and collective commitment to achieving them. Staff should be aware of what is individually and collectively needed to be successful. Everyone needs to be aware of exactly how many cases are needed to be pulled, scheduled, heard, decided and written and be asked to work toward that objective. We need to think of creative ways to celebrate when we pull, schedule, write, hear and decide the number of cases needed to achieve the daily, weekly, or monthly goals that we set. Achieving goals can be satisfying and fun. When you come up with new ideas, share them so other offices can have some fun too.

The Regional Office will provide any assistance we can. Keep your management analyst informed of your needs. Val and I are always available to discuss any issues that you may have. We have little doubt that with the creativity and leadership you continuously demonstrate, we will achieve our goals. Thanks for all you are doing to ensure our success.

Please feel free to contact me with any questions or concerns. The staff contact is Barbara Bracchi. Barbara can be reached at 215-597-4130.

Fourth Quarter Projections

Office: Baltimore, Maryland
Date: August 11, 2004

July	
Goal: 576	
Hearings Scheduled:	**541**
Projected Dispositions:	**480**
SSA:	**460**
Medicare:	**20**
Surplus/Shortfall:	**61**
Comments:	**Shortage in writing unit.**
	Lack of permanent supervision
August 2004	
Goal:	**457**
Hearings Scheduled:	**221**
Projected Dispositions:	**400**
SSA:	**380**
Medicare:	**20**
Surplus/Shortfall:	**57**
Comments:	**VOIP installation next week**
	Carpet cleaning this Saturday and no o/t
	Lack of staff
September	
Goal:	
Hearings Scheduled:	
Projected Dispositions:	
SSA:	
Medicare:	
Surplus/Shortfall:	

SOCIAL SECURITY

MORANDUM

Date: April 18, 2007

Refer To: ACL 06-19

To: Regional Chief Judges

From: Frank Cristaudo /s/
Chief Judge

Subject: Benchmarks for Quality Case Processing

Thank you for the excellent comments we received on the proposed Benchmarks for Quality Case Processing, which are intended as *guidelines* to facilitate case processing and service delivery. After a careful review of all the comments, we have developed the attached Benchmarks for processing our current paper and electronic file workload. While we continue to focus on our most aged caseload, we believe that once work is begun on a request for hearing, the request should be processed on a timely basis throughout the various stages of the hearing process. We will continue to monitor the benchmark timeframes and address any workload needs for revision in the future, in particular as we gain more experience with electronic folder processing.

We have defined the Benchmarks to target all statuses by week instead of round numbers (28 days v. 30 days). Use of weekly targets for this purpose supports our approach of monitoring weekly performance and workloads.

Based on recommendations from the Regions, we have changed the timeframe for receipt of a CE for PREPOST development to 63 days as the diary for CEs are beyond the control of the HOs as the CE is processed by the DDS. The new ARPR\ALPO status timeframe is 7 days with exceptions for ALJ availability as described in the attached Benchmark Chart. Additionally, we have included a benchmark for status codes in which the processing time would be expected to be 1 day (i.e., *SIGN* or *MAIL*), with an exception based on the availability of the ALJ, as we expect cases in these categories to move quickly. Also, we have included benchmarks only for status codes in controllable areas which will better serve the public.

One of our fundamental principles of good management is encouraging supervisors to make more frequent assignments of fewer cases, daily if appropriate, to maximize service delivery. Accordingly, several of the proposed benchmarks reflect that principle.

If you would like to discuss this with me, please let me know. The staff contact is Vicki Ferreira who may be reached at (703) 605-8528.

Attachment

Homeland Security & Governmental Affairs Committee
EXHIBIT #3

Benchmarks for Quality Case Processing		
CPMS Code	**Benchmark (Calendar Days)**	**Comments (Management must assure proper diary dates are used for each of the categories)**
MDKT	21	Receipt of claim file through auto establish in CPMS.
PRE/POST (Prior files)	28	Requests for prior files (diary for 28 days)
PRE/POST (MER)	21	Requests from Treating Sources (diary for 10 days for follow up)
PRE/POST (CEs)	21/63	21 days to be sure the CE is scheduled/63 days to be sure the CE report is received at the HO
TEMP	42	Cases transferred to other HOs for case preparation or decision drafting should be completed and returned to the original HO within 42 days
DWR (Unpulled File Review)	7	Pre-hearing Review (ALJ/SAA/AA/PA)
WKUP	7	Case Workup (assembly/development/analysis)
ARPR	7*	ALJ Review (Pre-scheduling)
ALPO	7*	ALJ Review (Post-hearing)
AWRT/AWPC/AWSR	14	ALJ Drafting Decision
DWPC/DWRT/DWSR	7	SAA/AA/PA Drafting Decision
EDIT	7	ALJ/SAA/AA/PA Editing Decision
CORR	7	Typographical corrections to be completed on ALJ decision.
SIGN	1*	Case in the ALJ's office waiting final review, AVID and signature.
MAIL	1	Awaiting mailing of ALJ decision.

(*ALJ on travel docket/unavailable, timeframe begins upon return to HO)

SOCIAL SECURITY
Office of Disability Adjudication and Review
Office of the Chief Administrative Law Judge

October 31, 2007

Dear Colleagues:

Thank you for your outstanding efforts to serve the American people not only last fiscal year, but every day of every year. I know how hard you work and how dedicated you are to serving the public.

As you know Commissioner Astrue issued his plan earlier this year to eliminate the hearing backlog and prevent its recurrence. We are asking everyone in the hearing operation to help us successfully implement the plan. We believe this to be a balanced plan with Agency-wide support which is critical for its success. The plan recognizes that we need more ALJs, sufficient support staff, increased automation, improved hearing process, and better management of the operation.

The mission of the hearing operation is to provide timely and legally sufficient hearings and decisions. As a result of limited resources, our average processing time in FY 2007 was 512 days, measured from the date the request for hearing was filed. As William Gladstone said, "Justice delayed is justice denied," and this is nowhere more true than for the disability claimants whom we serve. It should go without saying that such lengthy processing times are unacceptable public service for such a vulnerable group. We would like to dramatically reduce our average processing time to provide legally sufficient decisions on a timely basis.

In an attempt to improve the overall timeliness of our service, last year we made clear that we expect cases to be handled primarily in request for hearing date order. While we will continue to screen cases to expedite decisions to claimants suffering from terminal illnesses, losing their homes, or enduring other similar catastrophic circumstances, or who have submitted evidence that justify a decision on-the-record to conserve precious resources, our primary approach will be to hear cases on a first in, first out basis.

As part of this approach to docket management, we asked you to help us issue decisions in all cases that were already or would become 1,000-days old or older by the end of the fiscal year. In FY 2007, we had 63,770 such cases. Thanks to the efforts of our ALJs, managers, and support staff, we issued decisions in all but 108 of these cases. To build on the success of the 1,000-day initiative, in FY 2008 we will strive to issue decisions in all cases that are or will become 900 days old by the end of the fiscal year.

Homeland Security & Governmental Affairs Committee
EXHIBIT #4

Although processing our most aged cases first is clearly the right thing to do, this initiative will not eliminate the backlog. In order to control the hearings backlog we must begin to have more dispositions than receipts. The Commissioner's plan will allow us to do so.

As many of you know, I have asked the ALJs to do three things to help us accomplish our mission and to achieve our vision of being a respected, exceptional administrative judicial system:

- Issue 500 – 700 Legally Sufficient Decisions each Year.

  I am asking each of our Administrative Law Judges to manage their dockets in such a way that they will be able to issue 500 – 700 legally sufficient decisions each year. Many of our ALJs do so already. While I recognize this requires adequate support and a dedicated level of effort, I believe that based on historical data and the input and experience of a number of our ALJs, this is a reasonable request.

  I want to make clear that we want these decisions to be legally sufficient. We do not want to simply allow cases or deny cases to meet a goal. (We have a number of initiatives which deal specifically with legal sufficiency which will be addressed separately.) We believe ALJs who manage their dockets well should be able to accomplish this request.

  In an attempt to make as many cases available to our ALJs as they would like to schedule for hearing, we authorized the streamlined file assembly process earlier this year. We did so in response to information that a number of ALJs were using this process already and that others would use it if authorized.

  The Agency has also awarded a contract to deliver automated file assembly software to us for the ePulling initiative included in the Commissioner's Backlog Elimination Plan. This software which will become widely available later this fiscal year will increase the number of electronic folder cases that we can make available to the ALJs using a more traditional file assembly approach. In the interim, we are asking each ALJ to consider allowing the streamlined approach if the office cannot make sufficient cases available to the ALJ using the traditional approach. While we realize it may take longer to review files that have been assembled using the streamlined approach, it is better than not reviewing any file at all.

- Move Cases Out of ALJ Controlled Categories on a Timely Basis.

  In addition to issuing 500 – 700 legally sufficient decisions each year, we are also asking the ALJs to complete the necessary work on cases in ALJ-controlled CPMS status categories on a timely basis. Cases in AELPO and similar statuses cannot be moved forward in the process without action by the ALJ. The benchmarks published at the Office of the Chief Administrative Law Judge web site provide guidance on the maximum time cases should remain in each category absent good cause. It reflects badly on both the Agency and the ALJ Corps to receive a complaint from a claimant or a congressional office that the ALJ has failed to make a decision in a case 3 months, 6 months, a year, even two years after the hearing was held. It is difficult to defend such inaction on the part of an ALJ. If the decision is difficult

to make the day after the hearing; it will likely be more difficult two years after the hearing. Accordingly, I am asking ALJs to manage their dockets by moving those cases assigned to them through each step of the process in a timely way.

- **Hold Scheduled Hearings Absent a Good Reason to Cancel or Postpone the Hearing.**

  Finally, we are also asking the ALJs to hold scheduled hearings unless a good reason exists to cancel or postpone the hearing. Postponing or canceling a hearing without a good reason damages the external and internal perception of the Agency's commitment to provide exemplary service to the public.

  Some of our ALJs have canceled hearings to work at a flexiplace location instead, or to handle a matter outside the office that could be handled on a day on which hearings are not already scheduled. Needless to say, postponing hearings for these reasons not only unnecessarily damages the perception of our commitment, it delays decisions to claimants who desperately await them, and uses precious limited support staff resources to re-schedule the hearing.

Our vision is to be a respected, exceptional administrative judicial system -- respected by Agency leadership, other Agency components, claimants and their representatives, experts who appear before us, Congress, and the federal courts. As an old cliché says, respect must be earned, not demanded. True respect from these groups will be the natural result of providing exemplary service to the public, conducting ourselves appropriately, and managing our dockets effectively. Being respected also means that claimants' representatives treat us with dignity and respect, that we receive the necessary resources from Congress and the Agency, and that appellate bodies show deference to our decisions as we are the experts in Social Security Law.

ALJs are leaders in the hearing operation. Every ALJ by virtue of title and position is a leader in the office. When ALJs are committed to providing timely and legally sufficient hearings and decisions, the staff and representatives are more likely to share that commitment. When ALJs treat all with dignity and respect, the staff and representatives are more likely to do so as well. Leadership really does make a difference. As the Commissioner recognized in the plan he submitted to Congress, our ALJs, managers, and staff are among the Agency's finest public servants. Indeed, I believe our ALJs comprise the finest administrative judiciary in government. I am asking each of you to work with us to build the organization we envision.

Frank A. Cristaudo
Chief Administrative Law Judge

Message0930	
Subject:	**RE: WSJ Articles**
From:	Jonas, Patricia
Date:	5/20/2011 5:46:00 PM
To:	'mccarper@msn.com'

Message Body

He came in 1990 and I left in 1996. He probably had a higher percentage of allowances but nothing that was irrational. He was intellectually lazy. That was his most obvious characteristic.

From: mccarper@msn.com [mailto:mccarper@msn.com]
Sent: Friday, May 20, 2011 5:46 PM
To: Jonas, Patricia
Subject: WSJ Articles

Was Judge Daugherty in the Huntington office when you were there? A protege of yours (or Bice versa)?

Beth

Sent from my Verizon Wireless Phone

Outlook Header Information

Conversation Topic: WSJ Articles
Subject: RE: WSJ Articles
From: Jonas, Patricia
Sender Name: Jonas, Patricia
To: 'mccarper@msn.com'
Delivery Time: 5/20/2011 5:46:00 PM
Creation Time: 5/20/2011 5:46:54 PM
Modification Time: 5/20/2011 5:46:58 PM
Submit Time: 5/20/2011 5:46:54 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 7700

From: Hall, Gregory ODAR Huntington HO
Sent: Thursday, August 18, 2011 2:55 PM
To: #PH WV ODAR Huntington All
Cc: Devlin, Michael
Subject: Retirement

I am retiring at the end of this month. My daughter and her family are moving to the Cincy area and that sealed the deal for me. I have many things to close out here over the next few days, but I plan on seeing everyone before I leave.

Message0066	
Subject:	**RE: Office Upheaval**
From:	Kayser, Ronald M.
Date:	7/24/2001 4:35:35 PM
To:	Gitlow, William H.

Message Body

QAR was enjoyable but got boring after a bit; I am not changing my hearing or the procedure you taught me at all; your forms are still my bread and butter; I have changed the VE questionnaire a little to incorporate some exertional and nonexertional charts; I found most ALJs were doing a good job on the hearings - most asked the questions and conducted a fair hearing; I found most fault with some of the assinine fully favorables which largely ignored the evidence and went off into the wild blue yonder (most problems were wtih the ALJs who were ignoring DDS RFCs but with nothing in file to contradict DDS. QAR makes one get a little lax because it takes the pressure off the job and I found that I had plenty of time to goof off doing other stuff. It has been tough to get back into the swing of things - doing 7 hearings a day along with the reviews. Its a scramble and I would like to have more time to work the files.
Hazard is still unchanged. I have grown to accept the fact that Hazard is an abberation and I have the luxury of leaving the hell hole after my work.
Yesterday, Watkins called a telecconference meeting with the judges in the office to pitch us with the HOCALJ job; when no one would speak up (John Lawrence, Pete, Roger, Barf and Schultz were present; Watkins sort of threatened us that if one of us didn't take the job, we would be stuck with not having a say in the selection of the HOD; finally, Pete told Walkins that the reason none of us wanted the job was due to his failure to support Barker and the realization that we would encounter the same treatment; that sent ole Watkins into orbit and he started his defensive routine - I am occupying the high moral ground - John is my best friend and he wouldn't support your allegation at all - I can't tell you his reason for leaving because of privacy rights - you just put him on the telephone and he will support my position. We assumed the silence approach and Watkins kept getting more aggitated and finally told us to call him privately to talk about the position. That two faced *&*%$ will have to wait a hell of a long time. John was screwed by Watkins and is coming out of this smelling like a rose - he gets to move to Knoxville (via Middlesboro) he will basically commute with two other judges assigned to Middlesboro who live in Knoxville. John couldn't be happier and you couldn't force him to stay. Gloria is gone but I fear Mayfield will be heading this direction.

I am haring cases in Hazard from August 6-9 so lets get together for dinner. I suggest the Reno's Restaurant at the Holiday Inn as a good place - I hear the food is ok. Let me know your plans.

Ron

-----Original Message-----
From: Gitlow, William H.
Sent: Tuesday, July 24, 2001 11:11 AM
To: Kayser, Ronald M.
Subject: RE: Office Upheaval

Whew -- 31 to 33 cases per week. Are you hearing 60 - 65 cases per month??? I'm afraid that I still am at 45 per month, not because I want to piss off the administration but because I feel that I can provide due process at that level, given that I am a slow reader; that volume allows me to do the cases right the first time -- if my remand rate weren't notably lower than the other ALJs in the office I would have to rethink my approach. No one volume is right for every ALJ, although the administration certainly thinks so. Did the QAR provide any benefits for your work? What was your perspective of the assignment?

Sounds like big improvements for Hazard -- a nice restaurant and a nice hotel. That is going to put pressure on the Holiday Inn to make changes or suffer dramatic loss of business, something that they didn't have to worry about up until now.

Prestonsburg schedule continues with the first week of the month, with some changes for vacations: August 6 - 10
September 17 - 21
October 1 - 5

I couldn't agree with you more that the HOCALJ job is nothing but headaches. Unfortunately, it is often those with ego needs (or those who want all expenses paid transfers), not good managers, who apply for the jobs.

Bill

-----Original Message-----
From: Kayser, Ronald M.
Sent: Monday, July 23, 2001 8:02 AM
To: Gitlow, William H.
Subject: RE: Office Upheaval

If I thought that taking the HOCALJ position would block Mayfield's designs on this office, I might bite. Its just a no-win job with nothing but headaches. At least we get to start wtih a clean slate. Your office doesn't appear to have any better situation. Where do these "managers" get off?
I feels strange to come back on duty after being off following the surgeries and then a four month detail. Its the volume of work that really first got my attention. I am hearing about 31-33 cases a week either up here or in Hazard. It is really a chore to review the cases and be prepared - now, I could adopt Ray's philosophy to hear the case cold and not be influenced by the evidence.
Back and neck are super. Couldn't be more satisfied with the outcome.
What is your Prestonsburg schedule for the near future? I hit Hazard each month. I returned to the "Hazard Hotels i.e. Holiday Inn" and the owner hasn't figured I've returned. He (Ben Spurlock) is such a prick. However, their rooms are still larger and the towels are much better than the Day's Inn. We are getting a new hotel (Hampton Inn) next to the Food Fair Grocery store - below the Days Inn and next to Applebees which is also being built as we speak - talk about changes!!
Later

Ron

-----Original Message-----
From: Gitlow, William H.
Sent: Thursday, July 19, 2001 5:05 PM
To: Kayser, Ronald M.
Subject: RE: Office Upheaval

Wow. Is this a soap opera or what? I can't say our morale is much better. Our HOCALJ (Andrus) is almost universally despised by the office personnel. We have record numbers of EEO complaints pending against management. Andrus decided that the reason our office wasn't producing was a lack of adequate pressure and chose to apply a boot camp mentality to the office. He chose two managers for Group Supervisors with no OHA experience (not attorneys), hoping that they would bust heads. The HOD is also not an attorney. So we have two non attorneys assigning cases, reviewing the performance of the attorneys, who are in turn supervised by a non attorney. (Sigh...). I think we are the only office in all of OHA that doesn't have a single attorney in a supervisory position in the office. At least I have carte blanche in my group to establish the way denial decisions are written for our group and was assigned to ensure the standards for it.

Kathy Mayfield. Now that brings back fond memories. Not.

On a substantive issue, I just had a case assigned that had been an AC remand from a Roger Reynolds decision. Who the hell trained that guy? He granted a closed period, finding 201.00(h) and then light level work. The AC (correctly) noted that there was no rationale for the two RFC's adopted for the two periods, and no 7 step cessation written (no showing of medical improvement related to the ability to work, etc) -- just a recitation of two RFCs and the conclusion of the closed period. It's not that his instincts on the case were all that bac, but his understanding of the process and how to write a legally defensible decision is, ahem, less than sterling.

Good luck with the office. Give my regards to Jane. Back and neck doing okay? HOCALJ? I remember Judge Lynch once saying that the only reason he became HOCALJ was because he needed to block the appointment of someone else in the office who would have wrecked the office. I often think that the only good HOCALJs are the ones that don't really want the job.

Bill

-----Original Message-----
From: Kayser, Ronald M.
Sent: Wednesday, July 18, 2001 9:28 AM
To: Gitlow, William H.
Subject: Office Upheaval

Bill:

Just to bring you up to date: Lexington lost its HOD (Gloria York) yesterday when she cleaned out her office and left for parts unknown to return to being a writer. Gloria was picked by AJ Shultz when he was acting HOCALJ and began a 1 1/2 year reign of terror. Our new HOCALJ, John Barker from Montgomery, had tried to rein her in and wrote Hank a memo outlining why she had to go due to her mismanagement of the office (we are close to the bottom of the region after having enjoyed the lofty status so long. Bowtie assured John while in Orlando that he need not worry about Gloria and Region was certainly in full support. John returned to the office and discovered to his great chagrin that Gloria had sent a memo to Region (Joan ??) about Barker's having failed to follow regulations and when she didn't think she was getting a response, decided to send a memo to Rita Gier and that resulted in Watkins' phone call to Barker raking him across the coals and ordering Barker to rescind his memo about Gloria and to follow regs. BArker resigned and told Watkins to find another HOCALJ. Watkins called Barker and York to Atlanta. Barker was treated much more civilly and offered a transfer to Middlesboro. He jumped at the opportunity (his home is in Knoxville where his wife teaches school). Watkins came a visiting last Thursday and met with the judges and some in the office. (I was in Hazard and missed the show). Watkins visited with Gloria and chewed her out about the mess in this office. Watkins later spoke by phone to the two group supervisors and chewed them out for not alerting him early on about Gloria (imagine if they had in fact called this fella - they would have been fired for jumping the chain of command). On Monday, Gloria sent an email out at 0800 to the office telling us she was leaving and in fact cleaned her office out and was gone by Tuesday a.m. We are now in a wait and see. Barker is HOCALJ until the end of August. The Mayfield clique is campaigning strongly for Mayfield's return. Rumors are flying a mile a minute. I had a nightmare last night that the Mayfield bitch was on the road towards Lexington. In support of the rumor is the fact that she has leased out her house in Ft. L and is now living in a condo. Her daughter and grandchild and son are now living up here. She was able to double her salary by the con game of working overtime using clerical money but reporting it as "other". No one could stop this game and she was able to buy a largle pickup and a vacation home with the money.

Now don't you wish you had stayed over here for the games? No word on a new HOCALJ. Watkins leaned on Roger Reynolds to take the job but Roger wouldn't bite. I was mentioned by Watkins as being a candidate for the job. Maybe I should bite to protect the turf and keep the bitch from returning?

Later

Ron

Outlook Header Information
Conversation Topic: Office Upheaval
Subject: RE: Office Upheaval
From: Kayser, Ronald M.
Sender Name: Kayser, Ronald M.
To: Gitlow, William H.
Received By: Gitlow, William H.
Delivery Time: 7/24/2001 4:35:35 PM
Creation Time: 7/22/2002 2:56:09 PM
Modification Time: 7/22/2002 2:56:09 PM
Submit Time: 7/24/2001 4:35:33 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 20340

SOCIAL SECURITY

Inspector General

The Honorable Nick J. Rahall, II
Member, U.S. House of Representatives
Huntington District Office
845 Fifth Avenue
Huntington, West Virginia 25701-2086

Dear Mr. Rahall:

THIS REPORT CONTAINS RESTRICTED INFORMATION FOR OFFICIAL USE. DISTRIBUTION IS LIMITED TO AUTHORIZED OFFICIALS.

In an October 22, 2001 letter, you requested that my office review constituents' allegations of mismanagement at the Huntington, West Virginia, Office of Hearings Appeals. These allegations consisted of discrimination and favoritism in hiring and promotion policies, contempt for employees with special needs, hostile work environment, lack of training, denial of union representation, overemphasis on production, and inappropriate sexual advances.

We completed our review of the allegations. Approximately half of the allegations arose from discrimination complaints based on race, age, sex and disability. With the complainants' permission, we forwarded these allegations to the Social Security Administration's (SSA) Office of Civil Rights and Equal Opportunity (OCREO) for necessary action. OCREO has the specific responsibility for processing discrimination allegations, managing SSA's affirmative employment program, providing equal employment opportunity counseling to employees and applicants for employment, and providing reasonable accommodation for persons with disabilities.

We did find an area of concern involving a security guard leaving his monitoring station to perform the duties of a receptionist. There was no indication of criminal activity for any of the allegations. Finally, during our review, we identified the existence of other problematic conditions pertaining to low office morale, security of claimant case files, performance appraisals not being conducted, and time and attendance reporting.

We have informed SSA of the results of our review and requested that the Agency provide the corrective actions it plans to take to address the conditions we identified.

Homeland Security & Governmental Affairs
Committee
EXHIBIT #8

My office is committed to eliminating fraud, waste, and abuse in SSA's operations and programs. Thank you for bringing your concerns to my attention. If you have any questions concerning this matter, please call me or your staff may contact Douglas Cunningham, Executive Assistant, at (202) 358-6319.

Sincerely,

James G. Huse, Jr.

Enclosure

cc:
Jo Anne B. Barnhart, Commissioner

OIG/ES
Reading File
Subject File
SSA/OIG/OA/STODD/clh/08-27-02 A-13-02-22090
Report File

CONGRESSIONAL RESPONSE REPORT

Huntington, West Virginia, Office of Hearings and Appeals

A-13-02-22090



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LIMITED DISTRIBUTION

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OBJECTIVE

Our objective was to review allegations of mismanagement at the Huntington, West Virginia, Office of Hearings and Appeals (OHA) made by constituents of Congressman Nick J. Rahall, II.

BACKGROUND

The Social Security Administration (SSA) administers two programs that provide benefits based on disability: Disability Insurance (DI) and Supplemental Security Income (SSI). The State Disability Determination Services make disability determinations under both programs. A claimant whose application is denied at the Disability Determination Services may request a hearing.

Within SSA, OHA is responsible for conducting hearings and issuing decisions as part of determining whether a person may receive benefits. Administrative Law Judges (ALJ) conduct these hearings and issue written decisions. Cases involving disability under the DI and SSI programs account for 90 percent of OHA's work. The remainder consists of claims made under the Retirement and Survivors Insurance program, Medicare, and non-disability claims under the SSI program. The OHA hearing organization consists of 10 regional offices and approximately 140 hearing offices.

On October 22, 2001, Congressman Nick J. Rahall, II, requested the Office of the Inspector General (OIG) to review constituents' allegations of mismanagement at the Huntington, West Virginia, OHA. These allegations pertained to discrimination and favoritism in hiring and promotion policies, contempt for employees with special needs, hostile work environment, lack of training, denial of union representation, overemphasis on production, and inappropriate sexual advances.

There were 47 employees at the Huntington, West Virginia, OHA at the time of our review, of which 4 were managers. The management positions included two Group Supervisors, a Hearing Office Director, and the Hearing Office Chief ALJ (HOCALJ). Except for the HOCALJ, all the managers were non-attorneys. Three unions represent the OHA employees: (1) the American Federation of Government Employees, (2) the National Treasury Employees Union, and (3) the Association of Administrative Law Judges.

SCOPE AND METHODOLOGY

We reviewed allegations of mismanagement at the Huntington, West Virginia, OHA that were raised from October 2001 through February 2002. We did not review any allegations of discrimination. SSA's Office of Civil Rights and Equal Opportunity[1] (OCREO) addresses discrimination allegations, manages SSA's affirmative employment program, provides equal employment opportunity (EEO) counseling to employees and applicants for employment, and provides reasonable accommodation for persons with disabilities.

To achieve our objective, we:

- interviewed 32 OHA employees of the Huntington OHA, including 4 managers, and one contractual security guard;
- analyzed individual and overall office productivity information;
- reviewed personnel files for all Huntington OHA employees;
- reviewed time and attendance documentation; and
- reviewed prior OIG and General Accounting Office reports on OHA.

We performed our review in Huntington, West Virginia, and Baltimore, Maryland, from April through June 2002.

RESULTS OF REVIEW

Approximately half of the allegations arose from discrimination complaints based on race, age, sex and disability. With the complainants' permission, we forwarded these allegations to OCREO for necessary action.

We substantiated an allegation of mismanagement at the Huntington, West Virginia, OHA concerning a security guard leaving his monitoring station to perform receptionist's duties. We found no indication of criminal activity for any of the allegations.

Finally, during our review, we identified the existence of other problematic conditions at the Huntington, West Virginia, OHA. These conditions pertain to low office morale, security of claimant case files, performance appraisals not being conducted, and time and attendance reporting.

[1] The U.S. Equal Employment Opportunity Commission (EEOC) has enforcement authority over discrimination complaints under title VII of the Civil Rights Act of 1964 and sections 501 and 505 of the Rehabilitation Act of 1973. Included in its duties, the EEOC coordinates Federal agencies' EEO programs as part of its Federal sector program. In SSA, OCREO is responsible for managing this program.

Office Security Was Compromised

OHA management is required to develop and implement a comprehensive security action plan for the office in accordance with SSA policies.[2] The plan must contain detailed measures to protect SSA employees, property, and records. Managers must continually assess the adequacy of physical security measures in the office. The Huntington OHA has a security guard who is responsible for monitoring surveillance cameras and providing physical security for SSA employees located on four of six floors in the professional office building.

It was alleged that the Huntington OHA management improperly assigned the security guard receptionist duties. For example, the security guard performed tasks, such as handling claimants' case files, routing claimants and representatives to hearing rooms, and copying of claimants' file documents. While the security guard was performing these tasks, he could not perform security duties. The security guard confirmed that he was performing some receptionist duties, and we also observed him performing some of these duties. However, the security guard was unsure whether management was aware of his actions.

We discussed the security guard's actions with office management. Management informed us that the security guard had taken it upon himself to perform the duties, and management had not specifically requested him to do so. However, management did not specifically request the security guard to stop because the office did not have a full-time receptionist. After we informed management of this condition, management agreed to take corrective action to stop this practice.

Low Office Morale

We found that there was a morale problem within the Huntington OHA. Management and staff readily admitted to this. Several staff members have filed discrimination allegations with OCREO and filed grievances with the unions.

We believe, in part, the office morale problem resulted from the implementation of the Hearing Process Improvement initiative (HPI). To make the hearing process more efficient, SSA initiated the HPI initiative in 2000. HPI was intended to improve customer service by reducing the amount of time needed to schedule a hearing and make decisions. Specifically, some of the major factors during the implementation of HPI that contributed to the low morale were non-attorneys involved in supervising attorneys; an increased accountability for productivity; and, in the case of the Huntington office, the lack of promotions for staff within the office. Some of the morale problems can also be attributed to a lack of training opportunities and training development plans.

Under HPI, a group supervisor (GS) position was created. We found some attorney staff resented the GSs because they were not attorneys but were the administrative supervisors of the attorneys. For example, one of the attorneys' primary duties is to write ALJ hearing decisions. However, the GSs received minimal training in writing decisions and minimal time actually writing decisions. Management explained to us that

[2] Administrative Instructions Manual System, General Administration Manual, 12.01, 12.06.

the GSs did not need extensive decision writing experience, and that GSs could effectively assign cases by applying certain criteria. In addition, Senior Attorney Advisors were available to counsel the GSs on legal issues, including those that may have affected case assignment. In addition, some staff became upset when, under HPI, the GSs started holding staff more accountable for their production.

Finally, under HPI's new organizational structure, some staff anticipated that they would be promoted into newly created positions, believing that those employees who were "in grade" the longest would be promoted. However, most of the vacancies and promotions were filled by individuals outside of the Huntington OHA.

We discussed the office morale problem with management and staff. Office management expressed awareness of the problem, and stated they were working on ways to improve morale within the office. Specifically, management said staff would be offered more training and stated they are considering hiring a conflict resolution consultant for training.

Security of Claimant Case Files

SSA policy requires regional coordinators to establish written procedures for the destruction of confidential records. The procedures must ensure that adequate safeguards, such as shredding or burning of documents, are taken to preserve confidentiality.[3]

During our review, we determined that adequate safeguards were not taken during the destruction of claimant case files. We found that, after the retention period for claimant case files had expired, office staff placed case files in an unsecured trash bin outside the office building. The case files contained such sensitive information as Social Security numbers and names.

Management at the Huntington OHA indicated there was an agreement with a contractor guaranteeing the security of the case files. We subsequently determined that the agreement only covered transportation to the shredding facility. Management also informed us that the shredding facility did not guarantee the security and confidentiality of the files.

We alerted management to this condition for its immediate attention. Management obtained a new contract to remove case files from within the office and shred the files. The agreement requires the contractor to ensure the confidentiality of the case files it processes and take appropriate safeguards to protect the information contained therein.

Performance Appraisals

Supervisors are required to certify the performance of a subordinate at the end of an established assessment period. The usual assessment period in OHA is October 1 through September 30. The annual certification of performance must be documented and issued within 30 days of the end of the assessment period.[4]

[3] Administrative Instructions Manual System, Material Resources Manual, 05.09.

[4] SSA Personnel Manual for Supervisors, General Series, chapter S430, subchapter 1.

We reviewed each employee's file to determine whether an annual certification of performance had been completed. We found that, for two employees, there was no documentation to show the certification of performance had been completed. We questioned the supervisor on why there was no annual certification in the employees' files. The supervisor acknowledged the omission and stated the assessment would be completed in the near future.

Time and Attendance Reporting

According to SSA's policy,[5] it is the timekeeper's responsibility to review employees' sign-in/out sheets and any leave requests. If an employee is absent part of the day, the timekeeper should review the sign-in/out sheet in conjunction with the leave requests or resolve any discrepancies with the employee's supervisor. Finally, a supervisor must certify that the hours recorded by a timekeeper accurately reflect the employee's attendance and entitlement to pay and leave.

During our review, we examined the sign-in/out sheets for January 2002. We found 28 occurrences on 17 days where the sign-out sheet was not in chronological order. For example, a staff member signed out at 5:27 p.m., and, on the next signature line, a staff member signed out at 3 p.m. Our review also showed that a supervisor certified that the sign-in/out records were accurate; however, the supervisor showed no evidence they addressed or resolved the sign-out discrepancies. We identified similar time and attendance issues with regard to OHA in an August 2000 review *Office of Hearings and Appeals Time and Attendance Policies and Procedures at Hearing Offices.*

We discussed this condition with management and they acknowledged they were aware of the problem and would take corrective action. We informed the OHA Associate Commissioner of this problem and advised him to take corrective action to ensure Huntington's compliance with Agency policy.

[5] Timekeeper Policy Manual, chapter 1.

LIMITED DISTRIBUTION

Appendix

Appendix A – OIG Contacts and Staff Acknowledgments

Appendix A

OIG Contacts and Staff Acknowledgments

OIG Contacts

Shirley E. Todd, Director, General Management Audit Division (410) 966-9365

Jim Klein, Audit Manager, General Management Audit Division (410) 965-9739

Acknowledgments

In addition to those named above:

Randy Townsley, Auditor-in-Charge

Janet Stein-Pezza, Program Analyst

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CHADBOURNE
& PARKE LLP

Memorandum

To: Permanent Subcommittee on Investigations

From: Pamela J. Marple

Date: May 17, 2012

Re: Eric C. Conn Law Firm

Attached please find the following:

1. Factual Background
2. Document Production Summary
3. Specific Response to May 9, 2012 Correspondence
4. Correspondence between PSI and Chadbourne & Parke
5. Correspondence to the Social Security Administration
6. Additional Emails Currently In Production

Homeland Security & Governmental Affairs
Committee
EXHIBIT #9

TAB 1

1. FACTUAL BACKGROUND

The Eric C. Conn Law Firm is based in Stanville, Kentucky, and represents clients before the Social Security Administration ("SSA"). The following facts (most of which have been communicated in summary fashion to PSI staff during the document production discussions) may be helpful when considering the Conn Law Firm document production:

Law Firm Structure. The law firm is solely owned by Eric C. Conn and employs only a small number of additional attorneys. The law firm employs a larger number of administrative staff, approximately 30 to 40, to intake clients, obtain information from a variety of sources, and process a multitude of forms during each stage of the application process, among other functions.

The WSJ Article. There are factual errors in last year's Wall Street Journal articles mentioning Mr. Conn and the Conn Law Firm. Importantly, Mr. Conn does not, and has never, owned an airplane. Further, the Conn Law Firm does not fly people in from around the country to apply for benefits in his district. These and other facts reported in the Journal seem to have been obtained from statements made through a Twitter account that was opened in Mr. Conn's name, but that was fraudulent. Twitter has closed that account. The account and statements likely came, in turn, from a former employee who we have been told is in close contact with the WSJ reporter.

No Email System. The law firm has no internal email system. Employees do not and cannot communicate with each other through a law firm email system. Rather, the law firm has one email account (a gmail account) that is used to send and receive external emails when necessary. The law firm has at times had one other email account that is tied to its website (mrsocialsecurity.com) so that individuals can contact the firm from that website. There are no other email systems employed by the Conn Law Firm. All email addresses are explained in Attachment 3.

No Company Credit Card. Until very recently, the Conn Law Firm did not have a company credit card, so a variety of business expenses were paid for in cash. The expenses were documented largely through receipts and other documents that have been provided to the Committee. This process can be explained further upon request. Notable is that in June 2011 there was a change of office managers, the position that handles these transactions.

SSA Independently Obtains Medical Documents. When an individual applies for benefits, the SSA independently requests and obtains that individual's ***medical records directly from the individual's doctors and service providers.*** Typically, the SSA also independently procures a ***medical opinion from a doctor SSA selects.*** Everything that the SSA obtains and procures is placed in the individual's file. The SSA does not rely on the individual or the individual's law firm (if they are represented) to provide this information. Indeed, often individuals are not represented at all or seek representation only after being denied benefits in the first stages of his or her application.

SSA Decisions Are Record Decisions. SSA decisions are made through an administrative "record decision" process. The SSA decision makers are tasked with reviewing the entire record (as obtained by SSA independently and as supplemented by the applicant, if

applicable) and deciding whether the applicant meets the governing criteria. The SSA process is not adversarial litigation. Communication between SSA decision makers (such as ALJs) and applicants or applicant representatives is appropriate and common.

Supplemental Medical Opinions. In certain cases, the Conn Law Firm procures a supplemental ***medical opinion*** in order to advocate for its client and explain why the SSA record supports a favorable decision. Such medical opinions are supplementary only. They are based on the same "medical records" already in the SSA file (sometimes twice) that any SSA medical opinion is based. They are not required and are not procured for every client. Each supplemental medical opinion procured by the Conn Law Firm is submitted to the SSA and stored in the SSA's ERE system.

The decision to procure a supplemental medical opinion is based on factors specific to each case and could include the conclusion by the Conn Law Firm that the underlying medical records don't fully reflect the client's disability, the medical opinion obtained through the SSA assigned doctor is not fulsome, the preference of the SSA decisionmaker , and/or the type of SSA case involved. If during its representation the Conn Law Firm obtains ***medical records*** that for some reason were not obtained by the SSA, it is the firm's practice to submit those records to the SSA as well.

SSA Filing System. Prior to 2007, the SSA received all medical records, forms and other information, by hard copy submissions. During or after 2007, the SSA implemented its "Electronic Records Express" system, which maintains all records (again, those obtained independently by SSA as well as any supplemental records submitted by the applicant or his or her representative). The ERE system contains PDF versions of all such files, usually well over 1,000 pages. The Conn Law Firm uses the ERE client file as its primary client working file.

Clients / ALJ Assignments / "DB Lists." The ERE system also records the status of an applicant's case, including which ALJ has been assigned to assess the applicant's case. It is through the ERE system that the Conn Law Firm learns about ALJ assignments. From there, each ALJ will set his or her own schedule and process in the manner they see fit. For Judge Daugherty, his practice was to place a call to the Conn Law Firm and speak with the then-office manager. Judge Daugherty would tell the office manager which claimants represented by the Conn Law Firm (from the ones already on his ERE list) he wanted to consider that month. In that manner, the Conn Law Firm would be sure that all records were complete for those clients and know which clients to prepare for hearings.

Conn Law Firm Filing System. The client files maintained by the law firm are typically 1,000 pages or more. All substantive documents within the client files are transmitted to the SSA and stored by the SSA in its ERE system. The Conn Law Firm does not keep client files indefinitely. After a lapse of approximately five years, the client files, which take up considerable space, are shredded. (This shredding was halted after the receipt of the Senate subpoena). Another way a small number of client hard copy documents could have left the firm is in response to a client request. That is, since 2007 and until March 1, 2012, if a client requested documents from his or her file, the law firm would provide those documents and no longer retain a hard copy. The reason for this change was that the law firm has increasingly

relied on the ERE system as its primary client file storage system, in light of the fact that it contains *all* of the clients' documents.

Income and Client Structure. Representative of SSA clients are entitled to statutorily-set fees if the client is successful in obtaining benefits. The fees are based on the kind of benefits a claimant obtains and include a variety of offsets. Whereas the maximum allowable fee is $6,000 per client, the typical fee obtained by the Conn Law Firm for a successful claimant is between $2,500 and $3,500. The typical case takes one to two years. These facts are important to understanding the Conn Law Firm process. In particular, these margins explain why the Conn Law Firm does not procure even one supplemental medical opinion for many of its clients, let alone more than one per client. The firm must pay for supplemental medical opinions up front. The economics of the fee structure, and the amount of time dedicated to each case, provide little room for one medical opinion, let alone more than one.

# # #

TAB 2

2. DOCUMENT PRODUCTION TO DATE

Date Produced	Document Descriptions	Bates Range
2012/03/23	Telephone Logs	CLF00001 - CLF00117
2012/04/06	Petty cash receipts / vouchers	CLF00118 - CLF02107
2012/04/06	Check stubs	CLF02108 - CLF06284
2012/04/06	Jamie Slone Cash list	CLF06285 - CLF06290
2012/04/06	ALJ hearing calendars	CLF06291 - CLF06588
2012/04/09	DB Lists	CLF06589 - CLF06833
2012/05/01	Doctor invoices	CLF06834 - CLF08702
2012/05/15	Doctor invoices	CLF08703 - CLF10499
	Intentional Gap In Bates Range	CLF10500 - CLF11110
2012/04/06	(CD) Voicemail	CLF11111
2012/04/09	Emails	CLF11112 - CLF11408

TAB 3

3. MAY 9 ISSUES

Incoming Phone Logs.

The phone logs are hard copy, handwritten, notations of telephone calls received. The logs are typically not used or consulted after a certain period of time. There is no policy on retaining them or discarding them. None has been discarded since March 1, 2012. We have searched the office thoroughly and provided all phone logs in the law firm's possession.

Communication with Judges.

Firm E-Mails. As explained, the firm does not have an email system and uses just one gmail account to send and receive emails. The account is singular but can have other names tagged to it. This can be explained. We have thoroughly searched this gmail account and produced documents that are responsive.

Notes: (1) The May 9 letter states that email was a common form of communication between the law firm and the ALJs. This is not accurate. Email was not a common communication with the ALJs themselves, which is what the subpoena requested ("containing or based ona communication with" an ALJ). It is accurate that email was more common between the law firm and SSA staff. All communications with SSA staff that were based on communications with an ALJ was searched for and produced. (2) The email "mrsocialsecurity" was searched and only one responsive document exists. This is not surprising as this email is sponsored through a website.

Mr. Conn's Emails. Mr. Conn's emails were searched. The gmail account is fairly recently opened and no responsive emails were found. The Lycos email account was used for some time and has been replaced by the gmail account. That account was searched and several emails were located and being produced. Mr. Conn changed from the Lycos to gmail because the emails became unmanageable. In that regard, he had made a point in keeping his newly opened gmail account more manageable, but has not deleted emails since receipt of the subpoena. There is no ER605 aol.com email account. The ER6503 and Jeffgobigblue accounts were searched and no responsive emails were found. These last two accounts are used almost exclusively to sign onto websites (shopping, Utube, etc) in order to avoid receiving commercial and spam email in his active email accounts, which was first with Lycos and is now with gmail.

Claimant List.

As explained in Attachment I, these monthly lists were used to inform the employees and attorneys which client files would need to be prepared for adjudication that month. Like the phone logs, these lists were typically not used or consulted after a certain period of time. There was no policy on retaining them or discarding them. None has been discarded since March 1, 2012. We did a thorough office and electronic search and have produced all responsive lists in the firm's possession.

Note: We are not aware, and do not believe it is accurate, that Judge Daugherty would send an email prior to calling the office manager about the ERE clients he had selected for that month. Our understanding is that Judge Daugherty would review the client lists from the SSA's ERE system and then convey to the then-office manager those clients he wanted the law firm to prepare for adjudication that month. Based on that phone conversation, the "DB lists" were typed up, we believe by the then-office manager, and provided to the employees. See Attachment 1 for further explanation.

Financial Statements and Records

The law firm did not produce or generate financial statements or reports. We have produced voluminous records of cash transactions. Regarding the 2011 - 2012 "spreadsheet," this document was generated by the then-office manager on March 2, 2012. It is not a document contemporaneous with the transactions it purported to describe. This was not a firm process and there are no other similar documents. Further, as we can explain in person, this spreadsheet is not accurate and apparently done for reasons not connected to record keeping.

Timing and Log

As explained in Attachment 1, the law firm (prior to the subpoena) disposed of hard copy law firm documents after approximately five years. Regarding electronic documents, the law firm server was replaced in 2009 and there are very few documents on the server with dates earliers than 2009. Regarding a privilege log, one will be provided at the completion of the production, as it the typical process.

TAB 4

Pamela J. Marple
Chadbourne & Parke LLP
1200 New Hampshire Ave, Washington, DC 20036
30 Rockefeller Plaza, New York, NY 10112 tel 202-974-5657 | tel 212-408-1174
pmarple@chadbourne.com<mailto:pmarple@chadbourne.com> |
http://www.chadbourne.com<http://www.chadbourne.com/>
vCard: http://www.chadbourne.com/vcard/pmarple.vcf

From: Dockham, Andrew (HSGAC) [Andrew_Dockham@hsgac.senate.gov]
Sent: Thursday, March 22, 2012 5:02 PM
To: Marple, Pamela J.; Goshorn, Daniel (HSGAC)
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC)
Subject: PSI Subpoena

Pam:

It has come to our attention your client, Mr. Conn, may be attempting to destroy documents responsive to the PSI subpoena.

We request that you take immediate efforts to prevent destruction of materials relevant to this investigation and determine what materials, if any, have been destroyed.

We also request that you take specific action to protect certain sources of information that contain information responsive to PSI's March 2 Subpoena:

•Any documents created based on communications with Administrative Law Judge David B. Daugherty, including, but not limited to, monthly lists of Social Security disability claimants created based on phone conversations with Judge Daugherty. PSI understands these are commonly referred to as DB Lists or DB Watchdog Lists. PSI understands these lists exist on three computers located within the Conn Law Complex.

•Any documents based on conversations with Administrative Law Judge Charlie P. Andrus, including, but not limited to any Findings Integrated Template decisions or FIT decisions, including all drafts or final versions. PSI understands these also exist on the previously mentioned computers in the Conn Law Complex.

•All recorded communications between Mr. Conn and Judge Daugherty, including a voicemail Judge Daugherty left on Mr. Conn's home residence answering machine.

Please contact us as soon as possible to confirm receipt of this email and discuss what steps you will take to address this matter.

Thanks,
Andy Dockham

Chasse, Michele

From: Marple, Pamela J.
Sent: Friday, March 23, 2012 9:25 AM
To: Lowell, Abbe D.; Coyle, Scott
Subject: FW: PSI Subpoena

FYI and Scott, make sure it is in file, thanks.

From: Marple, Pamela J.
Sent: Friday, March 23, 2012 9:22 AM
To: Dockham, Andrew (HSGAC); Goshorn, Daniel (HSGAC)
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC)
Subject: RE: PSI Subpoena

Andy:

I received your email of March 22, 2012.

I would be interested in what facts you have heard and the basis for your concerns. Who is making these statements and from whom have you heard them? As it turns out, a colleague and I spent this week in Kentucky gathering and reviewing documents for responsiveness, including assessing privilege and privacy issues. You should know that similar rumors circulated the last time I was at the office reviewing and gathering documents. If you can talk about anything concrete, I would like to know. Without knowing the basis, I cannot assess whether it is true or whether it should be a concern, nor take effective steps that haven't already been taken.

As you are raising concerns and also are a principal oversight (of government) committee, I was wondering whether you and the subcommittee have been talking or working with anyone from the SSA OIG. During our last visit, we heard some very troubling things about how the SSA OIG has been operating -- including seeking and conducting interviews of people the SSA OIG knows to be represented by counsel without going through counsel, putting pressure on our client's employees, misrepresenting the law, and even asking for employees to retrieve documents for them (without a subpoena or warrant). In fact, employees of the law firm were told by SSA OIG agents that they could not even mention the OIG contact to their spouses without risking being "indicted" or charged with "obstruction of justice." This all in the context of the OIG never even issuing a subpoena to the law firm or properly requesting documents from the law firm.

As you are concerned with allegations of any impropriety of attorneys appearing before the SSA, I hope you are equally concerned about a government agency apparently acting well outside the established bounds of propriety, not to mention the law. Most disturbing is that the agents' conduct has had dire consequences for the employees and has created an environment overcome with fear, misunderstandings, and false rumors and allegations. In the light of the report just released about the Department of Justice investigation and prosecuton of former Senator Ted Stevens, issues of government agencies violating rules ought to be as much concern to you as any oversight you are doing.

That said, we and our client are working to respond to your subpoena as I indicated before. We are sending today our first batch of responsive documents. More will follow next week.

look forward to finding out more about the basis for your concerns.

Regards,

CHADBOURNE
& PARKE LLP

Pamela J. Marple
direct tel 202-974-5657
pmarple@chadbourne.com

March 26, 2012

Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st & Constitution, N.E.
Washington, DC 20510
(202) 224-9505

Dear Mr. Dockham:

I am in receipt of your emails of March 22 and 23, 2012, and assume you have received and reviewed my responsive email dated March 23, 2012. Our email exchange is included below as part of this letter. You should now be in receipt of our first production, which was couriered to your office on Friday.

Regarding your requests for me to explain activities and communications that fall squarely within the attorney-client privilege, you surely know we cannot do so. I will note that we are in possession of the three categories/items you mentioned in your alarmed emails of last week and there is nothing untoward about them.

Regarding the concerns we conveyed to you about the conduct of the OIG agents, you provided no response and I do not understand why you do not consider such conduct of sufficient concern to respond. On a related issue, I want to make clear that we represent the law firm of Eric C. Conn, including its employees. Contacts with this represented entity and these individuals should go through us. Regarding former employees, I understand Ms. Jamie Slone is separately represented. We will represent other former employees if they request, but in any event we must maintain any attorney-client privileged information they may possess and insure that proper procedures are followed by you or anyone else who tries to contact them.

Sincerely,

/s/

Pamela J. Marple

-----Original Message-----
From: Dockham, Andrew (HSGAC) [mailto:Andrew_Dockham@hsgac.senate.gov]
Sent: Friday, March 23, 2012 6:05 PM
To: Marple, Pamela J.
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC); Goshorn, Daniel (HSGAC)
Subject: RE: PSI Subpoena

Pam:

The prior email identifies our concerns regarding the preservation of documents potentially responsive to PSI's subpoena. Our immediate concern is that all documents requested by PSI, including those specifically stated in the prior email, are preserved, and, subject to any legitimate claim of privilege, produced to the Subcommittee.

Your email indicates you have taken what you believe to be effective steps to preserve all responsive documents. Please confirm this is accurate and, as previously requested, advise the Subcommittee of the steps you have taken to address our stated concerns and to ensure all documents potentially responsive to the Subcommittee's subpoena have been properly preserved.

Please respond with the requested information as soon as possible.

With regard to today's production, at this point, our office is closed. Therefore, you can send the production to my email.

Thanks,
Andy

-----Original Message-----
From: Marple, Pamela J. [mailto:PMarple@chadbourne.com]
Sent: Friday, March 23, 2012 9:23 AM
To: Dockham, Andrew (HSGAC); Goshorn, Daniel (HSGAC)
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC)
Subject: RE: PSI Subpoena

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anything concrete, I would like to know. Without knowing the basis, I cannot assess whether it is true or whether it should be a concern, nor take effective steps that haven't already been taken.

As you are raising concerns and also are a principal oversight (of government) committee, I was wondering whether you and the subcommittee have been talking or working with anyone from the SSA OIG. During our last visit, we heard some very troubling things about how the SSA OIG has been operating -- including seeking and conducting interviews of people the SSA OIG knows to be represented by counsel without going through counsel, putting pressure on our client's employees, misrepresenting the law, and even asking for employees to retrieve documents for them (without a subpoena or warrant). In fact, employees of the law firm were told by SSA OIG agents that they could not even mention the OIG contact to their spouses without risking being "indicted" or charged with "obstruction of justice." This all in the context of the OIG never even issuing a subpoena to the law firm or properly requesting documents from the law firm.

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I look forward to finding out more about the basis for your concerns.

Regards,

Pamela J. Marple
Chadbourne & Parke LLP
1200 New Hampshire Ave, Washington, DC 20036
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vCard: http://www.chadbourne.com/vcard/pmarple.vcf

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We also request that you take specific action to protect certain sources of information that contain information responsive to PSI's March 2 Subpoena:

*Any documents created based on communications with Administrative Law Judge David B. Daugherty, including, but not limited to, monthly lists of Social Security disability claimants created based on phone conversations with Judge Daugherty. PSI understands these were commonly referred to as DB Lists or DB Watchdog Lists. PSI understands these lists exist on three computers located within the Conn Law Complex.

*Any documents based on conversations with Administrative Law Judge Charlie P. Andrus, including, but not limited to any Findings Integrated Template decisions or FIT decisions, including all drafts or final versions. PSI understands these also exist on the previously mentioned computers in the Conn Law Complex.

*All recorded communications between Mr. Conn and Judge Daugherty, including a voicemail Judge Daugherty left on Mr. Conn's home residence answering machine.

Please contact us as soon as possible to confirm receipt of this email and discuss what steps you will take to address this matter.

Thanks,
Andy Dockham

Chasse, Michele

'rom: Marple, Pamela J.
Sent: Thursday, March 29, 2012 2:06 PM
To: Chasse, Michele
Cc: Coyle, Scott; Lowell, Abbe D.
Subject: FW: PSI Subpoena

PSI correspondence for the Eric Conn file.

From: Dockham, Andrew (HSGAC) [mailto:Andrew_Dockham@hsgac.senate.gov]
Sent: Thursday, March 29, 2012 2:03 PM
To: Marple, Pamela J.
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC); Goshorn, Daniel (HSGAC)
Subject: RE: PSI Subpoena

Pam:

We are in receipt of your March 27 Letter confirming you have custody and control of all extant documents potentially responsive to the Subcommittee's subpoena, which presently suffices to meet our expressed concerns about document preservation. We understand you cannot reveal – and we were not requesting you reveal – any client confidences.

We respect your right to bring any matters to our attention, but it is the policy of the Subcommittee not to publicly comment on whether the Subcommittee is or is not investigating a particular matter. As our prior mail indicated, we are currently focused on the investigation of the Huntington, West Virginia Office of Disability Adjudication and Review. We understand you represent the Eric Conn Law Firm and those of its current and former employees who have chosen to accept your services. To your final point, we are sympathetic to your concerns about protecting privileged information and are diligently working to protect that information in the course of this investigation.

Andy

From: Marple, Pamela J. [mailto:PMarple@chadbourne.com]
Sent: Tuesday, March 27, 2012 1:06 PM
To: Dockham, Andrew (HSGAC)
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC); Goshorn, Daniel (HSGAC)
Subject: RE: PSI Subpoena

Please see attached.

Pamela Marple
Chadbourne & Parke LLP
tel 202-974-5657
tel 212-408-1174
1200 New Hampshire Ave., NW 20036
30 Rockefeller Plaza, New York, NY 10112
pmarple@chadbourne.com | http://www.chadbourne.com
vCard: http://www.chadbourne.com/vcard/pmarple.vcf

1200 New Hampshire Avenue NW, Washington, DC 20036
tel (202) 974-5600 fax (202) 974-5602

CHADBOURNE
& PARKE LLP

Pamela J. Marple
direct tel 202-974-5657
pmarple@chadbourne.com

April 6, 2012

VIA HAND DELIVERY

Andrew Dockham
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st & Constitution, N.E.
Washington, DC 20510
(202) 224-9505

Dear Andy :

Please find enclosed documents with bates numbers CLF00118 to CLF6588 as well as one disc with bates number CLF11111. Additional responsive documents will be produced this coming Monday, April 9, 2012.

We note the following:

You have requested "[a]ny document related to invoices or evidence of payment related to any doctor or medical professional that consulted in any way or provided an opinion on claimants represented by the Eric C. Conn Law Firm for Social Security Disability Insurance ("SSDI") or Supplemental Security Income ("SSI") benefits in closed cases decided by Administrative Law Judge ("ALJ") David B. Daugherty." The Law Firm does not maintain these records based on which ALJ decided a particular case. As a result, please note that we are producing *all* records or evidence of payment to doctors or medical professionals consulted by the Eric C. Conn Law Firm on SSDI and SSI cases.

You have requested "[a]ny opinions provided by a physician or medical professional on claimants represented by The Eric C. Conn Law Firm for SSDI or SSI benefits in closed cases decided by ALJ David B. Daugherty." We cannot produce these individual medical opinion records for a number of reasons. First, all such documents are protected from disclosure under the Privacy Act. The Social Security Administration's Program Operations Manual System ("POMS") specifically states that "[a]n appointed representative does not have the authority to disclose the claimant's records to another party without the claimant's consent." POMS GN 03910.025. Further, under that same Manual, "an attorney appointed by

the individual to represent him/her" is expressly listed as a party who "cannot consent to disclosure of an individual's personal records" under the Privacy Act. POMS GN 03305.006.

Second, if it is your intent to seek access to private medical records of our individual clients, your request should be directed to the Social Security Administration because that agency possesses those records itself and because the Social Security Act mandates that such records retained by third parties are subject to the protections of the Privacy Act. See POMS GN 03305.005 ("Medical records that are established as a result of a consultative examination, copies of which may be retained by a consultative physician, are SSA records covered under the Privacy Act."). We note that representing a claimant in this context does not entail generating multiple medical opinions for the claimant.

Third, the releases obtained by the Law Firm clients pertaining to their medical information (most of which are forms required by the Social Security Administration itself) are strictly limited to release of such information to the Social Security Administration. We suggest you contact the Social Security Administration to gain an understanding of its process regarding medical records and opinions in the context of applications for benefits.

Fourth, all medical opinions fall squarely under the attorney-client privilege and the attorney work product doctrine, as they were prepared at the request of attorneys in support of an individual client's request for benefits. The documents may also be restricted by state ethics rules applicable to attorneys and/or by state medical privacy statutes, but we did not research these areas in light of the fact that disclosure is so clearly prohibited by federal mandates applicable to the Law Firm.

Sincerely,

Pamela J. Maple

1200 New Hampshire Avenue NW, Washington, DC 20036
tel (202) 974-5600 fax (202) 974-5602

CHADBOURNE
PARKE LLP

Pamela J. Marple
direct tel 202-974-5657
pmarple@chadbourne.com

April 9, 2012

VIA HAND DELIVERY

Andrew Dockham
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st & Constitution, N.E.
Washington, DC 20510
(202) 224-9505

Dear Andy :

Please find enclosed documents with bates numbers CLF06589 to CLF06833 and CLF11112 to CLF11408, in response to the Subcommittee's subpoenas dated March 2, 2012. Additional responsive documents are forthcoming.

Sincerely,

Pamela J. Marple

CHADBOURNE
& PARKE LLP

1200 New Hampshire Avenue NW, Washington, DC 20036
tel (202) 974-5600 fax (202) 974-5602

Pamela J. Marple
direct tel 202-974-5657
pmarple@chadbourne.com

May 1, 2012

VIA HAND DELIVERY

Andrew Dockham
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st & Constitution, N.E.
Washington, DC 20510

Dear Andy:

Please find enclosed documents with bates numbers CLF06834 to CLF08702, in response to the Subcommittee's subpoenas dated March 2, 2012. Additional responsive documents are forthcoming.

Sincerely,

Pamela J. Marple

Enclosures

New York Washington Los Angeles Mexico City São Paulo London Moscow Warsaw Kyiv Istanbul Dubai Beijing

CARL LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
CLAIRE MCCASKILL, MISSOURI
JON TESTER, MONTANA
MARK BEGICH, ALASKA

SUSAN M. COLLINS, MAINE
TOM COBURN, OKLAHOMA
SCOTT P. BROWN, MASSACHUSETTS
JOHN MCCAIN, ARIZONA
RON JOHNSON, WISCONSIN
ROB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JERRY MORAN, KANSAS

MICHAEL L. ALEXANDER, STAFF DIRECTOR
KRISTINE V. LUCIUS, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

May 9, 2012

VIA U.S. MAIL & EMAIL (PMarple@chadbourne.com)

Pamela J. Marple, Esq.
Chadbourne & Parke LLP
1200 New Hampshire Avenue, NW
Washington, DC 20036

Dear Ms. Marple:

On March 2, 2012, U.S. Senate Permanent Subcommittee on Investigations (the "Subcommittee") subpoenaed certain documents from both The Eric C. Conn Law Firm (the "Firm") and Mr. Eric C. Conn. This letter addresses issues regarding the Firm's and Mr. Conn's response to the Subcommittee's subpoenas.

To date, the Subcommittee has received three productions in response to these subpoenas, the most recent on May 1. The May 1 production was well beyond the agreed return date of April 6, which had been extended from the original date of March 23 at your request. Further, your May 1 letter accompanying that production indicates "additional responsive documents are forthcoming." The Subcommittee has not agreed to, nor have you requested, any extension of the subpoena return date past April 6. Without an agreement to extend the return date, the failure to produce all responsive documents by April 6 potentially constitutes a failure to comply with the subpoenas.

In addition, the Firm produced redacted documents without explaining the redactions in any way. The Subcommittee's subpoenas specify that any document (or portion of a document) withheld on the basis of privilege should be identified in a privilege log with an explanation and basis for each redaction. Neither Mr. Conn nor the Firm has requested, and the Subcommittee has not agreed to provide, an extension for the production of any such log, which was due on April 6. The Subcommittee requests the Firm immediately reproduce all redacted emails in their unredacted form, or provide a privilege log explaining each claim of privilege.

The number of documents produced by the Firm in response to the Subcommittee's request for documents containing communications with certain Administrative Law Judges is surprisingly small, while Mr. Conn has failed to produce any documents in response to this request. If documents were destroyed in accordance with a document retention policy, please produce that policy. Otherwise, remaining responsive documents should be produced immediately. This and other deficiencies in the Firm's and Mr. Conn's productions are outlined in Attachment A.

Finally, the Subcommittee's subpoena to the Firm requested any opinions provided by a physician or medical professional on claimants represented by the Firm for disability benefits in closed cases decided by Judge David B. Daugherty. On April 6, you incorrectly asserted those opinions were protected from production by the Privacy Act as well as privilege (yet provided no privilege log). On April 12, the Subcommittee explained none of your assertions prevent production of the subpoenaed materials-at-issue. *See* Attachment B. The Subcommittee, again, requests the immediate production of the subpoenaed documents.

The Subcommittee's subpoenas to the Firm and Mr. Conn state that a personal appearance by the subpoenaed entity and individual, respectively, is waived if all materials are produced by the return date. Given the deficiencies outlined in this letter and its attachments, the Subcommittee does not currently consider the Firm or Mr. Conn to have properly complied with the subpoenas. Therefore, Mr. Conn's personal appearance may be necessary to address the inadequacies of the productions. This necessity can be obviated if you provide a plan for future compliance with the subpoena, including a schedule for the production of all relevant documents, an adequate privilege log, and explanations for any remaining deficiencies noted herein.

Once the Firm and Mr. Conn believe all materials responsive to the Subcommittee's subpoenas have been produced, please provide certification from the Firm and Mr. Conn that the productions are complete.

Please contact Daniel Goshorn (Senator Levin) at 202/224-9505 or Andrew Dockham (Senator Coburn) at 202/224-2224 by May 11 to discuss the production schedule requested above.

Sincerely,

Tom Coburn, M.D.
Ranking Minority Member
Permanent Subcommittee on Investigations

Carl Levin
Chairman
Permanent Subcommittee on Investigations

Attachment A:
Deficiencies in Productions by the
Eric C. Conn Law Firm and Eric C. Conn

Incoming Phone Call Logs. The Eric C. Conn Law Firm (the "Firm") produced incoming call telephone logs (Bates Range CLF00001-117). The earliest document in the production is an incoming phone call log covering October 2010 (CLF00093-99). The Subcommittee's subpoena requested documents dated January 1, 2002 through the present. Please explain why no documents dated earlier than November 1, 2010 were produced or produce all relevant documents.

Documents Containing Communications with Certain Judges. The Subcommittee's subpoenas requested "any document containing or based on a communication with the following individuals: David B. Daugherty; Charlie P. Andrus; and William H. Gitlow" from January 1, 2002 to the present.

Firm E-Mails (CLF11112-11408). The number of emails produced (296 pages, a number of which are duplicative) by the Firm is surprisingly small, particularly since the emails that were produced indicate email was a common form of communication between the Firm and SSA employees and Administrative Law Judges.

The earliest email produced is dated January 2009. Further, while the Firm's production did include emails from William H. Gitlow, very few emails were included that were sent or received from Charlie P. Andrus or David B. Daugherty. Only one email was produced from the account dave@mrsocialsecurity.com.

Please produce all responsive documents containing or based on communications with the listed individuals from January 1, 2002 to the present. As provided by the subpoena, any recoverable deleted emails are within the right of the Firm's custody, control, or possession, and must be produced to the Subcommittee, provided they are retrievable by the Firm's email service provider.

Mr. Conn's Emails. The Subcommittee also sent a subpoena to Mr. Conn requesting all responsive documents containing or based on communications with the same individuals named above. It does not appear Mr. Conn produced any responsive documents or materials from his personal email accounts, or otherwise. The Subcommittee is aware of, at least, the following email accounts used by Mr. Conn during the time period covered by the subpoena: ericchristopherconn@gmail.com; Erickentucky@lycos.com; ER605@aol.com; ER6503@aol.com; and Jeffgobigblue@gmail.com.

Please produce all responsive material from January 1, 2002 to the present in these accounts immediately. As provided by the subpoena, any recoverable deleted emails are within the right of Mr. Conn's custody, control, or possession, and must be produced to the Subcommittee, provided they are retrievable by the email service provider.

Claimant Lists. You produced lists of claimants that the Subcommittee understands were commonly referred to as "DB Lists" within the Firm. Those lists are dated from June 2006 through July 2010. However, no list was produced for the following months: October 2010; October 2009 through December 2009; and May and June 2010. Please produce DB Lists for these missing months.

Further, the Subcommittee understands that prior to Judge Daugherty's calling to relate the monthly list of claimants to an employee of the Firm, Judge Daugherty would email the lists from his personal email account. None of these emails were included in the production. Please produce these emails immediately. Again, as provided by the subpoena, any recoverable deleted emails are within the right of Mr. Conn's and the Firm's custody, control, or possession, and must be produced to the Subcommittee, provided they are retrievable by the email service provider.

Financial Statements and Records of Cash Transactions. The Subcommittee's subpoena to the Firm requested any annual financial statement or report of the Firm and any records of cash transactions. Your production failed to provide a comprehensive response.

Receipts. While the production included some receipts, the earliest was dated October 2006. Please provide these documents from January 1, 2002 to the present.

Documents Related to Petty Cash. The production only included checks for funds designated for petty cash from September 2005. Further, a spreadsheet was included that appears to document petty cash expenditures from 2011 and 2012 (CLF6285-90), which indicates other similar responsive materials related to petty cash exist in addition to those supplied to the Subcommittee. Please produce all documents related to cash transactions, including any checks and spreadsheets, from January 1, 2002 to the present.

Payments Made to Physicians. The Subcommittee's subpoena requested any document related to payments made to physicians or medical professionals that consulted or provided an opinion on disability claimants represented by the Firm. The documents received by the Subcommittee only date back to late 2005. Please provide responsive documents from January 1, 2002 to the present.

Attachment B

From: Dockham, Andrew (HSGAC)
Sent: Thursday, April 12, 2012 11:35 AM
To: 'Marple, Pamela J.'
Cc: Barkley, Chris (HSGAC); Bean, Elise (HSGAC); Goshorn, Daniel (HSGAC)
Subject: RE: RE: PSI Subpoena

Pam:

We received your correspondence dated April 6, 2012. In that letter, you assert that claimant medical opinions subpoenaed by PSI are protected from production "for a number of reasons." As explained below, none of your assertions prevent production of the subpoenaed materials at issue.

You initially assert the medical opinions are protected from disclosure under the Privacy Act. Such an assertion is contrary to the express language of the Privacy Act, which only applies to information maintained by government agencies; it does not apply to information maintained by private entities. The Department of Justice makes clear the Privacy Act only applies to information maintained by a government agency and does not apply to private entities. *See* Department of Justice, Office of Privacy and Civil Liberties, Overview of the Privacy Act of 1974, 2010 Edition: Definitions, http://www.justice.gov/opcl/1974definitions.htm (collecting cases and treatises).

Moreover, even if the Privacy Act did apply to materials held by your client, the statute contains an exception for information requested – and in this case, subpoenaed – by Congress. *See* 5 U.S.C. §552(b)(9). Therefore, even if you somehow consider these to be agency records, you are still obligated to provide them in response to the Subcommittee's subpoena.

Your reliance on SSA's employee manual, known as "POMS," is equally unavailing. POMS itself specifies that it "states only internal SSA guidance. It is not intended to, does not, and may not be relied upon to create any rights enforceable at law by any party in a civil or criminal action." POMS also makes clear that when any relevant statute, such as the Privacy Act, conflicts with the POMS, that statute has priority. *See* Social Security Online, SSA's Policy Information Site – POMS – About POMS, SSA's Program Operations Manual System Home, https://secure.ssa.gov/apps10/. *See also* Social Security Online, POMS GN 03313.105 Disclosure to Congressional Committees or Subcommittees and to Individual Congressional Representatives, https://secure.ssa.gov/poms.nsf/lnx/0203313105; POMS GN 03301.020 Privacy Act, https://secure.ssa.gov/poms.nsf/lnx/0203301020.

Finally, your assertion the opinions are privileged and protected from production is contrary to basic tenets of both the attorney-client privilege and the work-product doctrine. Even assuming the dubious proposition these opinions could in this context ever be considered either attorney-client or work-product privileged, any such privilege was waived when these documents were voluntarily produced (and made part of the administrative record, as your letter acknowledges) to SSA. *See In Re Grand Jury (Attorney Client Privilege)*, 527 F.2d 200, 201 (D.C. Cir. 2008)

(stating that "sharing [by doctor's attorney of] the doctor's records with the government destroyed whatever attorney-client privilege might have attached to them"); *In re Subpoena Duces Tecum*, 738 F.2d 1367 (D.C. Cir. 1984) (company waived attorney client privilege and work product protection by voluntarily disclosing documents to government agency).

As such, PSI requests the immediate production of these documents.

Chasse, Michele

From: Marple, Pamela J.
Sent: Thursday, May 10, 2012 5:32 PM
To: Coyle, Scott; McSweeny, Kate; Chasse, Michele
Subject: FW: PSI Subpoena

From: Marple, Pamela J.
Sent: Thursday, May 10, 2012 5:31 PM
To: Dockham, Andrew (HSGAC); Goshorn, Daniel (HSGAC)
Subject: RE: PSI Subpoena

Dear Mr. Dockham and Mr. Goshorn:

I am in receipt of the Committee's letter of yesterday. I will be out of the office tomorrow, but will return on Monday. As always, I am happy to discuss the production and any other issue you may have, and can be reached Monday and all next week at my DC office number below.

Sincerely,

Pamela J. Marple
Chadbourne & Parke LLP
1200 New Hampshire Ave, Washington, DC 20036
30 Rockefeller Plaza, New York, NY 10112
tel 202-974-5657 | **tel** 212-408-1174
pmarple@chadbourne.com | http://www.chadbourne.com
vCard: http://www.chadbourne.com/vcard/pmarple.vcf

CHADBOURNE
& PARKE LLP

1200 New Hampshire Avenue NW, Washington, DC 20036
tel (202) 974 5600 fax (202) 974 5602

Pamela J. Marple
direct tel 202-974-5657
pmarple@chadbourne.com

May 15, 2012

VIA HAND DELIVERY

Andrew Dockham
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st & Constitution, N.E.
Washington, DC 20510

Dear Andy:

Please find enclosed documents with bates numbers CLF08703 to CLF10499, in response to the Subcommittee's subpoenas dated March 2, 2012. Please also note that bates numbers CLF10500 to CLF 11110 have been intentionally left blank. Additional responsive documents are forthcoming.

Sincerely,

Pamela J. Marple

Pamela J. Marple

Enclosures

TAB 5

CHADBOURNE
& PARKE LLP

1200 New Hampshire Avenue NW, Washington, DC 20036
tel (202) 974-5600 fax (202) 974-5602

Pamela J. Marple, Esq.
Direct Line (202) 974-5657

May 17, 2012

VIA EMAIL AND FEDERAL EXPRESS

Richard A. Rohde
Assistant Inspector General for Investigations
Office of the Inspector General
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Mr. Rohde:

We represent the Eric C. Conn Law Firm, a firm located in Stanville, Kentucky, and Hungtington, West Virginia, that represents clients before the Social Security Administration. I write regarding a situation involving an apparent OIG investigation being conducted out of the Huntington, WV, office.

Last spring, OIG agents visited Mr. Conn at his law firm. During that visit, Mr. Conn informed the agents that he and his law firm were represented by my firm, Chadbourne & Parke. Mr. Conn provided the agents with contact information for my partner, Mr. Abbe Lowell, and encouraged them to call Mr. Lowell should they need any information. After that visit, the OIG office did not contact Mr. Lowell or my firm. In June and July, 2011, Mr. Lowell contacted the agents via voicemails, again to offer information and cooperation. The OIG agents did not return those calls or contact Mr. Lowell or my firm thereafter or at any time.

We have since heard that this year OIG agents affirmatively contacted and requested interviews of numerous individuals who were employees of the Conn Law Firm, despite the fact that the Conn Law Firm is a represented party. We were also told that OIG agents called these employees as they worked at the Conn Law Firm and asked them to report on the contemporaneous activities of the Law Firm and Mr. Conn. We were further told that at least one employee informed the OIG agents that the Law Firm was represented by counsel, but the agents told the employees that she should not tell anyone about her OIG contacts.

The methods of the OIG investigation, if accurate, concern us. First, the OIG office was informed several times that Chadbourne & Parke represents the Conn Law Firm. As a represented party, any requests for interviews or assistance from Conn Law Firm employees and staff members should be through counsel, but they have not been. As counsel, we have consistently told employees that they should cooperate and be truthful and that if any requests for interviews or documents were made, we as counsel would be available to assist.

Second, and unfortunately, despite our efforts, we have been informed that some of the employees felt extreme stress and pressure at being told that they could not discuss the interviews with anyone and at being instructed to report information to your office about ongoing activities within the Conn Law Firm, even as they continued to work there. One employee, the then-office manager, informed me that it was this stress that was the primary reason 11 employees quit suddenly two months ago, in mid-March 2012. This individual also texted the Law Firm two days after she quit, requesting to ask a legal question, which was whether she could be prosecuted for obstruction of justice if she told the Law Firm or me about the OIG interviews. This is how my firm learned about the OIG's apparent investigation into issues involving our clients. To date, however, we still have not received any communication from the OIG's office in any manner, although we are told that the agents are aware of the employment disruption and of our continued representation of the Conn Law Firm.

Another concern is the accuracy of information provided to OIG by certain former Conn Law Firm employees. It appears, again from what we are told, that the OIG agents, including Mr. Tim Morton, are relying primarily on two or three former employees to conduct their investigation. What the agents do not know, however, is that there are internal financial issues we have been investigating that are substantial and that involve certain employees (more than one) who had access to firm resources. We have not disseminated this information, but the facts have been confirmed through forensic accounting. It is not difficult to conclude that this situation is likely material to any reliance on facts and conclusions obtained by several former employees. This is particularly true because neither Mr. Conn or the Conn Law Firm have been provided an opportunity to understand what issues are being investigated or what facts may be crucial to those issues. It would be unfortunate if these and other issues were made known for the first time to correct a misinformed written report.

You should also know that my firm is actively working with other government entities to provide documents and interviews, and therefore we see no reason OIG could not have employed accepted methods during its investigation as well.

If you need any further assistance in this matter, please correspond directly with us and we will do our best to support OIG's investigation. We are also available to meet at your convenience if such a meeting would be helpful.

Sincerely,

/s/

Pamela J. Marple

cc: B. Chad Bungard
Steven W. Mason

CHADBOURNE
& PARKE LLP

[illegible] Avenue NW, Washington, DC 20036
tel (202) 974 5600 fax (202) 974 5602

Pamela J. Marple
direct tel (202) 974-5735
pmarple@chadbourne.com

May 16, 2012

Via Federal Express

Gwen Jones Kelley, Esq.
Deputy General Counsel
U.S. Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Ms. Kelley:

We represent the Eric C. Conn Law Firm ("Conn Law Firm"), a firm located in Stanville, Kentucky and Huntington, WV, that represents clients before the Social Security Adminsitration.

We write seeking guidance pertaining to the production of certain medial records requested by a United States Senate Subcommittee. Specifically, the Senate Subcommittee on Permanent Investigations has requested, via a subpoena signed by a U.S. Senator, the following documents:

> "Any opinions provided by a physician or medical professional on Claimants represented by the Eric C. Conn Law Firm for SSDI or SSI benefits in closed cases . . ."

As you are aware, such documents contain private information that typically incorporates client medical records and opines on client mental and/or physical states. Some of the requested documents set forth claimants' histories of mental illness, child abuse, physical ailments and/or other conditions that are extremely personal and sensitive.

The Conn Law Firm is understandably concerned about complying with this aspect of the subpoena. I have expressed these concerns to the Senate staff. I have also informed the staff that all of these requested records are in the Electronic Records Express maintained by SSA. The Senate, however, has stated that it expects these documents to be produced without any redactions, meaning provision of personal medical information regarding our Social Security claimant clients with the claimants' names, addresses, phone numbers, social security numbers, and all identifying and other information. The Senate has further informed the Conn Law Firm that it expects the medical opinions to be produced regardless of the limited scope of the waivers Social Security claimants provide to their law firms via SSA release forms, regardless of the rules governing practice before the SSA, and regardless of ethical and

other obligations imposed on attorneys' treatment of client information generally. The number of claimants involved is in the thousands.

We have advised the Conn Law Firm that absent a court order it should not comply with this aspect of the subpoena at this time. This assessment derives in part from the SSA Program Operations Manual System ("Manual"). The Manual makes clear that a claimant's authorized representative (such as the Conn Law Firm) has no independent authority to consent to disclosure of a claimant's records that were submitted to the SSA. *See* Manual (GN 03305.0006 and GN 03910.025). The Manual also provides that medical records prepared "as a result of consultative examination," but retained by the physician are deemed to be "SSA records covered under the Privacy Act" *Id.*, (GN 03305.0005). While the latter provision does not expressly mention the claimant's attorney, it would be illogical to treat the very same records differently when it is the content that is subject to Privacy Act's protection. This is further supported by the multiple releases (largely SSA Forms) that are required and signed by the Claimants during their representation and by the fact that these forms expressly limit the Law Firm's authority to release the records beyond the SSA process. This is also supported by the fact that the records were prepared for, and submitted to, the SSA, a federal agency, that maintains these records as part of a system of records searchable by individual name.

For these and other legal and ethical reasons, we have advised the Conn Law Firm that compliance with the medical opinion aspect of the subpoena under the terms set forth by the Senate appears to violate the SSA's rules and SSA's required claimant releases. We have also determined that the Conn Law Firm could risk adverse legal action by the SSA and/or by its own clients, who could claim violations and damages should medical information be distributed by the U.S. Senate or included in a U.S. Senate report, which often is the result when information is provided to the U.S. Congress.

The Conn Law Firm respects the SSA process as well as its claimants' privacy and its first and foremost concern is not to violate rules governing either.

As counsel to the Conn Law Firm, we respectfully request SSA guidance on this matter or to be directed to the appropriate division within SSA that can provide such guidance. We thank you for your attention to this matter and would welcome an opportunity to discuss this with you further.

Sincerely,

Pamela J. Marple

TAB 6

From: Charlie.Paul.Andrus@ssa.gov
Date: Jan 14, 2011 08:43:56 AM
Subject: RE: Deceased Client
To: erickentucky@lycos.com

Eric,

You were correct about the e-mail. If this is SSI we will have to dismiss unless there is an eligible spouse. Let me know.

CPA

-----Original Message-----
From: erickentucky@lycos.com [mailto:erickentucky@lycos.com]
Sent: Thursday, January 13, 2011 9:43 PM
To: Andrus, Charlie Paul
Subject: Deceased Client

Dear Chief Judge,

This is a first for me. Client went to hearing but record kept open for standard 30 days for any post-hearing motions/medical records.

I, was of the opinion, that we needed to move to withdraw our request for hearing and was going to do so. However, when we called the client to come in the office to sign the motion we were informed he had died. Apparently, drug overdose. His roommate died the next day. Weird one huh.

The client has a child. Please let me know what I should do.

Thanks,

Eric

PS I have not mention client's name in this e-mail because I did not know if the Privacy Act permitted it.

From: William.H.Gitlow@ssa.gov
Date: Nov 15, 2010 09:16:25 AM
Subject: Testing
To: erickentucky@lycos.com

Just a test.

Bill

From: William.H.Gitlow@ssa.gov
Date: Nov 16, 2010 09:07:18 AM
Subject: FW: WAIS-IV
To: erickentucky@lycos.com

From: Randell, Philip
Sent: Wednesday, November 10, 2010 8:17 AM
To: Gitlow, William H.
Cc: Cerulli, Nicholas
Subject: RE: WAIS-IV

Judge Gitlow,
Nick asked me to respond on his behalf. Guidance on this issue is posted on SSA's National Questions & Answers website. (http://policynet.ba.ssa.gov/pnqa.nsf/answercats!openview) More specifically, the answers to your questions can be found in 08-053, under the Medical Policy-Mental Disorders section.

In brief, VCI replaced VIQ, and PRI replaced PIQ. The scores are equivalent. WMI and PSI "are not considered or applied to IQ scores." Only Full Scale IQ is discussed and is considered the best overall score, so I would not use the General Ability Index.

"How do adjudicators use the new WAIS-IV in our program?"
http://policynet.ba.ssa.gov/pnqa.nsf/links/08-053

You may also find the next two sections helpful:

Do low WMI and PSI index scores lower the FSIQ on the WAIS-IV and result in a diagnosis of MR?
http://policynet.ba.ssa.gov/pnqa.nsf/links/08-057

Is the RIAS an acceptable intelligence test?
http://policynet.ba.ssa.gov/pnqa.nsf/links/09-020

Finally, the section of the CFR that covers this topic is attached. Please contact me if further assistance is needed.

Phil Randell, Program Analyst
Office of the Regional Chief Judge
ODAR Region III - Philadelphia
(215) 597-5661, Fax (215) 597-4183

From: Gitlow, William H.
Sent: Tuesday, November 09, 2010 10:24 AM
To: Cerulli, Nicholas
Subject: WAIS-IV

I am an ALJ in Huntington and am looking for some guidance on the recent IQ testing. It appears that recent CE evaluations have replaced the verbal and performance subscales with various indices. The regs, particularly Listing 12.05C talks about scores of 70 and below on verbal, performance or full scale. A quick bit of research indicates that the verbal and performance subscales from previous versions of the WAIS were removed and replaced by various index scores, notably the VCI (verbal comprehension index); PRI (perceptual Reasoning; WMI (Working Memory); and PSI (Processing Speed). Then there are two broad scores, one being the Full Scale IQ, and another being the GAI (General Ability Index). Do we have any guidance on which of these to rely upon in making a determination of whether a claimant meets the Listing (apart from the issue of adaptive functioning)?

Thanks.

Bill Gitlow

From: William.H.Gitlow@ssa.gov
Date: Nov 17, 2010 03:38:04 PM
Subject: EDI
To: erickentucky@lycos.com

Just the Facts

July 2004

Disability and Retirement: Basic Information for BPAO and PABSS

Basic Information for BPASO and PABSS

So, what does it mean?

How this applies to you.

With the intervention of benefits planning, more SSDI beneficiaries are choosing to return to work. However, many are unable to earn at the same level as their pre-disability salary/earnings. They are legitimately concerned that returning to work at a lower wage level will cause a reduction in future retirement payments.

Social Security Statements

There are several ways an individual who qualifies for Social Security benefits can receive a statement of estimated benefit amounts to which they may be entitled upon retirement or upon becoming disabled. The Social Security Administration mails a statement annually to workers or former workers 25 years of age or older, approximately 3 months before the person's birthday. This letter, entitled "Your Social Security Statement," includes 1) an overview about the Statement and benefits calculations, 2) estimated monthly benefit amounts for the individual's Retirement, Disability, Family, Survivors and eligibility for Medicare benefits, and 3) information about some of the benefit program rules and regulations. Any worker of any age can also request a Statement at any time (typically, a request for a Statement will take 2-4 weeks to receive in the mail).

The Statement includes a disclaimer that the amounts may not be accurate because they are based on an estimate of future earnings and current law. The retirement estimate includes an approximation of how much the person will receive at early retirement (at age 62), and at full retirement age (the full retirement age began to increase gradually in 2003 from age 65 years, 0 months, and will eventually be capped at age 67). The estimated amount of a person's monthly disability payment will often be less than the amount at full retirement age because there is an assumption the person will work fewer years if disabled. The disability benefit estimate is based on the person becoming disabled "right now." Page 3 of the letter includes a list of "Your Social Security Taxed Earnings." Individuals can review this record to be sure that the Social Security Administration has an accurate record of earnings (underreporting of earnings can result in lower benefit amounts). Pages three and four of the letter also include information on how to report to SSA and additional facts about SSA benefit programs.

Individuals can receive an estimate of their Social Security benefits online from the SSA website. The process is:

1. Log onto at www.ssa.gov, (the SSA home page)
2. On the home page, click on the "Calculate Your Benefits" item in the middle of the page
3. There are three types of calculators available on the bottom of the page, the "Quick Calculator," the "On Line Calculator," and the "Detailed Calculator"
(Note: The On Line calculator is easy to use but requires the individual to input past earnings for each year worked. This option provides rough estimates and should never be counted as highly accurate).

Individuals can also receive an SSA benefit statement and related information through the following page under the SSA website:
www.socialsecurity.gov/mystatement/

This web page includes buttons to other options:

* "Need to request a Statement?" allows the individual to request a Statement of Benefits in the mail
* "Sample Statement with explanations" provides an example of a benefits statement
* "Questions About Your Statement" includes links to frequently asked questions and answers to topical areas related to the benefit calculations, statements, and possible problems with information.

Individuals who cannot or do not want to use the internet can call the Social Security Administration at 1-800-772-1213; they can write to Social Security Administration, Office of Earnings, Operations, P.O. Box 33026, Baltimore, MD, 21290-3026, or they can go into their local SSA office to request a Statement.

Retirement: Considerations for disability beneficiaries

When a worker becomes disabled, and qualifies for SSDI, the monthly benefits are an estimate of the benefits he would receive had he worked until reaching full retirement age. The methods used to calculate disability or retirement benefits are very complicated and BPAO specialists should refer beneficiaries to the Social Security Administration if they have questions about benefit calculations.

The earnings used in determining the Primary Insurance Amount (PIA) are set or fixed at the time the person qualifies for disability benefits. The SSA will not use any years of "non-work" during a period of disability to calculate the retirement benefit.

If a SSDI beneficiary returns to work and leaves the rolls, the amount of disability benefits received will not reduce future retirement benefits. Nor will wages earned during a period of disability have a negative impact on future retirement benefits. Wages are "frozen" during a period of disability and used in the calculation of retirement benefits only if it would be to the person's advantage to do so. However, if the lower earnings continue AFTER cessation of benefits and termination of the disability, retirement benefits may be reduced.

If the SSDI beneficiary switches to retirement benefits prior to reaching Full Retirement Age (FRA), the monthly cash benefit is reduced by the number of months remaining until FRA. The reduction is 5/9 of 1 percent for each of

the first thirty-six months and 5/12 of 1 percent for each month in excess of thirty-six.

In certain situations, it may be advantageous for the DI beneficiary to take early retirement at age 62. Some examples include:

1. Workers Compensation benefits will offset the SSDI benefit, but in many states will not offset retirement benefits. A DI beneficiary receiving Workers Compensation may be better off by taking the early retirement payment. The Claims Representative can provide the beneficiary with a comparison of the payment with offset versus the lower retirement payment without offset. Since there are differences among states in administration of the Workers Compensation benefit, the beneficiary or BPAO specialist should consult with the entity administering the WC benefit before making the change to ask if the retirement benefit would reduce the workers compensation payment.

A subsequent change in the workers compensation payment could reduce the offset, resulting in a higher DI payment. The beneficiary can request that they be returned to DI status rather than continue with the reduced retirement benefit.

2. Because the computation for retirement benefits is more generous than for disability benefits, the family maximum will often be higher for retirees. If a DI beneficiary has a spouse and dependent children, he/she may decide to switch to retirement status at age 62 to get the higher auxillary payments for family members. [Family maximum goes from 50% to 75%]

3. Retirees are allowed to earn more than SSDI beneficiaries, but people under age 65 are subject to the "Annual Earnings Test". In 2005, people who elect to take retirement at age 62 can earn $12,000 before benefits are reduced. Retirees who turn 65 in 2005 can earn $31,800 before any benefits are withheld. SSDI beneficiaries are subject to the test of Substantial Gainful Activity and risk termination of benefits if they have completed their Trial Work Period and countable earnings are more than $9,960 in 2005.

Because they are technically still entitled to SSDI benefits even if they elect to take the early retirement benefit, the SSA will track the earnings for the purpose of determining if Trial Work months are being used, or if the individual is in the Extended Period of Eligibility. Conceivably, the disability status could be terminated due to SGA level earnings even if the beneficiary is receiving reduced retirement benefits rather than SSDI benefits.

Normally, when retirement benefits are elected at age 62, the reduced benefit will continue because the full benefit is reduced by the number of months until full retirement age. This is called the "adjustment reduction factor", or ARF. It is important to note that SSDI beneficiaries who elect retirement at age 62 are not subject to the adjustment reduction factor. Therefore, when they reach full retirement age they will get the full benefit rather than the reduced benefit. Technically, the disability status never really ended, so they are simultaneously eligible for retirement and disability between age 62 and full retirement age. POMS RS 00615.482 indicates that in adjusting the reduction factor, any month of simultaneous eligibility for retirement and disability is a crediting month that is, not counted as a reduction month. CFR 404.412

In the scenario described in # 3 above, lower earnings and termination of disability status due to SGA level earnings would result in a reduced retirement benefit at FRA.

It cannot be emphasized enough that BPAO and PABSS specialists should always encourage beneficiaries to consult with the local Social Security office if they have questions about retirement.

References:

Code of Federal Regulations:
404.409 What is Full Retirement Age?
404.410 How does SSA reduce my benefits when my entitlement begins before full retirement age?
404.411 404.412 After my benefits are reduced for age when and how will adjustments to that reduction be made?
404.415 Deductions because of excess earnings; annual earnings test.
404.252 Subsequent entitlement to benefits 12 months or more after entitlement to disability benefits ended.
404.290 Recalculations.

Social Security Handbook

302.1, 302.2, 723 Reduction of Benefit Rate

From: William.H.Gitlow@ssa.gov
Date: Nov 29, 2010 01:25:35 PM
Subject: FW: Goldman Sachs
To: shueseman@foothills.net, erickentucky@lycos.com, leahsalyers@gmail.com

From: damillster@gmail.com [mailto:damillster@gmail.com] **On Behalf Of** David Mill
Sent: Friday, November 26, 2010 11:05 AM
To: Gitlow, William H.; Bill Gitlow
Subject: Goldman Sachs

http://www.youtube.com/watch?v=PTUY16CkS-k&feature=player_embedded#at=11
--

David Mill
Cellular Sales of Knoxville
Direct: 865.250.9717
Fax: 775.255.2218

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SALES OPENINGS: CellularSales.com/opportunity

From: William.H.Gitlow@ssa.gov
Date: Dec 1, 2010 03:24:00 PM
Subject: FW: Fee Reminder
To: erickentucky@lycos.com

From: Hayes, Stephen
Sent: Wednesday, December 01, 2010 1:34 PM
To: #PH WV ODAR Huntington All
Subject: FW: Fee Reminder

From: Bousono, Elba
Sent: Wednesday, December 01, 2010 12:03 PM
To: Hipchen, Christy; Robinson, Jennifer R.; Gregory, Andrew; Bell, Penny; Trumbore, Kathryn; Shetzline, Michael; Hayes, Stephen; Pasierb, Deborah; Casey, Linda; Smith, Mary A.; Sincavage, Christine; Jackson, Valerie A.; Antosiak, Kathy; Stanage, Jody; Burroughs, Jenny; Donaldson, Heather; Hindle, Harriette; Belles, Charles J.
Cc: Cerulli, Nicholas; Quinn, Helena; Quick, Jason; Rizzo, Philip; Randell, Philip; Wylie, Alicia
Subject: Fee Reminder

As you know, a claimant may only appoint an individual, and not a firm, company, corporation, or other entity, as a representative. This remains in effect, as the proposal to revise the rules to permit entities to represent claimants is still pending.

By way of background, on September 8, 2008, there was a proposed revision to the rules on representation of claimants . A meeting with several participants from the Social Security Administration was held in October 2008, and comments were due from the public by the first week of November 2008. One of the issues included in the proposal is appointing a firm/company/corporation, rather than an individual. This would allow the firms/companies/corporations named as a claimant's representative to seek payment for the firm, rather than an individual working for the firm. As of now, when a representative working for a firm receives payment of the fee by the Social Security Administration through a check, the check will be made out to the individual representative, and not the firm itself.

However, as of now, this proposal on the revisions is still pending review. Therefore, claimants cannot appoint a firm/company/corporation, and can only appoint an individual. Until the proposal is revised, please continue to accept appointment of representative forms appointing an individual.

I will continue to monitor this proposal and provide you with any relevant status updates.

Elba Luz Bousoño
Paralegal Specialist
Regional Chief Judge
Regional Office - Region III
(215) 597-1816
elba.bousono@ssa.gov

From: William.H.Gitlow@ssa.gov
Date: Jan 7, 2011 05:47:02 PM
Subject: Cold
To: crickentucky@lycos.com

Read your text message. It sounded like you were coming down with a cold on Monday, and what sounded a bit like that early in the day sounded worse by the end of the day. If it wasn't you, then it was someone else at the office on Monday - because by Thursday (the normal 3 day incubation period for a cold) Dave, Sue and I were all coming down with a cold. Today it was full blown for all three of us. So you tell me.

See you next month.

Bill

From: William.H.Gitlow@ssa.gov
Date: Jan 7, 2011 06:08:03 PM
Subject: RE: Cold
To: erickentucky@lycos.com

Not Melissa - David; Sue; and me.

-----Original Message-----
From: erickentucky@lycos.com [mailto:erickentucky@lycos.com]
Sent: Friday, January 07, 2011 5:57 PM
To: Gitlow, William H.
Subject: Re: Cold

Judge,

I was just kidding. It could well have been me. I felt better the next day but you are probably right. I was just kidding about that. :)

All 3? Including Melissa?

From: William.H.Gitlow@ssa.gov
Date: Jan 10, 2011 12:07:27 PM
Subject: RE: Cold
To: erickentucky@lycos.com

Stayed in all weekend. Actually, it was nice (tho I wore a mask not to infect Caryl) hanging out together for a weekend. Today is day 5 and the first day I almost feel human. Have to drive Priscilla to Yeager this afternoon for her trip to AZ.

Bill

-----Original Message-----
From: erickentucky@lycos.com [mailto:erickentucky@lycos.com]
Sent: Sunday, January 09, 2011 1:12 PM
To: Gitlow, William H.
Subject: Re: Cold

Judge,

How's your cold?

Eric

P.S. I feel awful about that.... Got to start wearing the mask you mentioned. Go Blue!

From: Charlie.Paul.Andrus@ssa.gov
Date: Aug 6, 2010 12:57:43 PM
Subject: Re: Debriefing from Eric C. Conn
To: erickentucky@lycos.com

Eric,

I am in the Charlotte airport. Imet Sue Brown and made sure she sent the letter--glad it came.

Your case proposals are fine. We can discuss any dismissals or OTRs you may wish. I have written the other OTRs and signed most of them.

See you next week.

Judge Andrus

Charlie Paul Andrus
Hearing office Chief Judge
Huntington, WV
Charlie.Paul.Andrus@SSA.gov

Sent from my BlackBerry Wireless Handheld Device

----- Original Message -----
From: erickentucky@lycos.com <erickentucky@lycos.com>
To: Andrus, Charlie Paul
Sent: Fri Aug 06 12:50:59 2010
Subject: Debriefing from Eric C. Conn

Dear Chief Judge,

Your call was really appreciated. We have received the letter from the electronic folder access system people. Further, pursuant to that letter we have contacted the responsible person and our appointment is at 10:30 a.m. on the 19th.

I am personally going on the 18th and staying at a hotel within walking distance of the site. Also, my employee Jeanna will be going with me. We are going on the 18th as we do not want anything to go wrong. We are returning on the 19th late as the entire proceedure only requires 30 minutes.

Grover, remarkably, flew to Las Vegas. Grover has asked me to cover two hearings he has with you on the 10th of this month (this coming Tuesday) as he will be in Vegas. The hearings are for [redacted] which starts at 9:00 a.m. and a[redacted]t 11:00 a.m. on the same date. I have Judge Buel scheduled from 9:00 a.m. to 1:30 on the same

date. My thinking is to have John Earl cover the Judge Buel cases that take place during the two hearings with you as I want to cover the hearings with you myself. Hope this is acceptable. If not, let me know and I will adjust per your instructions.

We have two possible dismissals that I would like to discuss with you when you have the time to do so.

Looking forward to hearing from you,

Eric

Social Security Administration **Office of Hearings and Appeals**

1108 Third Avenue, Suite 400
Huntington, WV 25701
Phone: (304) 529-5531
FAX: (304) 529-5066

MEMORANDUM

TO: Steve Slahta, Acting RCALJ
OHA Region III

FROM: Charlie P. Andrus HOCALJ
Huntington, WV

DATE: July 5, 2001

SUBJECT: Prestonsburg case scheduling

Per our conversation of July 3, I am asking for a slight deviation from policy to handle a problem I have encountered. Of the 845 unassigned cases we have in our remote hearing site in Prestonsburg, KY, 340 are represented by one attorney, Eric Conn. We have encountered problems being able to schedule a sufficient number of his cases to justify a trip to Prestonsburg for myself on two occasions, and we have had to reduce numbers for other judges on other occasions due to scheduling problems. In addition, we have had problems in setting hearings in a timely manner, due in part to scheduling problems with Mr. Conn. In addition, we suspect that he is engaging in "forum shopping" by his unwillingness to be available during weeks when certain judges are scheduled. As we all normally travel the same week of the month, this makes such an endeavor easier. I have discussed the matter with Harriette, and we are taking steps to ease the problem. I feel we need to have an immediate, mid-term and long-term plan. The problem will get worse when we finally get the two or three new judges we are slotted to get (two for sure and a third was planned if Judge Cherry transferred and he did).

SHORT-TERM

We plan to initiate immediate steps to reduce the problem. Harrliette and I agree that we need to assign Mr. Conn's cases in rotation to each ALJ as they come into the office. This will give each judge about the same amount of cases and will lessen if not eliminate the tendency to forum shop, as all of us will have the same number of his cases. Harriette has already taken steps to do this. In addition, I plan to discuss the problem with Mr. Conn next week. He has been agreeable to suggested changes in the past. In addition, we are trying to advance schedule for succeeding months when we are told that he is not available for a particular week. This has had limited success which I hope to improve by speaking with Mr. Conn next week. If necessary, we can get blocks of days for three or four months in advance. Finally, I wish to deviate from strict following of age of case when pulling.

Homeland Security & Governmental Affairs Committee
EXHIBIT #10

With almost one-half of our Prestonsburg docket taken by Mr. Conn, we need a larger supply of "other attorney" cases pulled to be able to fill in the docket if he is not available. I do not anticipate that this will be more than 1-2 months out of order. I would pull three "other attorney" cases for every two Eric Conn cases.

MID-TERM

Harriette and I discussed one mid-term solution, about which we do not fully agree. The out-of-town judges we have had in Prestonsburg cause some of the problem. Not only to they tie Mr. Conn up with cases that have to have a priority, they also cause difficulty in scheduling hearing rooms, reporters, and VEs. Considering the hassles, they have been more harm than help. I get complaints from the VEs that judges are bringing in outside VEs without contacting them. We are also having trouble getting VEs scheduled for our own cases. In addition, some of the judges that come from out of town obviously don't want to come here and create problems with hostility, and cause additional remands as they are not used to our area, and they know that they won't be coming back to deal with the remands. We also receive a number of cases that are returned with a lot of additional age that the assisting office "can't schedule". We note that we have not sent cases out for months and out of town judges are still a problem for us. We agree that we would rather not send any of our cases out except those we send for videoconference.

If we must send cases out I would prefer to send only Huntington Cases. Harriette wants to send strictly by age of the case. As getting to Prestonsburg is significantly more difficult, it is much easier for judges to come to Huntington. We also have four hearing rooms, as well as a nearby hotel verses three rooms in Prestonsburg. We also have a greater number of people doing SSA cases in Huntington, so that availability of reps is not as difficult a problem. We also find it easier to obtain reporters and VEs in Huntington verses Prestonsburg. We cannot exclude Eric Conn cases if we send Prestonsburg cases, so I would prefer not to send any at all. If the age of the dockets becomes too far out of balance, we can revisit this. Again, we would prefer to not send any cases out of Huntington other than the 60 per month we send to Richmond for videoconferencing.

LONG TERM

I plan to point out to Mr. Conn that in the long run we are going to have a significant problem as we get more judges. With three of us going to Perstonsburg many weeks of the month, we will not be able to schedule his cases in a timely manner. I plan to suggest that he should either take fewer cases, or get someone to help. Hopefully this problem will resolve in the future. If this does not work, we may well have to have only two judges per week in Prestonsburg three weeks of the month and three judges one week. This will also have the undesired effect of having two or three judges out of the office the last week of the month. One other option is to suggest that he use one of his paralegals for the SSI cases, as withholding attorney fees would not be a consideration.

Forwarded Message	
Subject:	**FW: Huntington cases**
From:	Comerford, Jim
Date:	7/23/2001 7:58:51 AM
To:	#OHA R3 RO MGMT ANALYSTS
CC:	#OHA R3 RO MGMT ASSISTANTS

Message Body

FYI.

(I did the highlighting.)

JLC

-----Original Message-----
From: Bracchi, Barbara
Sent: Friday, July 20, 2001 11:50 AM
To: Loughran, Valerie; Comerford, Jim
Cc: Slahta, Steven D.
Subject: RE: Huntington cases

Since they have problems scheduling with this one attorney, I think they should be sending the attorney with a copy to the claimant a form memo every time they attempt to schedule a hearing and he says he is not available so the claimant knows that the attorney is causing the delay. Attorneys generally do not like this and it gives the claimant the opportunity to find another representative if he does not want to wait for the hearing.

I'm not inclined to permanently transfer cases unless absolutely neccessary since it has recently come to light that the HOs don't seem to follow our guidelines for these cases anyway. What we have found (in DC, Charlottesville, and others) is that transfer cases are not being worked in RH date order, but seem to languish for long periods of time in the assisting office (even when they requested the cases).

-----Original Message-----
From: Loughran, Valerie
Sent: Wednesday, July 18, 2001 11:46 AM
To: Bracchi, Barbara; Comerford, Jim
Cc: Slahta, Steven D.
Subject: FW: Huntington cases

After discussion with Judge Slahta, we decided that Judge Andrus could vary from the transfer policy for the short term, to deal with the current problem. So if we are transferring cases in the near future we will use Huntington. I know this is not what we want as an ongoing policy, but it may help. If it presents a significant problem please advise.

-----Original Message-----
From: Slahta, Steven D.
Sent: Friday, July 13, 2001 5:52 PM
To: Loughran, Valerie
Cc: Bracchi, Barbara; Comerford, Jim; Andrus, Charlie Paul
Subject: FW:

Hello Friends

Judge Andrus sent me this message regarding his unique situation in Huntington/Prestonsburg. We can discuss this in the next week or wait until Barbara returns.

Steve Slahta

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Monday, July 09, 2001 8:03 AM
To: Slahta, Steven D.; RCJ Philadelphia
Subject:

Steve,

As you requested. Hope you have fun in Pitt. I was able to get into my e-mal with the new system before, I hope it works again.

Chuck

<< File: prestonsburg case scheduling.dot >>

Outlook Header Information
Subject: FW: Huntington cases From: Comerford, Jim Sender Name: Comerford, Jim To: #OHA R3 RO MGMT ANALYSTS CC: #OHA R3 RO MGMT ASSISTANTS Received By: Polohovich, Veronica Delivery Time: 7/23/2001 7:58:51 AM Creation Time: 7/23/2001 7:58:51 AM Modification Time: 7/23/2001 7:58:51 AM Submit Time: 7/23/2001 7:58:51 AM Importance: Normal Priority: Normal Sensitivity: Normal Flags: 1 = Read Size: 8246

Forwarded Message	
Subject:	**RE: Difficulty Scheduling Prestonsburg Hearings**
From:	Polohovich, Veronica
Date:	7/18/2001 11:58:30 AM
To:	Comerford, Jim

Message Body

I do not agree with the recommendations by Judge Andrus for the following reasons:

1. If Mr. Eric Conn is not available, we should be notifying the claimants and Mr. Conn of our attempts to schedule a hearing and advising them that the reason the case has not been scheduled is due to Mr. Conn's unavailability. This should force the issue and either make Mr. Conn be more available or the

claimants attain a new representative.

2. I do not agree with deviating from following age of case when pulling, we would be doing this to accommodate Mr. Conn. In fact, the whole proposal seems to be an attempt to accommodate Mr. Conn.

3. The proposal to permanently transfer out only Huntington cases does not follow HALLEX or Region III's case transfer policy. It is not cost effective for travelling judges to travel to Huntington and Huntington judges to travel to the remote sites (Prestonsburg). It is more cost effective for Huntington judges to stay in Huntington and the travelling judges to travel directly to the remote sites.

4. Judge Andrus mentions numerous problems or hassles from visiting judges. These should be brought to the RO's attention when they occur. He may be eluding to DC, but I have not received any complaints.

Ronnie

-----Original Message-----
From: Comerford, Jim
Sent: Wednesday, July 18, 2001 10:14 AM
To: Jones, Ann; Polohovich, Veronica
Subject: FW: Difficulty Scheduling Prestonsburg Hearings

Ladies,

Please review the attached and tell me what you think. Thanks.

James L. Comerford
215-597-4181
jim.comerford@ssa.gov

-----Original Message-----
From: Loughran, Valerie
Sent: Monday, July 09, 2001 1:44 PM
To: Comerford, Jim
Subject: FW: Difficulty Scheduling Prestonsburg Hearings

Can you look this over and discuss with the MA. We can discuss when I return on Wednesday. There is no real hurry in responding, but I want to fill Judge S in on this. thanks.

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Thursday, July 05, 2001 10:58 AM
To: Slahta, Steven D.
Cc: Loughran, Valerie; Cyrus, Harriette M.
Subject: Difficulty Scheduling Prestonsburg Hearings

Steve,

Here is the memo we discussed on July 3. If you have any questions, please let me know.

Chuck Andrus << File: prestonsburg case scheduling.dot >>

Outlook Header Information
Conversation Topic: Difficulty Scheduling Prestonsburg Hearings Subject: RE: Difficulty Scheduling Prestonsburg Hearings From: Polohovich, Veronica Sender Name: Polohovich, Veronica To: Comerford, Jim Delivery Time: 7/18/2001 11:58:30 AM Creation Time: 7/18/2001 11:58:29 AM Modification Time: 5/14/2002 4:14:05 PM Submit Time: 7/18/2001 11:58:30 AM Importance: Normal Priority: Normal Sensitivity: Normal Flags: 1 = Read Size: 6901

Forwarded Message	
Subject:	**FW: Difficulty Scheduling Prestonsburg Hearings**
From:	Comerford, Jim
Date:	7/18/2001 10:14:23 AM
To:	Jones, Ann; Polohovich, Veronica

Message Body

Ladies,

Please review the attached and tell me what you think. Thanks.

James L. Comerford
215-597-4181
jim.comerford@ssa.gov

-----Original Message-----
From: Loughran, Valerie
Sent: Monday, July 09, 2001 1:44 PM
To: Comerford, Jim
Subject: FW: Difficulty Scheduling Prestonsburg Hearings

Can you look this over and discuss with the MA. We can discuss when I return on Wednesday. There is no real hurry in responding, but I want to fill Judge S in on this. thanks.

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Thursday, July 05, 2001 10:58 AM
To: Slahta, Steven D.
Cc: Loughran, Valerie; Cyrus, Harriette M.
Subject: Difficulty Scheduling Prestonsburg Hearings

Steve,

Here is the memo we discussed on July 3. If you have any questions, please let me know.

Chuck Andrus

Attachment
prestonsburg case scheduling.dot

Outlook Header Information
Conversation Topic: Difficulty Scheduling Prestonsburg Hearings Subject: FW: Difficulty Scheduling Prestonsburg Hearings From: Comerford, Jim Sender Name: Comerford, Jim To: Jones, Ann; Polohovich, Veronica Received By: Polohovich, Veronica Delivery Time: 7/18/2001 10:14:23 AM Creation Time: 7/18/2001 10:13:36 AM Modification Time: 7/18/2001 10:57:26 AM Submit Time: 7/18/2001 10:14:23 AM Importance: Normal Priority: Normal Sensitivity: Normal Flags: 17 = Read, Has Attachment Size: 41574

Forwarded Message	
Subject:	**FW: Permanent Case Transfer Reminder**
From:	Polohovich, Veronica
Date:	3/13/2003 2:56:15 PM
To:	Orr, Gerald

Message Body

Interesting??? Sounds like Roanoke doesn't want to go to New York. Before they refused Huntington, now they are cutting deals.

-----Original Message-----
From: Cyrus, Harriette M.
Sent: Thursday, March 13, 2003 1:54 PM
To: Polohovich, Veronica
Subject: RE: Permanent Case Transfer Reminder

Ronnie,

I just spoke with Judge Andrus and told him about trying to keep our judges here in Huntington. I believe he understands. However, he and Judge Owen were in Pburg this week and are trying to work it out that we make transfers to that office on a regular basis. I told him I'd let you know, but that it is the decision of the RO where our cases are transferred. They felt it would be easier to schedule if we only sent cases to Roanoke.

H

-----Original Message-----
From: Polohovich, Veronica
Sent: Thursday, March 13, 2003 1:50 PM
To: #OHA R3 HODs
Cc: Inman, Julia; Jones, Ann; Orr, Gerald
Subject: Permanent Case Transfer Reminder

This is a reminder to offices receiving Permanent Case Transfers.

The Region III Case Transfer Guide and Hallex indicate that it is the responsibility of the assisting hearing office to notify the claimants and their representative of the case reassignment. This must be done as soon as possible after receipt of the cases in the assisting hearing office.

Thank you.

Outlook Header Information
Conversation Topic: Permanent Case Transfer Reminder
Subject: FW: Permanent Case Transfer Reminder
From: Polohovich, Veronica
Sender Name: Polohovich, Veronica
To: Orr, Gerald
Received By: Orr, Gerald
Delivery Time: 3/13/2003 2:56:15 PM
Creation Time: 3/13/2003 2:54:51 PM
Modification Time: 3/13/2003 2:56:15 PM
Submit Time: 3/13/2003 2:55:58 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 9170

Outlook Header Information
Conversation Topic: Huntington Workload
Subject: FW: Huntington Workload
From: Orr, Gerald
Sender Name: Orr, Gerald
To: Cristaudo, Frank
Received By: Cristaudo, Frank
Delivery Time: 3/13/2003 3:40:20 PM
Creation Time: 3/13/2003 3:40:34 PM
Modification Time: 3/18/2003 9:34:51 AM

Message0012	
Subject:	**RE: Judge Daugherty**
From:	Andrus, Charlie Paul
Date:	6/20/2002 8:57:21 AM
To:	Cristaudo, Frank

Message Body

Judge Cristaudo,

I did go to a movie with Mr. Conn. I have also had lunch with Mr. Conn, with other judges and the hearing clerks present although I do not ever remember having dinner with him. I went with Mr. Conn to the movie to have the opportunity to discuss changes in the scheduling I wanted to do and I wanted to do it outside the hearing of the staff. I don't believe that Mr. Conn was uncomfortable about the idea as it was his suggestion and each of us paid our own way. Mr. Conn has offered to take me with him to Russia and Brazil at his expense. I politely declined and explained that would be totally improper, and he did not seem offended.

This is exactly what I was talking about when dealing with Judge Daugherty. At least this time he did not accuse me of doing cocaine in my office.

Please advise if you think it improper for me to have social contacts with Mr. Conn.

Judge Andrus

-----Original Message-----
From: Cristaudo, Frank
Sent: Wednesday, June 19, 2002 4:20 PM
To: Andrus, Charlie Paul
Cc: Loughran, Valerie
Subject: Judge Daugherty

Charlie,

When I called Judge Daugherty about "canceling" hearings in Prestonsburg, he advised me that Counsel Eric Conn advised him that you had invited Counsel Conn to go out to dinner and/or see a movie and that Counsel Conn was uncomfortable with your comment. Please let me know if this occurred, and if so, the circumstances. Though Judge Daugherty indicated he would deny ever saying this, we need to make sure that we investigate this allegation because of the appearance of a conflict of interest. If you would like to discuss this matter further, or if you have any questions, please let me know. Thanks Charlie. Frank

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/
Philadelphia Region - Committed to Providing Quality Due Process Hearings and Decisions
[Timely Hearing & Decision - Adequately Developed Record - Fair Hearing - Legally Sufficient Written Decision]

Outlook Header Information

Conversation Topic: Judge Daugherty

Message0176	
Subject:	**RE: Report of meeting with Attorney Eric Conn**
From:	Cristaudo, Frank
Date:	12/2/2002 7:50:25 AM
To:	Andrus, Charlie Paul
CC:	Loughran, Valerie; Inman, Julia; Cyrus, Harriette M.

Message Body

Thanks Charlie. By copy of this message I am advising the others. Julia will share the message with her staff.

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Friday, November 29, 2002 11:28 AM
To: Cristaudo, Frank
Cc: Cyrus, Harriette M.
Subject: Report of meeting with Attorney Eric Conn

Frank,

To follow up on the telephone call we had on this subject, I wanted to send a brief note outlining of what we discussed in the meeting we had with Mr. Conn and his staff. Harriette and I met with them for about two hours the other day and had a productive session.

Mr. Conn has over 50% of our Prestonsburg cases (which constitutes over 60% of our hearings), and scheduling has been a real problem. We normally send two judges a week to Prestonsburg to hear 22 to 30+ cases each. With vacations and other times he may not be available, Mr. Conn literally has more cases than can be heard in that time, if he is the only attorney available. We have agreed to the following actions to make scheduling easier:

* We will solicit volunteer ALJs to make a second trip to Prestonsburg in those four months in the year were we have a "fifth week".
* Mr. Conn will give us dates when his back-up attorney is available as far in advance as he can so that we can schedule cases for him as needed.
* Huntington OHA will send an O-2 report of Mr. Conn's cases to him each week both by alphabet and by status code. This will allow him to see when cases move to WKUP or WOUT so that he can start to prepare the case earlier to identify those who have gone back to work or disappeared (for possible dismissal) and those where an OTR may be justified based on new evidence.
* Both of us will agree to substitute a new case in the event a scheduled case drops out, up until the day that the judge has left for Kentucky.

Harriette and I believe that this will let us schedule these cases more efficiently. We rejected an idea to schedule out more than one or two months as this is problematic as his schedule can change that far in advance. In addition, our judges sometimes change dates although they usually do that a month or two in advance.

However, scheduling three or four months may result in canceled cases, which we didn't want to do.

His cases are now just about the same age as the rest of our Prestonsburg docket (they had been 2-3 months older), and we feel that this will keep his cases from aging.

If you have any questions, please let me know.

Chuck Andrus

Outlook Header Information
Conversation Topic: Report of meeting with Attorney Eric Conn
Subject: RE: Report of meeting with Attorney Eric Conn
From: Cristaudo, Frank
Sender Name: Cristaudo, Frank
To: Andrus, Charlie Paul
CC: Loughran, Valerie; Inman, Julia; Cyrus, Harriette M.
Delivery Time: 12/2/2002 7:50:25 AM
Creation Time: 12/2/2002 7:49:36 AM
Modification Time: 12/2/2002 7:50:25 AM
Submit Time: 12/2/2002 6:50:25 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 9510

REQUEST FOR TRANSFER AND WAIVER OF TRAVEL EXPENSES

DATE: 12/30/09

SSA/OHA

RE: [redacted]

SSN: [redacted]

Gentlemen:

I would like to have my claim transferred to the Prestonsburg Social Security Office. Should I eventually have to attend a hearing on this claim, I would like the said claim to be handled by the Office of Hearings and Appeals in Huntington, WV and to be heard at the Prestonsburg Hearing Site.

I expressly waive my right to reimbursement for travel expenses should the transfer of my claim result in my being compelled to travel more than seventy-five miles to attend a hearing or to the Prestonsburg Social Security Office.

Thank you for your prompt attention to this matter.

Respectfully Submitted,

[redacted]

Signature of Claimant or person filing on behalf of Claimant.

ERIC C. CONN P.S.C.
12407 South U.S. 23, P.O. Box 308
Stanville, Kentucky 41659-0308
Telephone: (606) 478-5100 Fax: (606) 478-5109

Eric C. Conn
Attorney at Law

John Earl Hunt
Attorney at Law

12/30/09
DATE

Greg Reynolds, Manager
Social Security Administration
1897 Kentucky Route 321
Prestonsburg, KY 41653

RE: Processing the Claims
of Attorney Eric C. Conn

Dear Mr. Reynolds:

As you know my office is located in Stanville, Kentucky. I do not have satellite offices at ANY location in Kentucky or in other states.

Therefore, I am requesting that all claims for clients of my office be done and processed at the Prestonsburg Social Security Office regardless of where the client lives.

If you have any questions, suggestions, or objections to the above please call me.

Respectfully,

[redacted]

Client's Signature

Message0157	
Subject:	**out of service area cases Huntington**
From:	Bice, Debra HQ ODAR
Date:	8/30/2011 7:07:04 PM
To:	Fredricks, Kristen; Lytle, Joseph; Bice, Debra HQ ODAR

Message Body

Kristen – we spoke about this last week. Marianne Blair discovered that there were a large number of out of service area cases in Huntington and that Arnette and Conn appeared to be routinely requesting the FO to process the cases in Huntington instead of the servicing hearing office. I recommend that this information be provided to OIG and also DCO.

Here is the information we have –

Out of service Area Cases – Approximately 21% of the cases processed in Huntington between 2005 and the present were out of service area cases. This could be due to case transfers. However, of the 6750 out of service area cases, 2286 (33%) were represented by Conn and 626 (9%) were represented by Arnette.

Conn and Arnette use forms to request the field office to process the cases in Prestonburg and forward the case to the Huntington hearing office.

This is contrary to policy. These cases should always be sent to the servicing HO and then the ALJ in that HO will decide whether or not to grant transfer. Pertinent portions of policy statements include-

POMS:
GNBOS03103.001 states – "without exception, the HA-501 should be forwarded to the HO servicing the claimant's address, regardless of the representative's address."

http://policynet.ba.ssa.gov/poms.nsf/lnx/0203103001BOS

HALLEX: 1-2-0-70
When an HO receives a RH, the HO staff will screen the RH to determine if the HO has jurisdiction, i.e., whether the claimant's address is in the geographic area the HO serves. If the HO does not have jurisdiction, the HO staff will forward the RH to the HO that does.

A claimant may request a change in the place of hearing that would result in the transfer of the case to another HO. However, these requests should not be routinely granted. Due to the large volume of cases in HOs, routine changes of the place of hearing would be disruptive and could adversely affect service to other claimants. Also, assuming a claimant does not object, changes to the place of hearing are often unnecessary due to the availability of video teleconferencing. See 20 CFR 404.936(e)
<http://policynet.ba.ssa.gov/repository/cfr20/404/404-0936.htm> & 416.1436(e)
<http://policynet.ba.ssa.gov/repository/cfr20/416/416-1436.htm> (68 FR 5218, Feb. 3, 2003, as amended at 75 FR 39160 <http://www.gpo.gov/fdsys/pkg/FR-2010-07-08/pdf/2010-16549.pdf> , July 8, 2010).
An Administrative Law Judge may change the place of hearing upon a claimant's written or oral request if the claimant has good cause for making the request, or on the ALJ's own initiative if the change would promote the efficient administration of the hearing process and ensure the claimant a full and fair hearing.

http://policynet.ba.ssa.gov/hallex.nsf/links/10200070

Attachment
huntingon zip -- revised.xlsx
Attachment
hppscan7.pdf

Outlook Header Information
Conversation Topic: out of service area cases Huntington Sender Name: Bice, Debra HQ ODAR Received By: Bice, Debra HQ ODAR Delivery Time: 8/30/2011 7:07:04 PM Creation Time: 8/30/2011 7:07:03 PM Modification Time: 9/19/2011 3:34:04 PM Submit Time: 8/30/2011 7:06:54 PM Importance: Normal Priority: Normal Sensitivity: Normal Flags: 49 = Read, Has Attachment, From Me Size: 1174112
Standard Header Information
Received: from HQ-MB-01.ba.ad.ssa.gov ([10.17.110.3]) by HQ-CAS-HT-01.ba.ad.ssa.gov ([10.17.110.51]) with mapi; Tue, 30 Aug 2011 19:06:59 -0400 Content-Type: application/ms-tnef; name="winmail.dat" Content-Transfer-Encoding: binary From: "Bice, Debra HQ ODAR" <Debra.Bice@ssa.gov> To: "Fredricks, Kristen" <Kristen.Fredricks@ssa.gov>, "Lytle, Joseph" <Joseph.Lytle@ssa.gov>, "Bice, Debra HQ ODAR" <Debra.Bice@ssa.gov> Date: Tue, 30 Aug 2011 19:06:54 -0400 Subject: out of service area cases Huntington Thread-Topic: out of service area cases Huntington Thread-Index: AcxjiVYpghEmEDEyR8GKD72RqGRMfgCyHk0AADlJapAAAQqjcAABPvbwAAJ5n4AABqJ0IA== Message-ID: <D922037F90196747837EBF2322A868550DA25C7587@HQ-MB-01.ba.ad.ssa.gov> Accept-Language: en-US Content-Language: en-US X-MS-Has-Attach: yes X-MS-Exchange-Organization-SCL: -1 X-MS-TNEF-Correlator: <D922037F90196747837EBF2322A868550DA25C7587@HQ-MB-01.ba.ad.ssa.gov> MIME-Version: 1.0

United States Senate
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs

AFFIDAVIT OF JAMIE LYNN SLONE

JAMIE LYNN SLONE, being duly sworn, states that:

1. I worked at the Eric C. Conn Law Firm (the "Firm") from September 2006 to March 16, 2012. During my time at the Firm, I worked in a number of positions, including claims intake, DDS Liaison, Fee Control, and the Hearings Department. Beginning in June 2011, I became Office Manager. As Office Manager, I oversaw the Firm's overall finances. This included the day-to-day management of the Firm's bookkeeping and accounting, as well as management of the Firm's cash-on-hand, which we referred to as "petty cash." I also generally oversaw all Firm operations.

2. One of my responsibilities at the Firm was to field calls from Social Security Administration ("SSA") Administrative Law Judge David B. Daugherty. Each month, Judge Daugherty called and gave the following information for 30 to 50 Social Security disability claimants represented by Eric Conn: first name, last name, the claimant's Social Security number, and either "mental" or "physical."

3. Judge Daugherty would also call to speak with Mr. Conn on occasion. During these calls, Mr. Conn asked everyone to leave the room so he could talk to Judge Daugherty in private. Mr. Conn made such a request for no other person that called to talk to him.

4. In 2010, I confronted Mr. Conn and said "I have a theory about you, I think that you go and meet [Judge Daugherty] once a month." Mr. Conn responded "well you know what they say, where there's smoke, there's fire."

Homeland Security & Governmental Affairs
Committee
EXHIBIT #16

5. Between 2009 and 2012, I was the individual that routinely answered the calls from Judge Daugherty each month and created the list of claimants. Before me, it was the responsibility of Tabitha George to answer these calls and create the monthly list, until her employment at the Firm ended.

6. By stating either "mental" or "physical," it was commonly known that Judge Daugherty was indicating the type of medical opinion he needed in order to award that claimant disability benefits, either Social Security Disability Insurance Benefits or Supplemental Security Income.

7. I created a list of these claimants, which was known throughout the office as the monthly "DB List." Once the list was created, another employee called each claimant on the DB List to schedule an exam with a doctor. During my tenure at the Firm, Jessica Newman was primarily responsible for scheduling claimants. Depending on whether Judge Daugherty indicated "mental" or "physical" for the claimant, Ms. Newman scheduled the claimant to see a certain doctor to provide an opinion on the claimant's alleged disability.

8. The Firm initially paid for the doctor evaluation, and each claimant was required to reimburse the Firm for the cost of the evaluation. Each claimant signed a contract stating they would reimburse the Firm for the cost of the evaluation. Another Firm employee filmed the claimants signing the contract.

9. If Judge Daugherty indicated "physical" with regard to a claimant, Ms. Newman scheduled the claimant to see a doctor that would review and analyze the claimant's physical health. During my time at the Firm, a large number of the physical evaluations were performed by Dr. Frederic Huffnagle, until his death in October 2010.

10. For two days each month, Dr. Huffnagle evaluated individuals from the DB Lists onsite in the medical suite at the Eric C. Conn Law Firm. Ms. Newman scheduled each claimant for a ten minute appointment with Dr. Huffnagle. Due to my office location, I observed that Dr. Huffnagle met with each claimant for, on average, 5 to 10 minutes. Dr. Huffnagle would see up to 25 claimants a day. Dr. Huffnagle's wife would dictate the medical opinions, which were transcribed by an outside transcriptionist. Dr. Huffnagle's reports would be sent to the Firm in roughly one week following his meeting with the claimant. I do not recall any medical opinions by Dr. Huffnagle that did not find the claimant disabled.

11. In late 2010, Mr. Conn requested that Dr. Huffnagle lengthen his reports. Mr. Conn told me this was requested by Judge Daugherty. Following this request, Dr. Huffnagle complied and lengthened his reports.

12. If a claimant did not attend their scheduled appointment with Dr. Huffnagle, Mr. Conn wrote a report based on the claimant's medical records finding the claimant's limitations were permanent and the claimant was disabled. For these, which were commonly called "file reviews," Dr. Huffnagle did not write the disabling reports; Dr. Huffnagle routinely signed these reports and never requested any edits.

13. The Firm used ten versions of residual functional capacity ("RFC") documents to submit to Judge Daugherty and other ALJs in support of clients' cases of physical disability. These same versions were used in rotation regardless of the clients' medical condition; just the names and Social Security numbers were changed. Dr. Huffnagle did not write or edit the RFCs, but routinely signed them.

14. Many of the claimants where Judge Daugherty indicated "mental" were seen by Dr. Brad Adkins. Dr. Adkins saw claimants at his office. To my recollection, Dr. Adkins

always determined the claimants he evaluated were disabled and unable to perform any work. Mr. Conn submitted five RFCs in rotation to Judge Daugherty and other ALJs for claimants for allegations of mental disabilities. Dr. Adkins did not write these RFCs, but routinely signed them and never requested any edits.

15. When the medical opinions were completed, Judge Daugherty sent a barcode to the Firm to attach to the reports, which were used to upload the reports into the SSA electronic file system.

16. After six-to-eight weeks, Judge Daugherty issued a decision approving the claimant for disability benefits "on-the-record" without holding a hearing.

17. Mr. Conn would search the Internet to locate doctors with licensure problems (i.e., suspended licenses, pending lawsuits, etc.) to evaluate his disability clients. Mr. Conn commonly referred to these doctors as "whore doctors."

18. In 2010, Mr. Conn hired former Huntington disability ALJ Algernon Tinsley. Mr. Conn discussed hiring Judge Tinsley with Huntington ALJ Charlie P. Andrus. Prior to Mr. Conn hiring Mr. Tinsely, I was present for several conversations in the hearing room at the Prestonsburg Hearing Office between the two men. In one of these conversations, Judge Andrus stated to Mr. Conn about Judge Tinsley that "I want him out now. I can't put up with him." Mr. Conn asked me to contact Judge Tinsely to help him complete his retirement papers to facilitate Judge Tinsley ending his employment with the agency and beginning his job for Mr. Conn because "Andrus is chewing my butt out for it."

19. In 2010, Mr. Conn requested that I prepare approximately 180-200 Findings Integrated Template ("FIT") decisions that awarded disability benefits to Mr. Conn's claimants assigned for decision by Judge Andrus. In many cases, when the case decisions were returned to



the Firm, I reviewed the decisions and observed that Judge Andrus adopted the decision exactly as written.

20. For some of these FIT decisions, Mr. Conn requested that these clients receive x-rays from Dr. Ira Potter at the Potter Clinic. The x-ray request forms given to the claimants were marked "WE DO NOT WANT THE FILMS READ BY ANYONE!!!!" Once the x-ray films were provided to the Firm, Mr. Conn personally wrote the analysis for the medical opinion of the x-ray. Mr. Conn found descriptions on the Internet of x-ray films. Mr. Conn cut and pasted these descriptions into his clients' medical opinions, which asserted the claimant was disabled and unable to work. Dr. Huffnagle signed the opinions and never requested any edits.

21. After the Wall Street Journal ("WSJ") ran a story about Judge Daugherty on May 19, 2011 entitled "Disability-Claim Judge Has Trouble Saying 'No,'" for several weeks Judge Daugherty frequently called the Firm, sometimes up to three times a day, requesting to speak with Mr. Conn. Mr. Conn refused to speak to Judge Daugherty on the Firm's phones. Mr. Conn told me that he and Judge Daugherty each bought prepaid cellular phones to communicate with each other. Mr. Conn used several of these phones, purchased from Family Dollar located next to the Firm offices, to communicate with Judge Daugherty.

22. One night, Judge Daugherty called Mr. Conn on his home phone and left him a voicemail, which Mr. Conn played for me that same evening. In that voicemail, Judge Daugherty insisted on talking to Mr. Conn right away. Mr. Conn asked me if I thought he should return Judge Daugherty's phone call.

23. Following the WSJ story, Judge Andrus called Mr. Conn. I was in the room with Mr. Conn along with others. Mr. Conn told us that Judge Andrus believed Sarah Carver was the SSA employee talking to the newspaper about Judge Daugherty and Mr. Conn.

24. Immediately following his conversation with Judge Andrus, Mr. Conn asked others to come to his office, including David Hicks. Mr. Conn stated "Judge Andrus called me and we have to do something about Sarah Carver, so here's what we came up with." Mr. Conn then explained a plan to place Sarah Carver under surveillance on the days she worked from home or her "flex-day." Mr. Conn said that Judge Andrus knew the date of Ms. Carver's next "flex-day." At the request of Mr. Conn, several of his employees followed and filmed Ms. Carver on the reported flex-day. Mr. Conn intended to film Ms. Carver on these days leaving her home and not working. The employees were unable to film Ms. Carver leaving her home.

25. Following this failed attempt to film Ms. Carver leaving her home, Mr. Conn said that Judge Andrus would have Sandra Nease, who worked in the Huntington Social Security Office of Disability Adjudication and Review ("ODAR"), call and report when Ms. Carver's next flex-day would be.

26. After several more unsuccessful attempts to film Ms. Carver on her flex-day leaving her home, Curtis Wyatt filmed Ms. Carver walking into the Huntington ODAR office on a day she was scheduled to be working. Mr. Wyatt, however, held up a newspaper in view of the camera and played a radio show both from one of Ms. Carver's scheduled flex-days, intending to make the video appear to be from a flex-day. Mr. Conn instructed an employee to send the video to SSA and the SSA Office of the Inspector General ("OIG"), but Mr. Conn said that Judge Andrus called and said the video was sent to the wrong address.

27. Following the WSJ article, Mr. Conn stated to me and others that "there is no way I am going to jail." Mr. Conn also stated he considered leaving the United States and going to Cuba to avoid going to jail because he believed he could not be extradited back to the United

States from Cuba. Mr. Conn stated "if I was paying DB [Judge Daugherty] I wouldn't be dumb enough to leave a paper trail."

28. After the same WSJ story ran, Mr. Conn destroyed certain paper documents, despite the advice of his attorney. I reminded Mr. Conn that his counsel had advised him not to destroy any documents. Mr. Conn responded "fuck them, this is my office and I will do what I want."

29. Following this statement, and on several occasions, Mr. Conn destroyed a number of paper documents in the office. The documents destroyed by Mr. Conn, or at the directive of Mr. Conn, included financial records maintained by his mother Pat Conn, the former office manager, and case files for prior disability claimants. I also witnessed Mr. Conn ask a Firm employee to destroy any DB List in her possession. Mr. Conn requested that she give him the DB Lists and the employee handed them to Mr. Conn; I watched Mr. Conn shred the DB Lists in the office paper shredder. The Firm had no document retention policy for the scheduled destruction of documents. These documents were not destroyed in the normal course of firm business.

30. Mr. Conn destroyed, or directed the destruction of documents, after the SSA OIG interviewed Mr. Conn at his office.

31. Mr. Conn requested that I print out all emails in both the Firm email account and from several of his personal email accounts from Judges Daugherty, Andrus, and Gitlow in response to the subpoena received from the Permanent Subcommittee on Investigations ("PSI"). Mr. Conn gave me the passwords to his personal accounts to access and search those accounts. When I searched to locate emails from Judge Daugherty in the Firm account and Mr. Conn's personal accounts, there were no emails from Judge Daugherty. There were emails from the

other Judges. I questioned Mr. Conn about where the emails from Judge Daugherty were and he stated "those have already been deleted, just print what's there."

32. Prior to their deletion, I electronically stored emails I received from Judge Daugherty in my assigned email folder in the Firm email account. The folder included three to four years of regular emails between me and Judge Daugherty from his SSA email account.

33. Over the course of 2011, Mr. Conn directed me to replace the majority of the computers in the office. In July 2011, Mr. Conn directed Curtis Wyatt to remove the hard drives from all the old computers not currently being used by the Firm employees and destroy them with a hammer. I observed Mr. Wyatt destroy the hard drives in this manner. Mr. Wyatt, at Mr. Conn's direction, burned the computers behind the Firm's office and what was left of the hard drives, which left a large patch of scorched grass for weeks. At times, Mr. Conn also directed Kenneth Sturgill to destroy the computers in the same way.

34. Around the same time in July of 2011, Mr. Conn (and another employee at his direction) destroyed a number of medical records for current clients, whose disability claims were pending before SSA.

35. I observed Mr. Conn using Firm funds for the following activities:

a. Mr. Conn hired Pike County Chief District Court Judge Darrel H. Mullins and his band to play at a wedding. Mr. Conn paid Judge Mullins a total of $4,000 in four separate installments of $1,000 each for his band to play at the wedding. Mr. Conn also paid Big Appal Studios to produce and distribute a CD of music played by Judge Mullins and Dan Huff entitled "We the People."

b. Mr. Conn instructed me to give a Firm employee $10,000 to purchase ten money orders, each for $1,000. Mr. Conn stated that the money orders would be sent to



the Will T. Scott Campaign as donations in the names of ten different Firm employees. At the direction of Mr. Conn, an employee completed the money orders in the names of these firm employees and sent them to the campaign. The campaign returned the money orders to the home addresses of the ten employees, as stated on the money order.

c. Following the return of the money orders, Mr. Hicks, who previously received a money order for $1,000, requested that I give him another $1,000 from Firm funds that he stated would be used for his wife to write a check to the Scott Campaign. Mr. Conn also instructed me to give $1,000 to Adam Murphy for Mr. Murphy to write a check for the Scott Campaign.

d. I observed Mr. Conn use the website www.getrevengeonyourex.com to send a voodoo doll with a pin through the heart to a fellow Kentucky disability attorney, Grover Arnett. When I reviewed the credit card statements, Mr. Conn informed me the charges for this website were billed to his Eric Conn PSC Bank of America credit card as "cuddlesforyou."

e. Mr. Conn attempted to smuggle certain women across the United States border several times. For example, in November 2011, I observed Mr. Conn paying $20,000 to an individual by the name of Inna Shur in Toronto, Canada, to rent a boat located in St. Kitts to transport his fiancée from St. Kitts to Florida. Mr. Conn told me that he believed he could easily sneak Mr. Conn's fiancée into Florida. Mr. Conn was out of the country when he needed to pay for the boat and convinced John Earl Hunt, an attorney at the Firm, to use his own funds to buy the needed cashier's check. Mr. Conn told Mr. Hunt that he needed to send the

98

money to pay for his wedding, which was to take place on a "yacht." To my knowledge, the plan was abandoned before it was completed. Mr. Conn requested that Mr. Hunt be reimbursed the $20,000 that Mr. Hunt used to secure the cashier's check.

f. During the entire time I worked at the Firm (2006-2012), Mr. Conn would send various amounts of money to an individual named "Mike" in Thailand that would use the money to support Mr. Conn's fiancées or women that he was dating that lived in that country. I reviewed emails from this individual that stated these payments would fund such things for the women as: an apartment; a car; English language classes; cosmetic surgery; spa treatments; and an individual who would look after them. These charges were billed to the Eric Conn PSC Bank of America credit card, and others, as "Oriental Fashion." Mr. Conn would also send these women money through Western Union and Money Gram.

36. Throughout my employment by Mr. Conn, I never unlawfully removed cash, property, or anything of value from the Firm that was not specifically given to me by Mr. Conn.

I declare under the penalty of perjury the foregoing is true and correct. Executed on June 12, 2012.

Jamie Lynn Slone

Jamie Lynn Slone

JS

United States Senate
Permanent Subcommittee on Investigations
Committee on Homeland Security and Governmental Affairs

AFFIDAVIT OF MELINDA LYNN MARTIN

Melinda Lynn Martin, being duly sworn, states that:

1. I began working at the Eric C. Conn Law Firm (the "Firm") in January 2006. During my time at the Firm, I worked in several positions with the following responsibilities:

   a. assisting Firm clients prepare Social Security claims documents;

   b. assisting the Office Manager, Pat Conn, with her duties;

   c. attempting to recoup fees owed to the Firm by clients, including filing claims in small claims court and property liens; and

   d. assisting Mr. Conn in preparing for hearings before Administrative Law Judges ("ALJs") and travel to hearings with Mr. Conn.

2. In the six years that I work at the Firm, the majority of disability cases decided by Judge David B. Daugherty for Mr. Conn's clients were decided on-the-record. In fact, I only remember Judge Daugherty holding hearings once for claimants represented by Mr. Conn.

3. Each month, Judge Daugherty called and spoke to Tabitha George. On that call, Judge Daugherty would list certain information about a number of Mr. Conn's claimants. When Ms. George left the Firm, Jamie Slone took the monthly calls from Judge Daugherty.

4. Once, when Ms. George was unable to take Judge Daugherty's call, I took the call. On the call, Judge Daugherty gave the following information for between 30 to 50 Social Security disability claimant represented by Mr. Conn: last name, the claimant's Social Security number, and then say either "mental" or "physical."

Homeland Security & Governmental Affairs
Committee
EXHIBIT #17

5. By stating either "mental" or "physical," it was commonly known that Judge Daugherty was indicating the type of medical opinion he needed in order to award that claimant disability benefits, either Social Security Disability Insurance Benefits or Supplemental Security Income.

6. Following the call, I created a list of these claimants, which was known throughout the office as the monthly "DB List." Once the list was created, another Firm employee called each claimant on the DB List to schedule an exam with a doctor. During my time at the Firm, Jessica Newman was primarily responsible for scheduling claimants with doctors. Depending on whether Judge Daugherty indicated "mental" or "physical" for the claimant, Ms. Newman scheduled the claimant to see a certain doctor to provide an opinion on the state of the claimant's alleged disability.

7. If Judge Daugherty indicated "physical" with regard to a claimant, Ms. Newman scheduled the claimant to see a doctor that would review and analyze the claimant's physical health. During my time at the Firm, a large number of the physical evaluations were performed by Dr. Frederic Huffnagle, until his death in October 2010.

8. For two days each month, Dr. Huffnagle evaluated individuals on the DB Lists onsite in the medical suite at the Eric C. Conn Law Firm. Ms. Newman would schedule each claimant for a ten minute appointment with Dr. Huffnagle. Because I escorted a number of claimants to the medical suite to meet with Dr. Huffnagle, I knew each appointment lasted, on average, ten minutes. Dr. Huffnagle would see up to 25 claimants a day. Dr. Huffnagle's wife would dictate the medical opinions, which were transcribed by an outside transcriptionist. Dr. Huffnagle's reports would be sent to the Firm in roughly one week following his meeting with

the claimant. I do not recall any medical opinions by Dr. Huffnagle that did not find the claimant disabled.

9. In late 2010, Mr. Conn requested that Dr. Huffnagle lengthen his reports. Mr. Conn told me this was requested by Judge Daugherty. Following this request, Dr. Huffnagle complied and lengthened his reports.

10. If a claimant did not attend their scheduled appointment with Dr. Huffnagle, Mr. Conn wrote a report based on the claimant's medical records finding the claimant's limitations were permanent and the claimant was disabled. For these, which were commonly called "file reviews," Dr. Huffnagle did not write the disabling reports; Dr. Huffnagle routinely signed these reports and never requested any edits.

11. When I started at the Firm in 2006, the Firm used five different versions of residual functional capacity ("RFC") documents to submit to Judge Daugherty and other ALJs in support of clients' cases of physical disability. In 2010, Judge Daugherty requested that Mr. Conn use ten different RFCs in rotation; Mr. Conn complied with Judge Daugherty's request. These same versions were used in rotation regardless of the clients' medical condition; just the names and Social Security numbers were changed. Dr. Huffnagle did not write or edit the RFCs, but routinely signed them.

12. When the medical opinions were completed, Judge Daugherty sent a barcode to the Firm to attach to the reports, which were used to upload the reports into the SSA electronic file system.

13. Many of the claimants where Judge Daugherty indicated "mental" were seen by Dr. Brad Adkins. Dr. Adkins saw claimants at his office. To my recollection, Dr. Adkins always determined the claimants he evaluated were disabled and unable to perform any work.

Mr. Conn submitted five RFCs in rotation to Judge Daugherty and other ALJs for claimants for allegations of mental disabilities. Dr. Adkins did not write these RFCs, but routinely signed them and never requested any edits.

14. The Firm initially paid for the doctor evaluation, and each claimant was required to reimburse the Firm for the cost of the evaluation. Each claimant signed a contract stating they would reimburse the Firm for the cost of the evaluation. Another Firm employee filmed the claimants signing the contract. After six-to-eight weeks, Judge Daugherty issued a decision approving the claimant for disability benefits "on-the-record" without holding a hearing.

15. Mr. Conn would search the Internet to locate doctors with licensure problems (i.e., suspended licenses, pending lawsuits, etc.) to evaluate his disability clients. Mr. Conn commonly referred to these doctors as "whore doctors."

16. When the medical opinions were completed, Judge Daugherty sent a barcode to attach to the reports, which were used to upload the reports into the SSA electronic file system.

17. After six-to-eight weeks, Judge Daugherty issued a favorable decision approving the claimant for disability benefits "on-the-record" without holding a hearing.

18. For hearings in front of other judges, Mr. Conn would coach clients to disguise evidence of work and even write notes to them during the hearing indicating they had "won" before the hearing was over.

19. After the Wall Street Journal ("WSJ") ran a story about Judge Daugherty on May 19, 2011 entitled "Disability-Claim Judge Has Trouble Saying 'No,'" for several weeks Judge Daugherty frequently called the Firm, sometimes up to three times a day, requesting to speak with Mr. Conn. Mr. Conn refused to speak to Judge Daugherty on the Firm's phones. Mr. Conn had employees, including me, purchase prepaid cellular phones. Mr. Conn told me that he and

Judge Daugherty both used prepaid cellular phones to communicate with each other. Mr. Conn used several of these phones, purchased from the Dollar General and Family Dollar stores located near the Firm offices, to communicate with Judge Daugherty.

20. One night, Judge Daugherty called Mr. Conn on his home phone and left him a voicemail, which Mr. Conn played for me and others the next day. In that voicemail, Judge Daugherty insisted on talking to Mr. Conn right away.

21. Following the WSJ article, Mr. Conn also stated that he had considered leaving the United States and going to Cuba to avoid going to jail because he believed he could not be extradited back to the United States. Mr. Conn said "trust me, I was never dumb enough to leave a paper trail, so we won't be in any trouble."

22. Following the WSJ story, Judge Andrus called Mr. Conn. I was in the room with Mr. Conn along with others. Mr. Conn told us that Judge Andrus believed Sarah Carver was the SSA employee talking to the newspaper about Judge Daugherty and Mr. Conn.

23. Immediately following his conversation with Judge Andrus, Mr. Conn asked others to come to his office, including David Hicks. Mr. Conn stated "Judge Andrus called me and we have to do something about Sarah Carver, so here's what we came up with." Mr. Conn then explained a plan to place Sarah Carver under surveillance on the days she worked from home or her "flex-day." Mr. Conn said that Judge Andrus knew the date of Ms. Carver's next "flex-day." At the request of Mr. Conn, several of his employees followed and filmed Ms. Carver on the reported flex-day. Mr. Conn intended to film Ms. Carver on these days leaving her home and not working. The employees were unable to film Ms. Carver leaving her home.

24. It is my understanding that at the direction of Judge Andrus, Sandra Nease, who worked in the Huntington Social Security Office of Disability Adjudication and Review

("ODAR"), called me each month to report the days that Ms. Carver worked from home. If she could not reach me, she left a voicemail on my cell phone.

25. The first time Ms. Nease called my cell phone from [redacted], I answered the call on speakerphone with Mr. Conn in his office. Ms. Nease spoke primarily with Mr. Conn and stated that Judge Andrus wanted me and Mr. Conn to know the following information regarding Ms. Carver: the date of Ms. Carver's flex-day; Ms. Carver's address; the types of cars that Ms. Carver and her husband drove; directions to Ms. Carver's house; and that the house was surrounded by a tall privacy fence that might be difficult to record over. Ms. Nease also stated that Ms. Carver's children had band practice at a certain time, which might allow for her to be recorded.

26. When I did not answer the calls from Ms. Nease, she would leave voicemails. Ms. Nease left at least seven voicemails on my cell phone regarding Ms. Carver's flex-day, including on February 10, 2012 and February 13, 2012.

27. Mr. Conn had several of his employees follow and film Ms. Carver on several occasions when Ms. Carver worked from home to determine if she was truly working. Mr. Conn intended to film Ms. Carver on these days performing activities other than work and report to Judge Andrus.

28. When, after several unsuccessful attempts, to film Ms. Carver on her flex-day leaving her home, Curtis Wyatt filmed Ms. Carver walking into the Huntington ODAR office on a day she was scheduled to be working. Mr. Wyatt, however, held up a newspaper in view of the camera and played a radio show both from one of Ms. Carver's scheduled flex-days, intending to make the video appear to be from a flex-day. Mr. Conn instructed an employee to send the video

to SSA and the SSA Office of the Inspector General ("OIG"), but Mr. Conn said that Judge Andrus called and said the video was sent to the wrong address.

29. After the same WSJ story ran, on several occasions, Mr. Conn destroyed a number of paper documents in the office. The documents destroyed by Mr. Conn, or at the directive of Mr. Conn, included financial records maintained by his mother Pat Conn, the former office manager, and case files for prior disability claimants. I also witnessed Mr. Conn ask a Firm employee to destroy any DB List in her possession. Mr. Conn requested that she give him the DB Lists and the employee handed them to Mr. Conn; I watched Mr. Conn shred the DB Lists in the office paper shredder. The Firm had no document retention policy for the scheduled destruction of documents. These documents were not destroyed in the normal course of firm business.

30. Mr. Conn destroyed, or directed the destruction of documents, after the SSA OIG interviewed Mr. Conn at his office.

31. Mr. Conn came around to Firm employees and instructed them to delete everything on their computers related to "DB Lists." My computer had a number of these lists. Mr. Conn and Pat Conn instructed me to take my computer home and destroy it.

32. Mr. Conn also destroyed a number of documents that only existed in paper. The Firm maintained hard copies of all financial documents and case files for prior disability claimants. Following the WSJ story and visit by the SSA OIG, Mr. Conn (and an individual at the direction of Mr. Conn) destroyed a number of paper documents, including financial and disability claimant related documents. The Firm had no document retention policy for the scheduled destruction of documents. These documents were not destroyed in the normal course of firm business.

33. Over the course of 2011, Mr. Conn replaced the majority of the computers in the office. In July 2011, Mr. Conn directed Curtis Wyatt to remove the hard drives from all the old computers not currently being used by the Firm employees and destroy them with a hammer. I observed Mr. Wyatt destroy the hard drives in this manner. Mr. Wyatt, at Mr. Conn's direction, burned the computers behind the Firm's office and what was left of the hard drives, which left a large patch of scorched grass for weeks. At times, Mr. Conn also directed Kenneth Sturgill to destroy the computers in the same way.

34. Specifically, in July of 2011, Mr. Conn (and another employee at his direction) destroyed a number of medical records for current clients, whose disability claims were pending before the SSA.

35. In November 2011, Mr. Conn asked that I take a backpack with approximately $240,000 in cash and open a safety deposit box in my name at a local bank. I refused his request. Mr. Conn then took the $240,000 in cash and put it in a safety deposit box at Citizens National Bank, saying that he was afraid the SSA OIG knew about his prior safety deposit box at BB&T.

36. I observed Mr. Conn using Firm funds for the following activities:

a. Mr. Conn hired Pike County Chief District Court Judge Darrel H. Mullins and his band to play at a wedding. Mr. Conn paid Judge Mullins a total of $4,000 in four separate installments of $1,000 each for his band to play at the wedding. Mr. Conn also paid Big Appal Studios to produce and distribute a CD of music played by Judge Mullins and Dan Huff entitled "We the People."

b. It is my understanding that Mr. Conn secured money orders for $1,000 each in names of certain employees to donate to the "Scott for Supreme Court" campaign

money to pay for his wedding, which was to take place on a "yacht." To my knowledge, the plan was abandoned before it was completed. Mr. Conn requested that Mr. Hunt be reimbursed the $20,000 that Mr. Hunt used to secure the cashier's check.

e. During the entire time I worked at the Firm (2006-2012), Mr. Conn would send various amounts of money to an individual named "Mike" in Thailand that would use the money to support Mr. Conn's fiancées or women that he was dating that lived in that country. I reviewed emails from this individual that stated these payments would fund such things for the women as: an apartment; a car; English language classes; cosmetic surgery; spa treatments; and an individual who would look after them. These charges were billed to the Eric Conn PSC Bank of America credit card, and others, as "Oriental Fashion." Mr. Conn would also send these women money through Western Union and Money Gram.

37. Throughout my employment at the Firm, I never unlawfully took cash, property, or anything of value that was not specifically given to me by Mr. Conn.

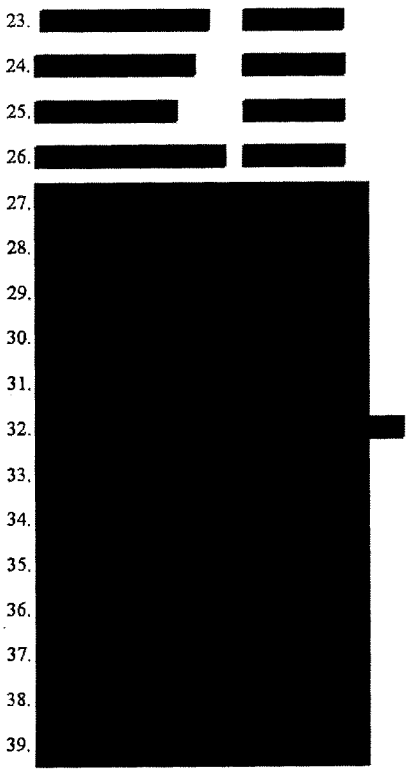
I declare under the penalty of perjury the foregoing is true and correct.

Executed on June 13, 2012.

Melinda Martin

D.B. SEPTEMBER 2009

1.	[redacted]	PHYSICAL, AOD 07/19/08
2.	[redacted]	PHSYICAL, AOD 09/26/07
3.	[redacted]	MENTAL
4.	[redacted]	PHYSICAL
5.	[redacted]	MENTAL , AOD 05/01/08
6.	[redacted]	PHYSICAL
7.	[redacted]	MENTAL
8.	[redacted]	PHYSICAL, AOD 12/07/06
9.	[redacted]	PHYSICAL
10.	[redacted]	PHYSICAL
11.	[redacted]	MENTAL, AOD 06/10/08
12.	[redacted]	PHYSICAL, AOD 08/15/08
13.	[redacted]	PHYSICAL
14.	[redacted]	PHYSICAL
15.	[redacted]	PHYSICAL, AOD 08/13/07
16.	[redacted]	PHYSICAL
17.	[redacted]	PHYSICAL
18.	[redacted]	PHYSICAL, AOD 11/13/08
19.	[redacted]	PHYSICAL
20.	[redacted]	MENTAL
21.	[redacted]	PHYSICAL
22.	[redacted]	PHYSICAL



23. MENTAL
24. MENTAL, AOD 10/28/08
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL, AOD 08/26/08
29. PHYSICAL. AOD 10/31/07
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. PHYSICAL AOD 12/09/08
39. PHYSICAL

DUE 09/15/08

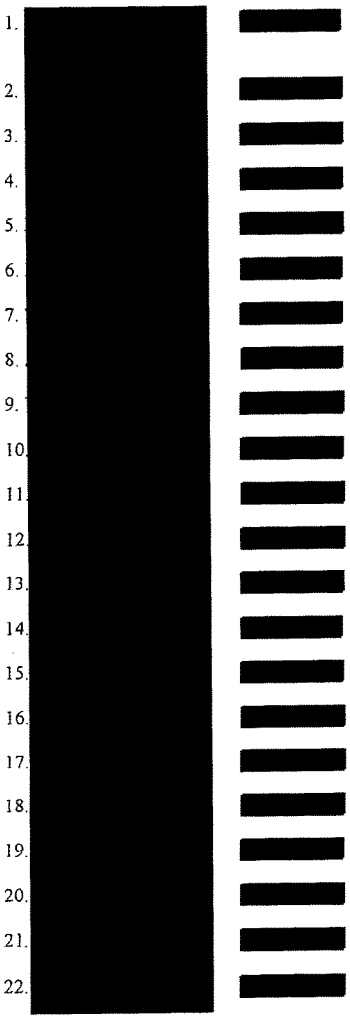
1.	[redacted]	PHYSICAL
2.		MENTAL
3.		MENTAL
4.		MENTAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL
8.		MENTAL, AOD 09/28/07
9.		PHYSICAL
10.		PHYSICAL, AOD 02/09/07
11.		PHYSICAL
12.		PHYSICAL, AOD 09/20/07
13.		MENTAL
14.		PHYSICAL
15.		PHYSICAL, AOD 08/29/06
16.		PHYSICAL, AOD 07/10/07
17.		MENTAL, AOD 02/26/08
18.		MENTAL
19.		PHYSICAL
20.		MENTAL, AOD 12/31/07
21.		PHYSICAL
22.		PHYSICAL, AOD 08/27/07

23. [redacted] PHYSICAL
24. PHYSICAL OR MENTAL
25. PHYSICAL, AOD 11/30/07
26. PHYSICAL, AOD 02/20/08
27. PHYSICAL
28. PHYSICAL, AOD 04/24/07
29. PHYSICAL
30. PHYSICAL, AOD 10/11/06
31. PHYSICAL
32. PHYSICAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. AOD OF 12/09/08 & PHYSICAL
39. PHYSICAL

*** [redacted] IN REPORT DR. MUST SAY CONDITIONS EXISTED AS FAR BACK AS AUGUST 2002. PAPER FILE MUST BE EMAILED TO DB.

*** [redacted] MUST BE EMAILED TO DB PAPER FILE

August 2009 D.B.

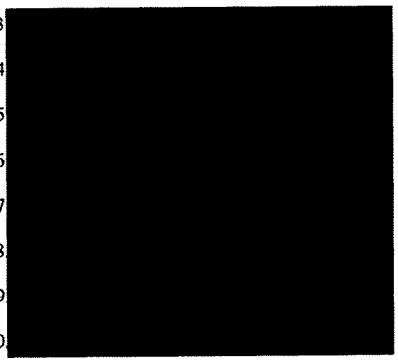


1. [redacted], whatever Eric wants to do Remember to do child rfc.
2. Mental, [redacted]
3. Physical
4. Physical
5. Physical
6. Physical
7. Physical
8. Physical
9. Physical
10. Physical
11. Physical
12. Physical
13. Physical, [redacted]
14. Physical, [redacted]
15. Physical
16. Physical
17. Physical
18. Physical
19. Physical, [redacted]
20. Physical
21. Mental
22. Physical

23. [redacted] Physical
24. [redacted] Physical
25. [redacted] Physical
26. [redacted] Physical
27. [redacted] Mental
28. [redacted] Physical
29. [redacted] [redacted], do whatever Eric wants
30. [redacted] Physical
31. [redacted] Physical
32. [redacted] Mental [redacted]
33. [redacted] Physical
34. [redacted] Physical
35. [redacted] None, [redacted]
36. [redacted] Physical, [redacted]
37. [redacted] Physical
38. [redacted] Physical
39. [redacted] Physical
40. [redacted] Physical

D.B. July 2009

1. [redacted] PHYSICAL
2. [redacted] PHYSICAL, HAVE REPORT GO BACK TO 2001 ONSET DATE
3. [redacted] PHYSICAL, AOD 08/31/06
4. PHYSICAL (PAPER FILE)
5. PHYSICAL
6. PHYSICAL, AOD 11/30/06
7. PHYSICAL
8. PHYSICAL, AOD 05/22/08
9. PHYSICAL, AOD 10/05/07
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL, AOD 05/31/07
20. PHYSICAL
21. PHYSICAL, AOD 05/07/08
22. PHYSICAL



23 PHYSICAL
24 PHYSICAL
25 MENTAL
26 PHYSICAL
27 PHYSICAL
28 PHYSICAL
29 PHYSICAL, AOD 07/13/07
30 PHYSICAL

total 48

JUNE 2009

1. [redacted] MENTAL, REOPEN, HAVE REPORT GO BACK TO 07/31/02

2. [redacted] PHYSICAL, AOD 08/23/07

3. MENTAL, AOD 01/20/09

4. PHYSICAL

5. PHYSICAL

6. PHYSICAL

7. PHYSICAL, HAVE REPORT GO BACK TO 07/07/06 FOR REOPENING.

8. [redacted] PHYSICAL

9. PHYSICAL

10. PHYSICAL

11. PHYSICAL, AOD 01/19/08

12. PHYSICAL

13. MENTAL

14. MENTAL, SSD/SSI AOD (SPECIAL AOD) LOSING SSD 01/22/09

15. [redacted] PHYSICAL

16. MENTAL

17. MENTAL, AOD 06/17/08

18. PHYSICAL

19. PHYSICAL

20. PHYSICAL

21. PHYSICAL

22. MENTAL

23. [redacted] PHSICAL, AOD 11/09/06
24. MENTAL
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. WHATEVER ERIC WANTS!!!!!!!
DO CHILD RFC!!!!

29. [redacted] PHYSICAL, AOD 08/15/07
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. MENTAL, GO BACK TO
09/23/04(already receiving)

34. [redacted] MENTAL, AOD 02/17/07
35. PHYSICAL, AOD 07/06/07
36. PHYSICAL
37. CHILD'S CASE MENTAL
38. PHYSICAL
39. PHYSICAL
40. MENTAL, AOD 12/05/06
41. PHYSICAL
42. PHYSICAL, AOD 06/29/07 – DO
SPECIAL AOD FORM LOSING TITLE II

43. [redacted] PHYSICAL, AOD 11/16/07
44. PHYSICAL, AOD 10/05/07
45. BOTH??? ASK Eric

46. [redacted] PHYSICAL

47. [redacted] PHYSICAL, 01/01/07

MAY 2009

1. [redacted] PHYSICAL
2. PHYSICAL
3. PHYSICAL
4. MENTAL, AOD 08/26/08
5. PHYSICAL
6. PHYSICAL
7. MENTAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. MENTAL
12. MENTAL
13. PHYSICAL
14. MENTAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL, AOD [redacted]

BIRTHDAY

20. [redacted] PHYSICAL
21. PHYSICAL
22. MENTAL, AOD 11/26/08

23.	[redacted]	PHYSICAL
24.		PHYSICAL
25.		MENTAL
26.		PHYSICAL
27.		MENTAL
28.		PHYSICAL
29.		PHYSICAL
30.		PHYSICAL
31.		PHYSICAL
32.		PHYSICAL
33.		PHYSICAL, AOD 06/01/07
34.		MENTAL
35.		PHYSICAL
36.		PHYSICAL
37.		MENTAL
38.		PHYSICAL
39.		PHYSICAL
40.		PHYSICAL
41.		MENTAL

April 2009-03-18
D.B.

1. [redacted] PHYSICAL
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL – REOPEN!! HAVE REPORT GO BACK TO 03/01/06!!!
10. [redacted] PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. CHILD – DO WHATEVER ERIC WANTS AOD 06/21/07
20. [redacted] PHYSICAL, AOD 12/27/07

21. [redacted] PHYSICAL

22. [redacted] PHYSICAL, AOD TO DATE OF MOST CURRENT APP DATE

23. [redacted] PHSYICAL

24. PHYSICAL

25. PHYSICAL

26. PHYSICAL, AOD 03/07/07

27. MENTAL

28. PHYSICAL

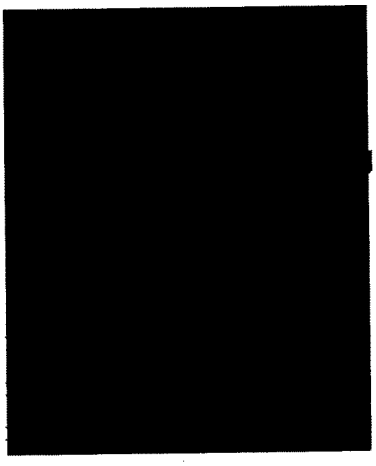
29. CHILD CASE – DO MENTAL WITH CHILD FORM

30. [redacted] PHYSICAL

March 2009



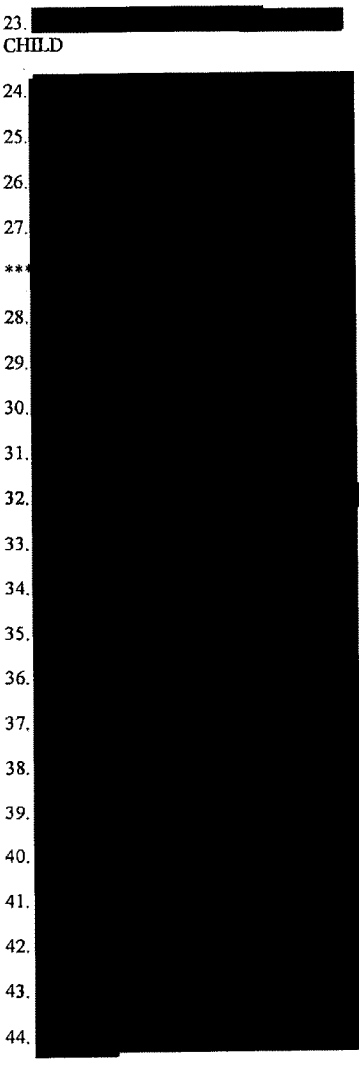
1. PHYSICAL
2. MENTAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. MENTAL, AOD 04/29/08
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL, AOD 03/04/08
10. PHYSICAL, AOD 01/24/08
11. PHYSICAL
12. PHYSICAL
13. MENTAL, AOD 04/25/07
14. PHYSICAL, AOD 03/19/08
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
19. PHYSICAL
20. MENTAL
21. MENTAL, CHILD!!! AOD 08/19/08
22. PHYSICAL, AOD 05/10/08
23. PHYSICAL



24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. MENTAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL

Feb 2009

1.	[redacted]	PHYSICAL
2.		PHYSICA
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL, AOD 10/30/07
8.		MENTAL
9.		PHYSICAL
10		PHYSICAL, AOD 10/26/07
11		MENTAL
12		PHYSICAL
13		PHYSICAL
14		PHYSICAL
15		PHYSICAL, AOD 07-31-07
16		PHYSICAL
17		PHYSICAL
18		PHYSICAL
19		MENTAL, AOD 01/31/08
20		PHYSICAL
21		MENTAL
22		PHYSICAL



23. [redacted] WHATEVER ERIC WANTS
CHILD
24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL
***
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. PHYSICAL
34. PHYSICAL
35. PHYSICAL
36. MENTAL
37. PHYSICAL
38. PHYSICAL
39. PHYSICAL
40. PHYSICAL
41. PHYSICAL
42. PHYSICAL
43. MENTAL
44. PHYSICAL, AOD 12/15/07

JANUARY 2009

1. [redacted] PHYSICAL, AOD 11/02/07
2. [redacted] MENTAL, AOD 05/09/08
3. [redacted] MENTAL
4. [redacted] PHYSICAL
5. [redacted] PHYSICAL
6. [redacted] MENTAL
7. [redacted] MENTAL
8. [redacted] MENTAL, AOD 01/05/07
9. [redacted] PHYSICAL, AOD 05/10/06
10. [redacted] MENTAL, AOD 08/22/08
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL
13. [redacted] PHYSICAL
14. [redacted] PHYSICAL, AOD 06/24/08
15. [redacted] PHYSICAL, AOD 09/28/07 SIGN SPECIAL AMENDED ONSET SO THAT SHE WILL LOSE HER SSD – CHECK WITH SSA BECAUSE DB THINKS THIS CLAIM WAS ONLY SSI
16. [redacted] NOTHING

DECEMBER 2008 D.B.

1	[redacted]	MENTAL, AOD 10/31/07
2		PHYSICAL
3		PHYSICAL
4		PHYSICAL
5		PHSYICAL, AOD, 07/13/07
6		PHYSICAL, AOD 02/07/08
7		PHYSICAL
8		PHYSICAL
9		PHYSICAL
10		PHYSICAL
11		PHYSICAL
12		PHYSICAL, AOD 08/28/07
13		MENTAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL, AOD 09/26/03
17		PHYSICAL
18		PHYSICAL
19		PHYSICAL, AOD 03/15/06
20		PHYSICAL, AOD 07/19/05
21		PHYSICAL
22		MENTAL, AOD 07/08/08

23. [redacted] PHYSICAL

24.

MORE D.B. NAMES FOR NOVEMBER 27

28.	[redacted]	MENTAL
29.		PHYSICAL
30.		PHYSICAL
31.		PHYSICAL
32.		PHYSICAL

OCTOBER 2008

1.	[redacted]	MENTAL
2.		PHYSICAL
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		MENTAL
7.		MENTAL
8.		PHYSICAL
9.		PHYSICAL
10		PHYSICAL
11		PHYSICAL
12		PHYSICAL, AOD 11/27/07
13		PHYSICAL
14		PHYSICAL, AOD 04/08/08
15		PHYSICAL
16		PHYSICAL
17		PHYSICAL
18		PHYSICAL
19		PHYSICAL
20		MENTAL
21		MENTAL
22		PHYSICAL

23. [redacted] PHYSICAL

24. [redacted] PHYSICAL

D.B. AUGUST 2008
DUE ASUGUST 15, 2008

1. [redacted] PHYSICAL – I THINK WE HAVE
2. PHYSICAL
3. PHYSICAL, AOD 12/01/06
4. PHYSICAL
5. PHYSICAL, AOD 10/19/07
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL, AOD 12/11/07
12. PHYSICAL
13. PHYSICAL, AOD 02/08/07
14. PHYSICAL
15. PHYSICAL
16. MENTAL, AOD 02/26/08 – TAKE OFF LIST UNTIL I GET WITHDRAW FROM AC
17. [redacted] PHYSICAL, AOD 02/19/08
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL

21. [redacted] PHYSICAL
22. PHYSICAL
23. MENTAL, AOD 06/26/07
24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL, AOD 03/26/08
28. PHYSICAL
29. PHYSICAL, AOD 02/14/08
30. PHYSICAL
31. PHYSICAL
32. MENTAL
33. PHYSICAL
34. PHYSICAL
35. PHYSICAL, DATE LAST INSURED 12/2002 – CHECK FILE ON THIS MAKE SURE THAT YOU DO DLI STATEMENT IN REPORT
36. [redacted] PHYSICAL
37. PHYSICAL
38. PHYSICAL, AOD 12/17/07
39. PHYSICAL, AOD 01/01/05 SHE WILL NEED TO SIGN SPECIAL AOD LOSING WIDOWS BENEFITS
40. [redacted] PHYSICAL
41. PHYSICAL

42. [redacted] PHYSICAL
43. PHYSICAL
44. PHYSICAL, AOD 12/04/07
45. PHYSICAL
46. PHYSICAL, AOD 06/31/06

July D.B. LIST

DUE JULY 15, 2008

1. [redacted] [redacted] PHYSICAL – I THINK WE ALREADY HAVE MENTAL – WILL BE OK

2. [redacted] PHYSICAL
3. [redacted] PHYSICAL
4. [redacted] PHYSICAL
5. [redacted] MENTAL, AOD 05/04/05
6. [redacted] MENTAL, AOD 09/29/07
7. [redacted] PHYSICAL,AOD 6/22/06
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] PHYSICAL
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL, AOD 09/18/07
13. [redacted] PHYSICAL
14. [redacted] PHYSICAL
15. [redacted] PHYSICAL
16. [redacted] MENTAL
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL
19. [redacted] PHYSICAL
20. [redacted] PHYSICAL
21. [redacted] MENTAL

22.	[redacted]	MENTAL
23.		PHYSICAL
24.		PHYSICAL
25.		PHYSICAL, AOD 10/08/03
26.		PHYSICAL, AOD10/25/07
27.		PHYSICAL, AOD 06/07/06
28.		PHYSICAL, AOD 11/01/07
29.		PHYSICAL, AOD 01/03/07
30.		PHYSICAL, AOD 10/29/07
31.		PHYSICAL
32.		MENTAL, AOD 04/12/07
33.		PHYSICAL
34.		MENTAL, AOD 09/19/06
35.		PHYSICAL, AOD 03/10/06
36.		PHYSICAL, AOD 03/22/07
37.		PHYSICAL
38.		PHYSICAL
39.		PHSYICAL, AOD 06/29/07
40.		PHYSICAL
41.		PHYSICAL
42.		PHYSICAL
43.		PHYSICAL
44.		PHYSICAL

45. [redacted]

D.B. JUNE 2008

DUE

1.	[redacted]	PHYSICAL
2.		PHYSICAL, AOD 01/13/07
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL, AOD 12/16/06
8.		PHYSICAL
9.		MENTAL
10		EITHER – CHECK FILE
11		PHYSICAL
12		MENTAL
13		PHYSICAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL
17		MENTAL
18		PHYSICAL
19		PHYSICAL
20		MENTAL

21. [redacted] PHYSICAL AOD 07-16-05
22. PHYSICAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
27. WHATEVER ERIC WANTS TO DO – CHECK FILE
28. [redacted] MENTAL, AOD, 06/27/07
29. MENTAL,AOD 12/10/07
30. PHYSICAL
31. PHYSICAL
32. MENTAL
33. PHYSICAL
34. PHYSICAL
35. MENTAL
36. MENTAL, AOD 05/31/07
37. PHYSICAL
38. PHYSICAL
39. PHYSICAL
40. PHYSICAL
41. PHYSICAL

42. [redacted] MENTAL

43. PHYSICAL

44. NONE

D.B. MAY 2008
DUE MAY 15, 2008

1.	[redacted]	EITHER
2.		PHYSICAL, AOD 10/25/06
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL
8.		PHYSICAL, AOD 08-11-07
9.		PHYSICAL
10		PHYSICAL
11		PHYSICAL, AOD 02/15/07
12		PHYSICAL
13		MENTAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL
17		PHYSICAL,AOD 06/25/07
18		PHYSICAL
19		PHYSICAL
20		PHYSICAL
21		PHYSICAL, AOD 50TH BIRTHDAY

[redacted] – paper file

22. [redacted] PHYSICAL, AOD 01/09/07
23. PHYSICAL
24. PHYSICAL GO BACK 12/15/06
FOR REOPENING

25. [redacted] MENTAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. MENTAL 04/18/07
31. PHYSICAL
32. MENTAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL, HAVE REPORT GO
BACK TO 1998.

NEED MEDICAL BARCODES FOR THE FOLLOWING:

1. [redacted]
2. [redacted]
3. [redacted]
4. [redacted]
5. [redacted]
6. [redacted]
7. [redacted]
8. [redacted]
9. [redacted]
10. [redacted]
11. [redacted]
12. [redacted]
13. [redacted]
14. [redacted]
15. [redacted]
16. [redacted]
17. [redacted]
18. [redacted]
19. [redacted]
20. [redacted]
21. [redacted]
22. [redacted]
23. [redacted]
24. [redacted]
25. [redacted]

D.B. APRIL 2008
DUE 04/15/08

1. [redacted] MENTAL
2. PHYSICAL, AOD 03/29/07
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL GO BACK TO 09/19/05 AND AMEND ONSET DATE TO 09/15/05
9. [redacted] PHYSICAL, AOD 04/27/07
10. PHYSICAL
11. MENTAL
12. PHYSICAL, AOD 10/22/07
13. MENTAL, AOD 06/17/07
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL, AOD 03/30/06
17. PHYSICAL
18. MENTAL
19. AOD 03/22/06 WHATEVER ERIC WANTS
20. [redacted] NOTHING

21. [redacted] PHYSICAL
22. PHYSICAL, AOD 12/12/06
23. MENTAL, REOPENING GO BACK 07/15/05
24. [redacted] PHYSICAL
25. MENTAL, AOD 08-28-07
26. PHYSICAL, AOD 06/30/07
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL, REOPEN HAVE REPORT GO BACK TO 12/27/06

D.B. MARCH 2008
DUE ON 03/15/08

1. [redacted] PHYSICAL
2. PHYSICAL
3. PHYSICAL, AOD 09/01/05
4. MENTAL, AOD 07/27/07
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. REOPENING!! – MENTAL

- HAVE REPORT GO BACK TO 08/20/05 – OSENT DATE. CHECK FILE

15. [redacted] PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL,AOD 11/17/06
21. PHYSICAL
22. PHYSICAL

23.	[redacted]	PHYSICAL
24.		PHYSICAL
25.		PHYSICAL
26.		PHYSICAL
27.		PHYSICAL
28.		PHYSICAL
29.		PHYSICAL
30.		PHYSICAL
31.		PHYSICAL, AOD 10/18/06
32.		PHYSICAL
33.		PHYSICAL
34.		PHYSICAL
35.		MENTAL, AOD 07/20/06
36.		PHYSICAL, AOD 08/21/06

D.B. FEBRUARY 2008
DUE FEB 15, 2008

1.	[redacted]	PHYSICAL
2.		MENTAL
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL
8.		PHYSICAL, AOD 05/04/06
9.		MENTAL, AOD 01/05/07
10.		MENTAL, AOD 10/24/06
11.		PHYSICAL
12.		PHYSICAL, AOD 06/28/07
13.		PHYSICAL
14.		PHYSICAL
15.		PHYSICAL
16.		PHYSICAL, AOD 01/30/07
17.		PHYSICAL, AOD 03/21/07
18.		PHYSICAL, AOD 02/12/07
19.		PHYSICAL
20.		CHILD, WHATEVER ERIC WANTS

21. [redacted] CHILD, WHATEVER ERIC WANTS – SHE HAS VISION PROBLEMS!!!

22. [redacted] PHYSICAL

23. [redacted] PHYSICAL, HAVE REPORT GO BACK TO ONSET DATE – SAME AS THIS DATE ([redacted] KNOWS THE LANGUAGE TO USE) 05/15/02 – CHECK ONSET

24. [redacted] PHYSICAL. AOD 06/01/06

25. PHYSICAL

26. CHILD, WHATEVER ERIC WANTS

27. [redacted] PHYSICAL, DO ADDENDUM TO HAVE GO BACK TO 02/15/04!!! – PAPER FILE, NO BARCODE NEEDED

28. [redacted] EITHER, CHECK FILE FOR MORE MENTAL OR PHYSICAL

29. [redacted] MENTAL

30. [redacted] PHYSICAL

31. PHYSICAL, HAVE REPORT GO BACK TO 05/21/04

32. [redacted] MENTAL

33. MENTAL

D.B. JANUARY 2008
DUE JANUARY 10, 2008

1. [redacted] PHYSICAL, AOD 08/11/06
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. AOD 08/22/06, PHYSICAL

ALREADY HAVE?

9. [redacted] PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL
21. PHYSICAL

22. [redacted] PHYSICAL
23. MENTAL
24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. WHATEVER ERIC WANTS – CHILDS CASE
32. [redacted] PHYSICAL
33 PHYSICAL
34. PHYSICAL. REOPENING, HAVE REPORT GO BACK TO 08-15-03
35. [redacted] EITHER – CHECK FILE
36. PHYSICAL
37. PHYSICAL
38. PHYSICAL
39. PHYSICAL
40. PHYSICAL, AOD 03-22-07

D.B. – DECEMBER 2007
DUE DECEMBER 14, 2007

1. [redacted] PHYSICAL - REOPENING–
TAKE REPORT BACK TO 09-18-01

2. [redacted] MENTAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL AOD 04/27/05
7. EITHER AOD, 09/14/05
8. EITHER
9. MENTAL, AOD 04/04/2007
10. PHYSICAL
11. MENTAL
12. PHYSICAL
13. MENTAL, AOD 03/09/07
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. MENTAL
18. PHYSICAL
19. MENTAL
20. PHYSICAL
21. PHYSICAL

22. [redacted] EITHER, AOD 12/12/06
23. PHYSICAL
24. EITHER, AOD 11/24/06
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL, AOD 12/05/04
28. MENTAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL, AOD 02-07-07
- APP DATE
33. [redacted] PHYSICAL
34. MENTAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. WHATEVER ERIC
WANTS, AOD 07/20/06
39. [redacted] PHYSICAL, AOD 08/16/06
40. PHYSICAL
41. PHYSICAL
42. PHYSICAL, AOD 04/26/06

D.B. NOVEMBER 2007
DUE 11/15/07

[redacted] PHYSICAL – THIS WILL BE JUDGE QUINLIVAN'S CASE – TAKE OFF

1. [redacted] PHYSICAL, AOD 08/25/06
2. PHYSICAL, AOD 10/25/06
3. PHYSICAL
4. MENTAL, AOD 03/31/07
5. MUST DISMISS FEDERAL CASE!!!!!! – [redacted] WILL DO!!! DO EITHER AND HAVE REPORT REOPEN – HAVE REPORT GO BACK TO 09-22-04
6. [redacted] PHYSICAL
7. PHYSICAL
8. PHYSICAL, AOD 05/20/06
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. EITHER, AOD 08/24/05
13. WHATEVER ERIC WANTS TO DO ON THIS
14. [redacted] PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. WHATEVER ERIC WANTS TO DO ON THIS
18. [redacted] PHYSICAL

19. [redacted] PHYSICAL
20. PHYSICAL
21. PHYSICAL
22. EITHER – HAVE REPORT GO BACK TO 07/31/04
23. MENTAL
24. PHYSICAL
25. AOD 11/30/06, PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. MENTAL
30. PHYSICAL
31. PHYSICAL
32. EITHER
33. PHYSICAL
34. EITHER
35. MENTAL
36. - JUST GET EVIDENCE REGARDING TECH RFH – SHOWING THAT HE SOLD VEHICLE
37. [redacted] PHYSICAL – AOD TO 01/12/07
38. [redacted] MENTAL - she is coming to the office this week. She is not a client yet
39 [redacted] PHYSICAL

40 [redacted] PHYSICAL

D.B.DUE OCTOBER 1, 2007

D.B. OCTOBER 2007

1. [redacted] PHYSICAL, AOD 02/04/05
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL, AOD 08/11/06
5. PHYSICAL
6. WHATEVER ERIC WANTS
7. WHATEVER ERIC WANTS
8. EITHER
9. PHYSICAL, AOD 07/25/04 – SHE MUST SIGN THE SPECIAL AOD FORM STATING THAT SHE REALIZES THAT SHE WILL NOT RECEIVE SSD
10. [redacted] PHYSICAL, AOD 11/22/06
11. PHYSICAL
12. REOPENING – GET PHYSICAL TAKE BACK TO 11/01/2002
13. [redacted] SEND PROOF THAT SHE NO LOGER HAS RESOURCE
14. [redacted] PHYSICAL
15. EITHER
16. PHYSICAL
17. EITHER, AOD 10/23/06
18. PHYSICAL
19. PHYSICAL

20.	[redacted]	MENTAL, AOD 05/31/06
21.		PHYSICAL
22.		MENTAL
23.		PHYSICAL
24.		PHYSICAL
25.		PHYSICAL
26.		EITHER
27.		MENTAL
28.		MENTAL
29.		EITHER, AOD 10/31/05
30.		MENTAL
31.		PHYSICAL, AOD 02/07/06
32.		PHYSICAL
33.		EITHER
34.		PHYSICAL, AOD 10/31/05
35.		PHYSICAL
36.		PHYSICAL
37.		PHYSICAL
38.		EITHER

JENNIFER GRIFFITH

1. [redacted] SPOKE WITH HER ABOUT WHY OUR CLIENT WERE LISTED ON THE DOCKET AS DWPC, PRE OR ETC... AND THEN LATER CHANGED TO SOMETHING OPPISITE. JENNIFER TOLD HER THAT SHE JUST CHANGES THE STATUS SOMETIMES JUST TO GET THE CLIENTS OUT OF MDKT WHETHER OR NOT THEY HAVE BEEN WORKED UP OR NOT.

2. RE: [redacted]

D.B. SEPTEMEBER
DUE SEPTEMBER 4, 2007

1.	[redacted]	PHYSICAL, AOD 09/29/06
2.		MENTAL
3.		PHYSICAL
4.		PHYSICAL
5.		MENTAL
6.		MENTAL
7.		PHYSICAL, AOD 08/03/06
8.		MENTAL
9.		PHYSICAL
10		MENTAL
11		PHYSICAL, AOD11/06/06
12		BOTH
13		PHYSICAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL AOD 01/06/05
17		PHYSICAL
18		PHYSICAL, AOD 11/30/06
19		PHYSICAL
20		PHYSICAL
21		PHYSICAL

22. [redacted] PHYSICAL
23. BOTH
24. PHYSICAL
25. PHYSICAL AOD 01/20/07
26. ASK WHATEVER ERIC WANTS TO SEND HER TO
27. [redacted] PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL, AOD 03/28/07
33. PHYSICAL
34. PHYSICAL
35. PHYSICAL, AOD 06/15/06
36. PHYSICAL, AOD 07/09/04
37. PHYSICAL
38. BOTH
39. PHYSICAL
40. BOTH, AOD 07/14/06
41. PHYSICAL
42. BOTH, AOD 05/12/05
43. BOTH
44. PHYSICAL

45.	[redacted]	PHYSICAL
46.		PHYSICAL
47.		PHYSICAL
48.		PHYSICAL, AOD 03/25/06
49.		PHYSICAL,AOD 01/20/06
50.		MENTAL
51.		PHYSICAL
52.		PHYSICAL

D.B. AUGUST 2007

DUE AUGUST 1, 2007

1. [redacted] PHYSICAL
2. [redacted] PHYSICAL, AOD 06/20/06
3. [redacted] PHYSICAL
4. [redacted] MENTAL
5. [redacted] PHYSICAL
6. [redacted] PHSYICAL
7. [redacted] PHYSICAL
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL, AOD 10/31/06
11. [redacted] MENTAL, AOD 11/30/06
12. [redacted] MENTAL, AOD 02/28/06
13. [redacted] PHYSICAL – FILE ERASED FROM DAYTIMER!!!! - FIX
14. [redacted] PHYSICAL, AOD 10/25/06 – TAKEN OFF THE LIST BECAUSE HE STILL HAS AN APPEALS COUNCIL CLAIM PENDING
15. [redacted] PHYSICAL, AOD 09/29/06
16. [redacted] PHYSICAL
17. [redacted] PHYSICAL AOD 05/22/06
18. [redacted] PHYSICAL AOD 12/12/06 – TAKEN OFF THE LIST BECAUSE SHE STILL HAS APPEALS COUNCIL CLAIM PENDING

19. [redacted] MENTAL AOD 03/03/05
BE CAREFUL WE HAVE 2 [redacted]

20. [redacted] MENTAL

21. [redacted] MENTAL, AOD 07/20/06 –
DISMISS THE DAC CLAIM - DO SPECIAL AMENDED ONSET DATE FORM – I WILL HELP

22. [redacted] PHYSICAL

23. PHYSICAL

24. PHYSICAL

25. PHYSICAL

26. PHYSICAL

27. PHYSICAL, AOD 12/27/06

28. PHYSICAL, AOD 05/27/05

29. PHYSICAL, AOD 10/16/03

30. PHYSICAL, AOD 07/26/05

31. DO WHATEVER ERIC WANTS

32. MENTAL

33. PHYSICAL

34. MENTAL

35. PHYSICAL

36. PHYSICAL

37. PHYSICAL

38. BOTH – TAKEN OFF THE LIST
BECAUSE HE HAS DECIDED TO STAY WITH [redacted] WE PROBABLY NEED TO FILE A FEE PETITION. I WILL SEND [redacted] A NOTE ON THIS.

39. [redacted] MENTAL

40. PHYSICAL

41. MENTAL, GO BACK 11/15/04
REOPENING

42. [redacted] MENTAL, AOD APP DATE
11/17/06

43. [redacted] PHYSICAL

44. PHYSICAL

45. BOTH, AOD 01/29/05

46. BOTH

JULY 2007 LIST

DUE JULY 6, 2007

1. [redacted] PHYSICAL
2. BOTH
3. MENTAL, AOD 08/28/06
4. MENTAL, AOD 09/29/06
5. BOTH,AOD 04/19/06
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. MENTAL
10. BOTH
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. MENTAL, AOD 05/23/06
16. PHYSICAL, AOD 05/06/06
17. PHYSICAL GO BACKTO 01/15/03
18. [redacted] PHYSICAL
19. PHYSICAL, AOD 04/24/04
20. PHYSICAL

21.	[redacted]	MENTAL
22.		MENTAL, AOD 01/08/07
23.		PHYSICAL
24.		MENTAL, AOD 05/11/06
25.		PHYSICAL, AOD 09/29/06
26.		PHYSICAL
27.		PHYSICAL
28.		PHYSICAL
29.		PHYSICAL
30.		PHYSICAL
31.		PHYSICAL
32.		PHYSICAL
33.		BOTH
34.		PHYSICAL
35.		PHYSICAL
36.		PHYSICAL
37.		BOTH
38.		MENTAL, AOD 01/08/05
39.		PHYSICAL, AOD 11/30/06

JUNE 2007
DUE BY JUNE 4, 2007

1. [redacted] PHYSICAL AOD10/13/05
2. BOTH
3. NOTHING
4. NOTHING
5. PHYSICAL
6. PHYSICAL, REOPENING

HAVE REPORT GO BACK TO 06/01/00 –

7. [redacted] BOTH AOD 01/01/05
8. [redacted] PHYSICAL AOD 12/01/04–

HAVE REPORT GO BACK TO 12/01/04

9. [redacted] EITHER
10. PHYSICAL, AOD 12/30/05
11. MENTAL
12. EITHER
13. MENTAL AOD 08/21/06
14. EITHER AOD 04/28/06
15. PHYSICAL
16. PHYSICAL
17. MENTAL
18. PHYSICAL
19. PHYSICAL
20. WHAT ERIC WANTS TO DO (CHILD)

21. [redacted] EITHER
22. EITHER
23. PHYSICAL
24. BOTH
25. BOTH
26. BOTH
27. PHYSICAL
28. NOTHING, AOD

01/01/2003

29. [redacted] PHYSICAL
30. PHYSICAL
31. BOTH, AOD 01/22/05
32. MENTAL, AOD 02/22/06
33. PHYSICAL, AOD 11/06/06
34. BOTH, AOD 07/14/06
35. MENTAL, AOD 12/04/03
36. PHYSICAL
37. MENTAL
38. MENTAL
39. PHYSICAL
40. PHYSICAL AOD 12/09/05
41. PHYSICAL
42. PHYSICAL, AOD 07/20/05

43. [redacted] MENTAL, AOD 08/25/05
44. MENTAL
45. PHYSICAL, AOD 04/06/05
46. MENTAL
47. MENTAL TAKE BACK TO 01/28/05 (THIS IS AN AC REMAND)
48. [redacted] PHYSICAL
49. PHYSICAL
50. PHYSICAL

D.B. JUNE OTR'S DUE ON 06/16/06

1. [redacted] EITHER

2. [redacted] BOTH, AMEND THE ONSET DATE TO 09/21/04 – THIS IS THE DATE OF HIS PREVIOS APPLICATION, HE WILL NOT GO BACK ANY FURTHER.

3. [redacted] EITHER

4. [redacted] PHYSICAL

5. [redacted] MENTAL, AMEND THE ONSET DATE TO 09/17/03 AND HAVE THE REPORT GO BACK TO THAT DATE

6. [redacted] MENTAL, AMEND THE ONSET DATE TO 07/28/05 – THIS IS ONE DAY AFTER LAST UNFAVORABLE DECISION. THERE IS STILL A FEDERAL CLAIM PENDING.

7. [redacted] EITHER, AMEND ONSET DATE TO 08/31/05

8. [redacted] PHYSICAL, AMEND ONSET DATE TO 50TH BIRTHDAY

9. [redacted] EITHER, AND AMEND THE ONSET DATE TO 10/28/04

10. [redacted] EITHER

11. [redacted] NONE

12. [redacted] PHYSICAL, AMEND THE ONSET DATE TO 07/30/04

13. [redacted] EITHER

14. [redacted] MENTAL

D.B. MAY 2007 – NO MORE MEDICALS!!!!

DUE MAY 1, 2007

1.	[redacted]	PHYSICAL	
2.			NONE
3.		PHYSICAL	AOD TO 11/02/2005
4.		PHYSICAL	
5.		PHYSICAL	
6.		MENTAL	
7.		PHYSICAL	AOD 01/19/06
8.		MENTAL	AOD 08-25-06
9.		PHYSICAL	
10		PHYSICAL	AOD 07/21/06
11		PHYSICAL	
12		PHYSICAL	AOD 06/30/06 – SPECIAL AOD FORM BECAUSE SHE WILL LOSE HER SSD
13.	[redacted]	MENTAL	
14.		PHYSICAL	
15.		PHYSICAL	
16.		MENTAL	
17.		PHYSICAL	
18.		PHYSICAL	
19.		NONE	
20.		PHYSICAL	

21.	[redacted]	PHYSICAL
22.		PHYSICAL
23.		PHYSICAL AOD 06/15/06
24.		NONE
25.		NONE
26.		MENTAL
27.		MENTAL
28.		PHYSICAL
29.		MENTAL
30.		PHYSICAL AOD 05/27/05
31.		MENTAL
32.		PHYSICAL
33.		PHYSICAL
34.		PHYSICAL AOD 03/28/06
35.		PHYSICAL
36.		PHYSICAL AOD 07/21/06
37.		PHYSICAL
38.		PHYSICAL
39.		PHYSICAL
40.		MENTAL AOD 04/28/06
41.		MENTAL AOD 08/21/06
42.		PHYSICAL
43.		PHYSICAL

44. [redacted] MENTAL
45. MENTAL AOD 09-26-06
46. BOTH

D.B. MAY 2007 – NO MORE MEDICALS!!!!

DUE MAY 1, 2007

1. [redacted] PHYSICAL
2. NONE
3. PHYSICAL AOD TO 11/02/2005
4. PHYSICAL
5. PHYSICAL
6. MENTAL
7. PHYSICAL AOD 01/19/06
8. MENTAL AOD 08-25-06
9. PHYSICAL
10. PHYSICAL AOD 07/21/06
11. PHYSICAL
12. PHYSICAL AOD 06/30/06 – SPECIAL AOD FORM BECAUSE SHE WILL LOSE HER SSD
13. [redacted] MENTAL
14. PHYSICAL
15. PHYSICAL AOD 01/10/04
16. MENTAL
17. PHYSICAL
18. PHYSICAL
19. NONE
20. PHYSICAL

21.	[redacted]	PHYSICAL
22.		PHYSICAL
23.		PHYSICAL AOD 06/15/06
24.		NONE
25.		NONE
26.		MENTAL
27.		MENTAL
28.		PHYSICAL
29.		MENTAL
30.		PHYSICAL AOD 05/27/05
31.		MENTAL
32.		PHYSICAL
33.		PHYSICAL
34.		PHYSICAL AOD 03/28/06
35.		PHYSICAL
36.		PHYSICAL AOD 07/21/06
37.		PHYSICAL
38.		PHYSICAL
39.		PHYSICAL
40.		MENTAL AOD 04/28/06
41.		MENTAL AOD 08/21/06
42.		PHYSICAL AOD 09/04/04
43.		PHYSICAL

44.	[redacted]	MENTAL	
45.		MENTAL	AOD 09-26-06
46.		BOTH	

D.B. APRIL 2007
DUE ON MARCH 28, 2007

1. [redacted] PHYSICAL
2. PHYSICAL
3. AOD TO 09/24/05 – MENTAL
4. AOD TO 07/14/06 – PHYSICAL
5. PHYSICAL
6. AOD 05/17/06 PHYSICAL
7. MENTAL
8. PHYSICAL
9. MENTAL
10. WHATEVER ERIC WANTS TO DO – CHILD
11. [redacted] [redacted] AOD 09/04/04 – THIS WILL STILL REOPEN – PHYSICAL
12. [redacted] MENTAL
13. PHYSICAL
14. AOD 03/31/06 - MENTAL
15. PHYSICAL
16. BOTH
17. AOD 03-05-04 PHYSICAL
18. AOD 03/28/06 – MENTAL
19. CHILD – DO WHATEVER ERIC WANTS TO
20. [redacted] MENTAL

21. [redacted] AOD 09-07-06 - PHYSICAL
22. PHYSICAL
23. AOD 09/02/04 – EITHER
24. PHYSICAL
25. PHYSICAL
26. MENTAL AOD 04/28/06
27. PHYSICAL
28. PHYSICAL-REOPENING – HAVE REPORT GO BACK TO 01-15-04 – ORIGINAL ONSET – PLEASE CHECK FILE FOR ONSET AND ALSO MAKE SURE THAT THIS WAS A DISMISSAL
29. [redacted] PHYSICAL
30. PHYSICAL
31. PHYSICAL AOD 02-16-06
32. PHYSICAL AOD 09-08-04
33. PHYSICAL
34. MENTAL AOD 04/06/06
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. PHYSICAL AOD 08/01/04
39. PHYSICAL
40. PHYSICAL – 12/01/03HAVE REPORT GO BACK TO ONSET DATE - CHECK FILE FOR CORRECT ONSET.
41. [redacted] MENTAL

42. [redacted] PHYSICAL
43. PHYSICAL
44. PHYSICAL
45. MENTAL

AOD 03-11-06 – DATE OF NEW APP

46. [redacted] PHYSICAL
47. MENTAL
48. NONE, AOD 06/14/05

D.B. MAY 2007 – NO MORE MEDICALS!!!!

DUE MAY 1, 2007

1. [redacted] PHYSICAL
2. [redacted] NONE
3. [redacted] PHYSICAL AOD TO 11/02/2005
4. [redacted] PHYSICAL
5. [redacted] PHYSICAL
6. [redacted] MENTAL
7. [redacted] PHYSICAL AOD 01/19/06
8. [redacted] MENTAL AOD 08-25-06
9. [redacted] PHYSICAL
10. [redacted] PHYSICAL AOD 07/21/06
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL AOD 06/30/06 – SPECIAL AOD FORM BECAUSE SHE WILL LOSE HER SSD
13. [redacted] MENTAL
14. [redacted] PHYSICAL
15. [redacted] PHYSICAL AOD 01/10/04
16. [redacted] MENTAL
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL
19. [redacted] NONE
20. [redacted] PHYSICAL

21.	[redacted]	PHYSICAL
22.		PHYSICAL
23.		PHYSICAL AOD 06/15/06
24.		NONE
25.		NONE
26.		MENTAL
27.		MENTAL
28.		PHYSICAL
29.		MENTAL
30.		PHYSICAL AOD 05/27/05
31.		MENTAL
32.		PHYSICAL
33.		PHYSICAL
34.		PHYSICAL AOD 03/28/06
35.		PHYSICAL
36.		PHYSICAL AOD 07/21/06
37.		PHYSICAL
38.		PHYSICAL
39.		PHYSICAL
40.		MENTAL AOD 04/28/06
41.		MENTAL AOD 08/21/06
42.		PHYSICAL AOD 09/04/04
43.		PHYSICAL

44.	[redacted]	MENTAL	
45.		MENTAL	AOD 09-26-06
46.		BOTH	

D.B. MARCH 2007 LIST
DUE MARCH 7, 2007

1. [redacted] BOTH
2. PHYSICAL
3. PHYSICAL
4. AOD 07/17/05 1 DAY AFTER LAST UNFAVORABLE – CHECK APPEALS COUNCIL
5. [redacted] PHYSICAL
6. PHYSICAL – GO BACK TO 05/29/04 FOR REOPENING
7. [redacted] PHYSICAL
8. NONE
9. PHYSICAL
10. PHYSICAL GO BACK TO 04/19/04 FOR A REOPENING
11. [redacted] PHYSICAL AOD 04/01/06 1 DAY AFTER BOG
12. [redacted] PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL

20. [redacted] PHYSICAL
21. PHYSICAL
22. PHYSICAL
23. [redacted] PHYSICAL – GO BACK TO MAY 10, 2004 FOR A REOPENING
24. [redacted] PHYSICAL – AOD TO 07/03/06 – DATE OF SSI APP
25. [redacted] MENTAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. MENTAL AND AOD 07/22/05 1 DAY AFTER BOG DECISION
30. [redacted] MENTAL
31. PHYSICAL AOD TO ALMOST 50TH BIRTHDAY [redacted] 6 MONTHS BEFORE)
32. [redacted] PHYSICAL
33. MENTAL
34. BOTH
35. NONE
36. PHYSICAL AOD TO 04-28-06
37. MENTAL AOD TO 07/08/05
38. PHYSICAL
39. PHYSICAL
40. MENTAL AOD TO 07-06-05

41. [redacted] MENTAL

42. [redacted] PHYSICAL

43. [redacted] MENTAL, AOD 01/25/06 – 1 DAY AFTER BOG DECISION.

44. [redacted] PHYSICAL, HAVE REPORT GO BACK TO 09/18/03 FOR A REOPENING

45. [redacted] NEED A GOOD PHYSICAL REPORT!!! – BE SURE TO MENTION DISABLED FOR YEAR ONLY

44. [redacted] [redacted] MENTAL

D.B. NOVEMBER DUE BY 11/03/06

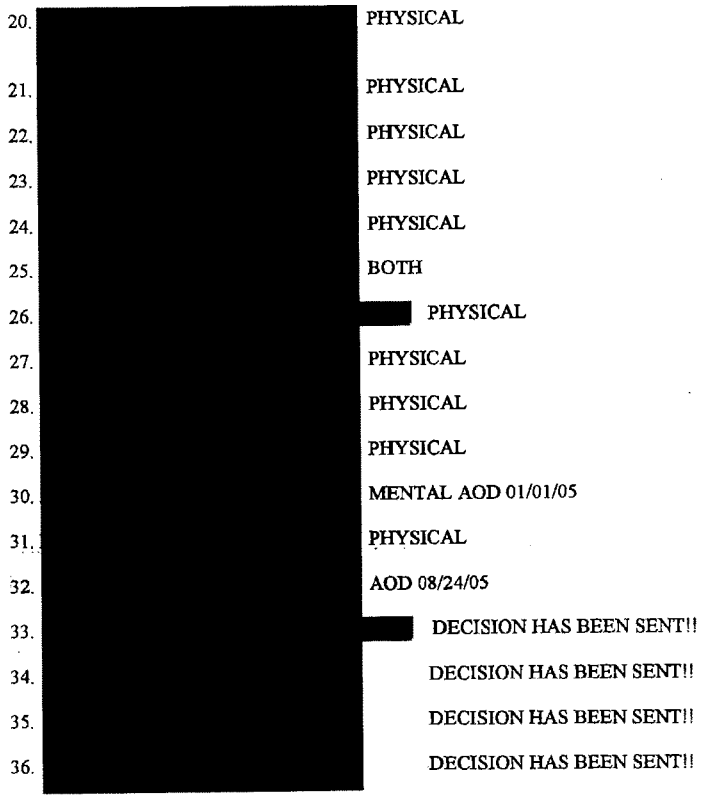
1. [redacted] MENTAL
2. EITHER
3. MENTAL
4. NONE, AOD TO 10/31/05
5. BOTH
6. NONE
7. BOTH,AOD 07/27/05
8. PHYSICAL
9. BOTH
10. PHYSICAL
11. EITHER, AOD 04/23/05
12. NONE
13. NONE
14. NONE
15. NONE
16. NONE
17. NONE, AOD TO 12/15/04 BY WIFE
18. [redacted] NONE
19. NONE
20. NONE
21. NONE

22.	[redacted]	NONE
23.		NONE
24.		NONE
25.		NONE
26.		NONE
27.		NONE
28.		NONE
29.		NONE
30.		NONE
31.		PHYSICAL
32.		NONE
33.		NONE
34.		NONE
35.		NONE
36.		NONE
37.		NONE
38.		NONE
39.		NONE
40.		NONE (REOPENING!)
41.		MENTAL

FEBRUARY D.B. 2007

DUE DATE 02/15/07

1. [redacted] NEEDS BOTH – HAVE REPORTS GO BACK TO ORIGINAL ONSET FOR A REOPENING 03/25/02
2. [redacted] AOD TO 01/30/04 – NEED BOTH
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. MENTAL
8. PHYSICAL
9. WHATEVER ERIC WANTS & AOD 1 DAY AFTER UNFAVORABLE – LOOK AT FILE
10. [redacted] MENTAL
11. BOTH
12. PHYSICAL
13. BOTH AOD 03/28/06
14. PHYSICAL
15. PHYSICAL AOD 11/18/05
16. PHYSICAL
17. AOD 03/23/06 PHYSICAL BY THURSDAY OR FRIDAY!!!
18. [redacted] PHYSICAL
19. PHYSICAL


20.
PHYSICAL
21.
PHYSICAL
22.
PHYSICAL
23.
PHYSICAL
24.
PHYSICAL
25.
BOTH
26.
PHYSICAL
27.
PHYSICAL
28.
PHYSICAL
29.
PHYSICAL
30.
MENTAL AOD 01/01/05
31.
PHYSICAL
32.
AOD 08/24/05
33.
DECISION HAS BEEN SENT!!
34.
DECISION HAS BEEN SENT!!
35.
DECISION HAS BEEN SENT!!
36.
DECISION HAS BEEN SENT!!

D.B. JANUARY
#1-20 DUE 01/10/07
21- 47
DUE ON 01/12/07

1. [redacted] PHYSICAL
2. WHATEVER ERIC WANTS
3. MENTAL – GO BACK TO 04/20/04 REOPENING -
4. [redacted] PHYSICAL AOD 03/22/06 –
5. MENTAL
6. EITHER
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. EITHER
11. PHYSICAL
12. MENTAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. AOD 06-23-05 PHYSICAL
17. AOD 05/27/05 – NOTHING
18. PHYSICAL, AOD TO DATE OF NEW APPLICATION.

19. [redacted] PHYSICAL
20. EITHER
21. EITHER
22. PHYSICAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
27. AOD 03/31/06, NONE
28. PHYSICAL
29. PHYSICAL
30. MENTAL
31. PHYSICAL
32. PHYSICAL
33. PHYSICAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. NONE
39. MENTAL – GO BACK TO ONSET IN FIRST CASE
40. [redacted] MENTAL AOD 04/11/06

41. [redacted] PHYSICAL GO BACK TO ONSET DATE

42. [redacted] PHYSICAL

43. MENTAL

44. MENTAL

45. PHYSICAL

46. PHYSICAL

47. PHYSICAL AOD 12/22/05

48. NONE

49. PHYSICAL

50. NONE- AOD, 08-16-05

51. NONE

52. PHYSICAL, HAVE REPORTS GO BACK TO ONSET DATE 12/01/02 FOR A REOPENING.

D.B. DECEMBER 2006

DUE OF 12/15/06

1. [redacted] PHYSICAL
2. MENTAL
3. PHYSICAL
4. MENTAL
5. NONE – AOD 07/01/04
6. PHYSICAL
7. [redacted] ???????????FEDERAL – FAXED DISMISSAL TO FEDERAL.
8. [redacted] PHYSICAL – GO BACK 03/2004 – REOPENING
10. [redacted] EITHER – AOD 07/27/04
11. MENTAL
12. PHYSICAL
13. PHYSICAL
14. NONE
15. PHYSICAL
16. NONE, NEED AOD TO 04-29-05
17. [redacted] NONE
18. NONE
19. NONE, NEED AOD TO 07/22/05
20. [redacted] NONE

21	[redacted]	NONE
21		NONE
22		NONE
23		NONE
24		NONE

D.B. OCTOBER LIST

1. [redacted] MENTAL

2. [redacted] BOTH, GO BACK TO 10/01/03 FOR REOPENING

3. [redacted] AOD 01/01/04 – BOTH, GO BACK TO 01/01/04

4. [redacted] NONE, ALREADY MENTAL

5. MENTAL

6. MENTAL

7. PHYSICAL

8. NONE, AOD TO CURRENT APP 08-17-05

9. [redacted] BOTH, REOPENING, HAVE REPORTS GO BACK TO 05-31-03

10. [redacted] PHYSICAL, AOD [redacted] 50TH BIRTHDAY

11. [redacted] PHYSICAL

12. [redacted] ASK ERIC – MENTAL? LISTING 11205 D 60-70 I.Q.

13. [redacted] NONE

14. MENTAL

15. MENTAL

16. MENTAL

17. EITHER

18. PHYSICAL

19. [redacted] PHYSICAL
20. NONE
21. PHYSICAL
22. MENTAL
23. NONE
24. NONE
25. MENTAL
26. MENTAL
27. MENTAL
28. PHYSICAL
29. NONE
30. PHYSICAL
31. MENTAL
32. PHYSICAL
33. NONE, AMEND
ONSET DATE TO 03/08/05
34 [redacted] MENTAL, AMEND
ONSET DATE TO 04-05-05
35. [redacted] NONE, AMEND
ONSET DATE TO 01/27/06
36. [redacted] PHYSICAL, HAVE
IT GO BACK TO 07/20/04 FOR A REOPENING
37. [redacted] NONE

SEPTEMBER OTR'S
THE REPORTS ARE DUE NO LATER THAN 09/18/06

1. [redacted] NONE, AMEND ONSET TO
2. PHYSICAL
3. BOTH
4. NONE
5. NONE, AMEND ONSET DATE,
6. PHYSICAL

****

7. [redacted] NONE
8. PHYSICAL
9. BOTH
10. MENTAL
11. MENTAL,

SEND WORK ACTIVITY WHEN WE SEND REPORT!

12. [redacted] PHYSICAL
13. PHYSICAL
14. MENTAL
15. PHYSICAL, AMEND ONSET DATE TO 08/31/04
16. [redacted] NONE
17. NONE
18. NONE
19. NONE

20.	[redacted]	NONE
21.	[redacted]	AMEND ONSET DATE TO 50TH BIRTHDAY [redacted] PHYSICAL
22.	[redacted]	PHYSICAL
23.	[redacted]	MENTAL
24.	[redacted]	NONE

AUGUST OTR'S - DUE BY AUGUST 9, 2006
2ND HALF DUE BY 17TH

#37 – BOBBY OUSLEY, WAS REPLACED WITH RICHARD JONES – WHO WAS TAKEN FROM THE SEPTEMBER SCHEDULE.

1. [redacted] – PHYSICAL
2. [redacted] – REOPENING – NEED A MENTAL AND GO BACK 02/07/04!!
3. [redacted] - PHYSICAL
4. [redacted] – EITHER AMEND ONSET DATE TO 08/22/04, 1 DAY AFTER PREVIOUS DENIAL,
5. [redacted] - PHYSICAL
6. [redacted] PHYSICAL
7. [redacted] MENTAL, AMEND TO 11/02/04
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL, AC REMAND
12. [redacted] PHYSICAL
13. [redacted] MENTAL
14. [redacted] NONE, needs AOD to 05/27/05
15. [redacted] PHYSICAL AMEND TO 08/31/04
16. [redacted] NONE
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL,AMEND ONSET TO 05/13/04 – ONE DAY AFTER PARIS DECISION
19. [redacted] PHYSICAL

20. [redacted] PHYSICAL
21. PHYSICAL
22. PHYSICAL
23. PHYSICAL, AMEND ONSET TO 09/10/04 1 DAY AFTER ANDRUS DECISION

24. [redacted] PHYSICAL
25. NONE
26. NONE
27. NONE
28. NONE, AMEND ONSET TO 06/08/04, DATE OF APPLICATION.

29. [redacted] NONE
30. NONE
31. NONE
32. NONE
33. NONE
34. NONE
35. PHYSICAL, REOPENING – HAVE REPORT GO BACK TO 02/13/01 – AMEND ONSET DATE TO 02/13/01~

36. [redacted] NONE
37. NONE
38. PHYSICAL
39. MENTAL AMEND TO 02/08/05
40. MENTAL

41 – 49 ADDED 08/17/06 – WE NEED TO HAVE AMENDED ONSET DATES BACK TO HIM ASAP !!!

41. [redacted] NONE, AOD 08/20/04
42. NONE, AOD 03/15/04
43. NONE
44. NONE
45. NONE
46. NONE, AOD TO 09/20/04
47. NONE
48. NONE, AOD 01/27/04
49. NONE

AUGUST OTR'S - DUE BY AUGUST 9, 2006
2ND HALF DUE BY 17TH

#37 - [redacted] WAS REPLACED WITH [redacted] - WHO WAS TAKEN FROM THE SEPTEMBER SCHEDULE.

1. [redacted] - PHYSICAL
2. [redacted] - REOPENING – NEED A MENTAL AND G
3. [redacted] PHYSICAL
4. [redacted] - EITHER AMEND ONSET DATE TO 08/22/04, 1 DAY AFTER PREVIOUS DENIAL,
5. [redacted] - PHYSICAL
6. [redacted] PHYSICAL
7. [redacted] MENTAL, AMEND TO 11/02/04
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL, AC REMAND
12. [redacted] PHYSICAL
13. [redacted] MENTAL
14. [redacted] NONE, needs AOD to 05/27/05
15. [redacted] PHYSICAL AMEND TO 08/31/04
16. [redacted] NONE
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL,AMEND ONSET TO 05/13/04 – ONE DAY AFTER PARIS DECISION
19. [redacted] PHYSICAL

20. [redacted] PHYSICAL

21. PHYSICAL

22. PHYSICAL

23. PHYSICAL, AMEND ONSET TO 09/10/04 1 DAY AFTER ANDRUS DECISION

24. [redacted] PHYSICAL

25. NONE

26. NONE

27. NONE

28. NONE, AMEND ONSET TO 06/08/04, DATE OF APPLICATION.

29. [redacted] NONE

30. NONE

31. NONE

32. NONE

33. NONE

34. NONE

35. PHYSICAL, REOPENING – HAVE REPORT GO BACK TO 02/13/01 – AMEND ONSET DATE TO 02/13/01~

36. [redacted] NONE

37. NONE

38. PHYSICAL

39. MENTAL AMEND TO 02/08/05

40. MENTAL

41 – 49 ADDED 08/17/06 – WE NEED TO HAVE AMENDED ONSET DATES BACK TO HIM ASAP !!!

41. [redacted] NONE, AOD 08/20/04
42. [redacted] NONE, AOD 03/15/04
43. [redacted] NONE
44. [redacted] NONE
45. [redacted] NONE
46. [redacted] NONE, AOD TO 09/20/04
47. [redacted] NONE
48. [redacted] NONE, AOD 01/27/04
49. [redacted] NONE

D.B. OTR'S FOR JULY 2006
DUE BY 07/19/06

1. [redacted] MENTAL – AMEND ONSET DATE TO 05/14/04
2. [redacted] PHYSICAL
3. [redacted] PHYSICAL - AMEND ONSET DATE TO 08/26/05
4. [redacted] MENTAL – THIS IS A REOPENING, HAVE REPORT GO BACK TO 12/31/98
5. [redacted] MENTAL
6. [redacted] MENTAL
7. [redacted] MENTAL
8. [redacted] MENTAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL – AMEND ONSET DAT E TO 07/26/05 – YOU WILL NEED FOR HIM TO SIGN THE AOD LETTING HIM KNOW HE IS GETTING SSI ONLY – BECAUSE HIS DATE LAST INSURED IS UP.
13. [redacted] PHYSICAL
14. [redacted] MENTAL

6 MORE ADDED 07/05/06 **********

15. [redacted] PHYSICAL
16. [redacted] MENTAL – AMEND ONSET TO 10/11/05
17. [redacted] MENTAL
18. [redacted] MENTAL

19. [redacted] [redacted] MENTAL

20. [redacted] NONE, AMEND ONSET DATE TO 10/22/04.

D.B. JULY QTR'S

1. [redacted] NONE, AOD 04/04/05

2. NONE, AOD TO 01/23/04

3. NONE, AOD 08/31/04

4. NONE, AOD 05/06/04

5. NONE, AOD 10/04/04

6. NONE, AOD 08/25/04

7. NONE

8. NONE

9. NONE

10. NONE

11. NONE

12. [redacted] NONE

13. NONE

14. NONE

15. NONE

16. NONE

17. NONE, AMEND ONSET DATE FOR GRID RULE – 6 MONTHS BEFORE 50TH BIRTHDAY [redacted]

18. [redacted] NONE

19. NONE

20. [redacted] [redacted] NONE

D.B. OTR'S FOR JULY 2006
DUE BY 07/19/06

1. [redacted] MENTAL – AMEND ONSET DATE TO 05/14/04
2. [redacted] PHYSICAL
3. [redacted] PHYSICAL - AMEND ONSET DATE TO 08/26/05
4. [redacted] MENTAL – THIS IS A REOPENING, HAVE REPORT GO BACK TO 12/31/98
5. [redacted] MENTAL
6. [redacted] MENTAL
7. [redacted] MENTAL
8. [redacted] MENTAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL – AMEND ONSET DAT E TO 07/26/05 – YOU WILL NEED FOR HIM TO SIGN THE AOD LETTING HIM KNOW HE IS GETTING SSI ONLY – BECAUSE HIS DATE LAST INSURED IS UP.
13. [redacted] PHYSICAL
14. [redacted] MENTAL

6 MORE ADDED 07/05/06 **********

15. [redacted] PHYSICAL
16. [redacted] MENTAL – AMEND ONSET TO 10/11/05
17. [redacted] MENTAL
18. [redacted] MENTAL

19. [redacted] [redacted] MENTAL

20. [redacted] [redacted] NONE, AMEND ONSET DATE TO 10/22/04.

D.B. JULY OTR'S

1. [redacted] [redacted] NONE, AOD 04/04/05

2. [redacted] NONE, AOD TO 01/23/04

3. [redacted] NONE, AOD 08/31/04

4. [redacted] NONE, AOD 05/06/04

5. [redacted] NONE, AOD 10/04/04

6. [redacted] NONE, AOD 08/25/04

7. [redacted] NONE

8. [redacted] NONE

9. [redacted] NONE

10 [redacted] NONE

11 [redacted] NONE

12 [redacted] NONE

13 [redacted] NONE

14 [redacted] NONE

15 [redacted] NONE

16 [redacted] NONE

17 [redacted] NONE, AMEND ONSET DATE FOR GRID RULE – 6 MONTHS BEFORE 50TH BIRTHDAY [redacted]

18. [redacted] [redacted] NONE

19. [redacted] NONE

20. [redacted] [redacted] NONE

AUGUST OTR'S - DUE BY AUGUST 9, 2006
2ND HALF DUE BY 17TH

37 - [redacted] WAS REPLACED WITH [redacted] WHO WAS TAKEN FROM THE SEPTEMBER SCHEDULE.

1. [redacted] – PHYSICAL
2. [redacted] REOPENING – NEED A MENTAL AND GO BACK 02/07/04!!
3. [redacted] - PHYSICAL
4. [redacted] – EITHER AMEND ONSET DATE TO 08/22/04, 1 DAY AFTER PREVIOUS DENIAL,
5. [redacted] - PHYSICAL
6. [redacted] PHYSICAL
7. [redacted] MENTAL, AMEND TO 11/02/04
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL, AC REMAND
12. [redacted] PHYSICAL
13. [redacted] MENTAL
14. [redacted] NONE, needs AOD to 05/27/05
15. [redacted] PHYSICAL AMEND TO 08/31/04
16. [redacted] NONE
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL,AMEND ONSET TO 05/13/04 – ONE DAY AFTER PARIS DECISION
19. [redacted] PHYSICAL

20. [redacted] PHYSICAL
21. PHYSICAL
22. PHYSICAL
23. PHYSICAL, AMEND ONSET TO 09/10/04
1 DAY AFTER ANDRUS DECISION

24. [redacted] PHYSICAL
25. NONE
26. NONE
27. NONE
28. NONE, AMEND ONSET TO 06/08/04,
DATE OF APPLICATION.

29. [redacted] NONE
30. NONE
31. NONE
32. NONE
33. NONE
34. NONE
35. PHYSICAL, REOPENING – HAVE
REPORT GO BACK TO 02/13/01 – AMEND ONSET DATE TO 02/13/01~

36. [redacted] NONE
37. NONE
38. PHYSICAL
39. MENTAL AMEND TO 02/08/05
40. MENTAL

41 – 49 ADDED 08/17/06 – WE NEED TO HAVE AMENDED ONSET DATES BACK TO HIM ASAP !!!

41. [redacted] NONE, AOD 08/20/04
42. [redacted] NONE, AOD 03/15/04
43. [redacted] NONE
44. [redacted] NONE
45. [redacted] NONE
46. [redacted] NONE, AOD TO 09/20/04
47. [redacted] NONE
48. [redacted] NONE, AOD 01/27/04
49. [redacted] NONE

D.B. NOVEMBER DUE BY 11/03/06

1. [redacted] MENTAL
2. EITHER
3. MENTAL
4. NONE, AOD TO 10/31/05
5. BOTH
6. NONE
7. BOTH,AOD 07/27/05
8. PHYSICAL
9. BOTH
10. PHYSICAL
11. EITHER, AOD 04/23/05
12. NONE
13. NONE
14. NONE
15. NONE
16. NONE
17. NONE, AOD TO 12/15/04 BY WIFE
18. [redacted] NONE
19. NONE
20. NONE
21. NONE

22.	[redacted]	NONE
23.		NONE
24.		NONE
25.		NONE
26.		NONE
27.		NONE
28.		NONE
29.		NONE
30.		NONE
31.		PHYSICAL
32.		NONE
33.		NONE
34.		NONE
35.		NONE
36.		NONE
37.		NONE
38.		NONE
39.		NONE
40.		NONE (REOPENING!)
41.		MENTAL

D.B. APRIL 2007
DUE ON MARCH 28, 2007

1. [redacted] PHYSICAL
2. [redacted] PHYSICAL
3. [redacted] AOD TO 09/24/05 – MENTAL
4. [redacted] AOD TO 07/14/06 – PHYSICAL
5. [redacted] PHYSICAL
6. [redacted] AOD 05/17/06 PHYSICAL
7. [redacted] MENTAL
8. [redacted] PHYSICAL
9. [redacted] MENTAL
10. [redacted] WHATEVER ERIC WANTS TO DO – CHILD
11. [redacted] AOD 09/04/04 – THIS WILL STILL REOPEN – PHYSICAL
12. [redacted] MENTAL
13. [redacted] PHYSICAL
14. [redacted] AOD 03/31/06 - MENTAL
15. [redacted] PHYSICAL
16. [redacted] BOTH
17. [redacted] AOD 03-05-04 PHYSICAL
18. [redacted] AOD 03/28/06 – MENTAL
19. [redacted] CHILD – DO WHATEVER ERIC WANTS TO
20. [redacted] MENTAL

21. [redacted] AOD 09-07-06 - PHYSICAL
22. [redacted] PHYSICAL
23. [redacted] AOD 09/02/04 – EITHER
24. [redacted] PHYSICAL
25. [redacted] PHYSICAL
26. [redacted] MENTAL AOD 04/28/06
27. [redacted] PHYSICAL
28. [redacted] PHYSICAL-REOPENING – HAVE REPORT GO BACK TO 01-15-04 – ORIGINAL ONSET – PLEASE CHECK FILE FOR ONSET AND ALSO MAKE SURE THAT THIS WAS A DISMISSAL
29. [redacted] PHYSICAL
30. [redacted] PHYSICAL
31. [redacted] PHYSICAL AOD 02-16-06
32. [redacted] PHYSICAL AOD 09-08-04
33. [redacted] PHYSICAL
34. [redacted] MENTAL AOD 04/06/06
35. [redacted] PHYSICAL
36. [redacted] PHYSICAL
37. [redacted] PHYSICAL
38. [redacted] PHYSICAL AOD 08/01/04
39. [redacted] PHYSICAL
40. [redacted] PHYSICAL – 12/01/03HAVE REPORT GO BACK TO ONSET DATE - CHECK FILE FOR CORRECT ONSET.
41. [redacted] [redacted] MENTAL

42. [redacted] PHYSICAL
43. [redacted] PHYSICAL
44. PHYSICAL
45. MENTAL

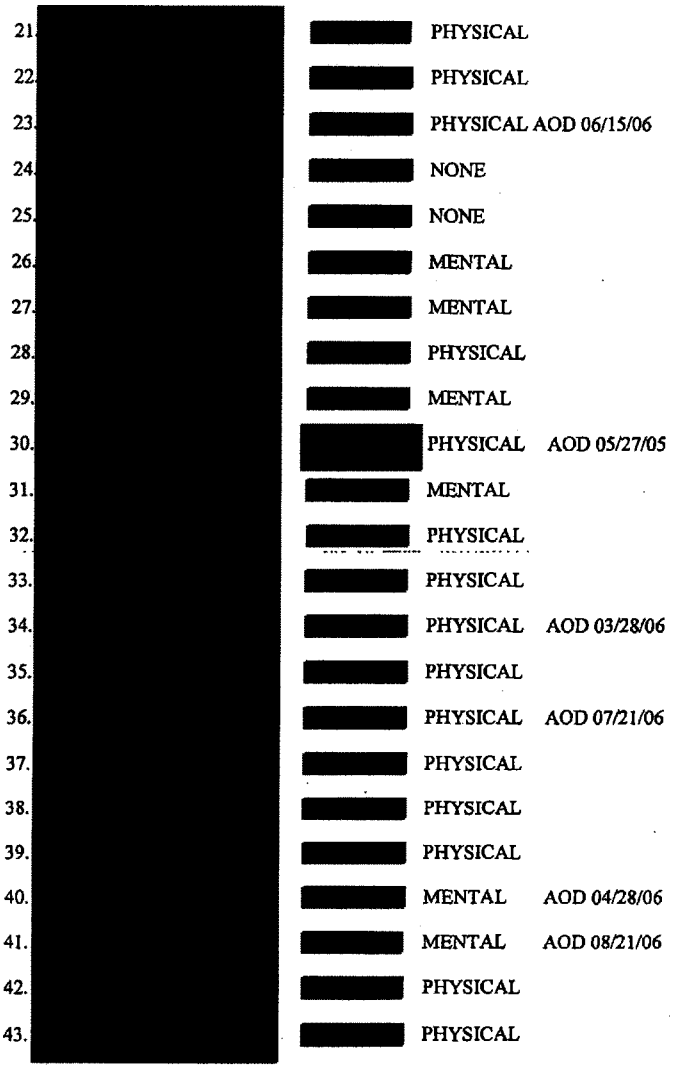
AOD 03-11-06 – DATE OF NEW APP

46. [redacted] PHYSICAL
47. MENTAL
48. NONE, AOD 06/14/05

D.B. MAY 2007 – NO MORE MEDICALS!!!!

DUE MAY 1, 2007

1.	PHYSICAL	
2.	NONE	
3.	PHYSICAL	AOD TO 11/02/2005
4.	PHYSICAL	
5.	PHYSICAL	
6.	MENTAL	
7.	PHYSICAL	AOD 01/19/06
8.	MENTAL	AOD 08-25-06
9.	PHYSICAL	
10.	PHYSICAL	AOD 07/21/06
11.	PHYSICAL	
12.	PHYSICAL	AOD 06/30/06 – SPECIAL AOD FORM BECAUSE SHE WILL LOSE HER SSD
13.	MENTAL	
14.	PHYSICAL	
15.	PHYSICAL	
16.	MENTAL	
17.	PHYSICAL	
18.	PHYSICAL	
19.	NONE	
20.	PHYSICAL	


21. PHYSICAL
22. PHYSICAL
23. PHYSICAL AOD 06/15/06
24. NONE
25. NONE
26. MENTAL
27. MENTAL
28. PHYSICAL
29. MENTAL
30. PHYSICAL AOD 05/27/05
31. MENTAL
32. PHYSICAL
33. PHYSICAL
34. PHYSICAL AOD 03/28/06
35. PHYSICAL
36. PHYSICAL AOD 07/21/06
37. PHYSICAL
38. PHYSICAL
39. PHYSICAL
40. MENTAL AOD 04/28/06
41. MENTAL AOD 08/21/06
42. PHYSICAL
43. PHYSICAL



44. [redacted] MENTAL

45. [redacted] MENTAL AOD 09-26-06

46. [redacted] BOTH

D.B. AUGUST 2007

DUE AUGUST 1, 2007

1. [redacted] PHYSICAL
2. [redacted] PHYSICAL, AOD 06/20/06
3. [redacted] PHYSICAL
4. [redacted] MENTAL
5. [redacted] PHYSICAL
6. [redacted] PHSYICAL
7. [redacted] PHYSICAL
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL, AOD 10/31/06
11. [redacted] MENTAL, AOD 11/30/06
12. [redacted] MENTAL, AOD 02/28/06
13. [redacted] PHYSICAL – FILE ERASED FROM DAYTIMER!!!! - FDX
14. [redacted] PHYSICAL, AOD 10/25/06 – TAKEN OFF THE LIST BECAUSE HE STILL HAS AN APPEALS COUNCIL CLAIM PENDING
15. [redacted] PHYSICAL, AOD 09/29/06
16. [redacted] PHYSICAL
17. [redacted] PHYSICAL AOD 05/22/06
18. [redacted] PHYSICAL AOD 12/12/06 – TAKEN OFF THE LIST BECAUSE SHE STILL HAS APPEALS COUNCIL CLAIM PENDING

19. [redacted] MENTAL AOD 03/03/05
BE CAREFUL WE HAVE 2 [redacted]

20. [redacted] MENTAL

21. [redacted] MENTAL, AOD 07/20/06 –
DISMISS THE DAC CLAIM - DO SPECIAL AMENDED ONSET DATE FORM – I WILL HELP

22. [redacted] PHYSICAL

23. PHYSICAL

24. PHYSICAL

25. PHYSICAL

26. PHYSICAL

27. PHYSICAL, AOD 12/27/06

28. PHYSICAL, AOD 05/27/05

29. PHYSICAL, AOD 10/16/03

30. PHYSICAL, AOD 07/26/05

31. DO WHATEVER ERIC WANTS

32. MENTAL

33. PHYSICAL

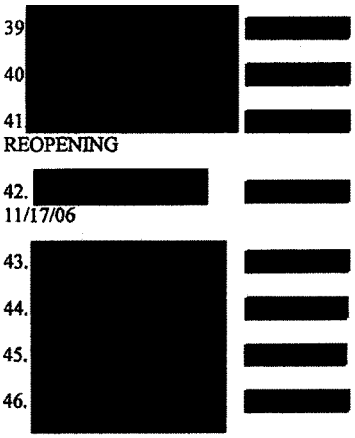
34. MENTAL

35. PHYSICAL

36. PHYSICAL

37. PHYSICAL

38. BOTH – TAKEN OFF THE LIST
BECAUSE HE HAS DECIDED TO STAY WITH [redacted]. WE PROBABLY NEED TO FILE A FEE PETITION. I WILL SEND [redacted] A NOTE ON THIS.



39 MENTAL

40 PHYSICAL

41 MENTAL, GO BACK 11/15/04
REOPENING

42. MENTAL, AOD APP DATE
11/17/06

43. PHYSICAL

44. PHYSICAL

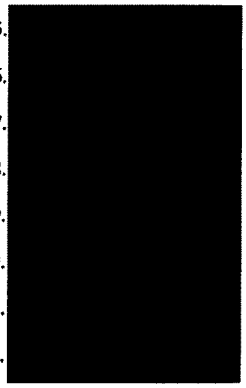
45. BOTH, AOD 01/29/05

46. BOTH

D.B. SEPTEMEBER
DUE SEPTEMBER 4, 2007

1.	[redacted]	PHYSICAL, AOD 09/29/06
2.		MENTAL
3.		PHYSICAL
4.		PHYSICAL
5.		MENTAL
6.		MENTAL
7.		PHYSICAL, AOD 08/03/06
8.		MENTAL
9.		PHYSICAL
10		MENTAL
11		PHYSICAL, AOD11/06/06
12		BOTH
13		PHYSICAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL AOD 01/06/05
17		PHYSICAL
18		PHYSICAL, AOD 11/30/06
19		PHYSICAL
20		PHYSICAL
21		PHYSICAL

22. [redacted] PHYSICAL
23. [redacted] BOTH
24. [redacted] PHYSICAL
25. [redacted] PHYSICAL AOD 01/20/07
26. [redacted] ASK WHATEVER ERIC WANTS TO SEND HER TO
27. [redacted] PHYSICAL
28. [redacted] PHYSICAL
29. [redacted] PHYSICAL
30. [redacted] PHYSICAL
31. [redacted] PHYSICAL
32. [redacted] PHYSICAL, AOD 03/28/07
33. [redacted] PHYSICAL
34. [redacted] PHYSICAL
35. [redacted] PHYSICAL, AOD 06/15/06
36. [redacted] PHYSICAL, AOD 07/09/04
37. [redacted] PHYSICAL
38. [redacted] BOTH
39. [redacted] PHYSICAL
40. [redacted] BOTH, AOD 07/14/06
41. [redacted] PHYSICAL
42. [redacted] BOTH, AOD 05/12/05
43. [redacted] BOTH
44. [redacted] PHYSICAL



45. [redacted] PHYSICAL
46. [redacted] PHYSICAL
47. [redacted] PHYSICAL
48. [redacted] PHYSICAL, AOD 03/25/06
49. [redacted] PHYSICAL,AOD 01/20/06
50. [redacted] MENTAL
51. [redacted] PHYSICAL
52. [redacted] PHYSICAL

D.B.DUE OCTOBER 1, 2007

D.B. OCTOBER 2007

1. [redacted] PHYSICAL, AOD 02/04/05
2. [redacted] PHYSICAL
3. [redacted] PHYSICAL
4. [redacted] PHYSICAL, AOD 08/11/06
5. [redacted] PHYSICAL
6. [redacted] WHATEVER ERIC WANTS
7. [redacted] WHATEVER ERIC WANTS
8. [redacted] EITHER
9. [redacted] PHYSICAL, AOD 07/25/04 – SHE MUST SIGN THE SPECIAL AOD FORM STATING THAT SHE REALIZES THAT SHE WILL NOT RECEIVE SSD
10. [redacted] PHYSICAL, AOD 11/22/06
11. [redacted] PHYSICAL
12. [redacted] REOPENING – GET PHYSICAL TAKE BACK TO 11/01/2002
13. [redacted] SEND PROOF THAT SHE NO LOGER HAS RESOURCE
14. [redacted] PHYSICAL
15. [redacted] EITHER
16. [redacted] PHYSICAL
17. [redacted] EITHER, AOD 10/23/06
18. [redacted] PHYSICAL
19. [redacted] PHYSICAL



20. MENTAL, AOD 05/31/06
21. PHYSICAL
22. MENTAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL
26. EITHER
27. MENTAL
28. MENTAL
29. EITHER, AOD 10/31/05
30. MENTAL
31. PHYSICAL, AOD 02/07/06
32. PHYSICAL
33. EITHER
34. PHYSICAL, AOD 10/31/05
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. EITHER

D.B. MAY 2008
DUE MAY 15, 2008

1.	[redacted]	EITHER
2.		PHYSICAL, AOD 10/25/06
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL
8.		PHYSICAL, AOD 08-11-07
9.		PHYSICAL
10.		PHYSICAL
11.		PHYSICAL, AOD 02/15/07
12.		PHYSICAL
13.		MENTAL
14.		PHYSICAL
15.		PHYSICAL
16.		PHYSICAL
17.		PHYSICAL,AOD 06/25/07
18.		PHYSICAL
19.		PHYSICAL
20.		PHYSICAL
21.		PHYSICAL, AOD 50TH BIRTHDAY

[redacted] - paper file

21. [redacted] PHYSICAL
22. [redacted] PHYSICAL, AOD 12/12/06
23. [redacted] MENTAL, REOPENING GO BACK 07/15/05
24. [redacted] PHYSICAL
25. [redacted] MENTAL, AOD 08-28-07
26. [redacted] PHYSICAL, AOD 06/30/07
27. [redacted] PHYSICAL
28. [redacted] PHYSICAL
29. [redacted] PHYSICAL
30. [redacted] PHYSICAL
31. [redacted] PHYSICAL, REOPEN HAVE REPORT GO BACK TO 12/27/06

D.B. APRIL 2008
DUE 04/15/08

1. [redacted] MENTAL
2. PHYSICAL, AOD 03/29/07
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL GO BACK TO 09/19/05 AND AMEND ONSET DATE TO 09/15/05
9. [redacted] PHYSICAL, AOD 04/27/07
10. PHYSICAL
11. MENTAL
12. PHYSICAL, AOD 10/22/07
13. MENTAL, AOD 06/17/07
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL, AOD 03/30/06
17. PHYSICAL
18. MENTAL
19. AOD 03/22/06 WHATEVER ERIC WANTS
20. [redacted] NOTHING

21. [redacted] [redacted] CHILD, WHATEVER ERIC WANTS – SHE HAS VISION PROBLEMS!!!

22. [redacted] [redacted] PHYSICAL

23. [redacted] [redacted] PHYSICAL, HAVE REPORT GO BACK TO ONSET DATE – SAME AS THIS DATE ([redacted] KNOWS THE LANGUAGE TO USE) 05/15/02 – CHECK ONSET

24. [redacted] [redacted] PHYSICAL.AOD 06/01/06

25. [redacted] [redacted] PHYSICAL

26. [redacted] [redacted] CHILD, WHATEVER ERIC WANTS

27 [redacted] [redacted] PHYSICAL, DO ADDENDUM TO HAVE GO BACK TO 02/15/04!!! – PAPER FILE, NO BARCODE NEEDED

28. [redacted] [redacted] EITHER, CHECK FILE FOR MORE MENTAL OR PHYSICAL

29. [redacted] [redacted] MENTAL

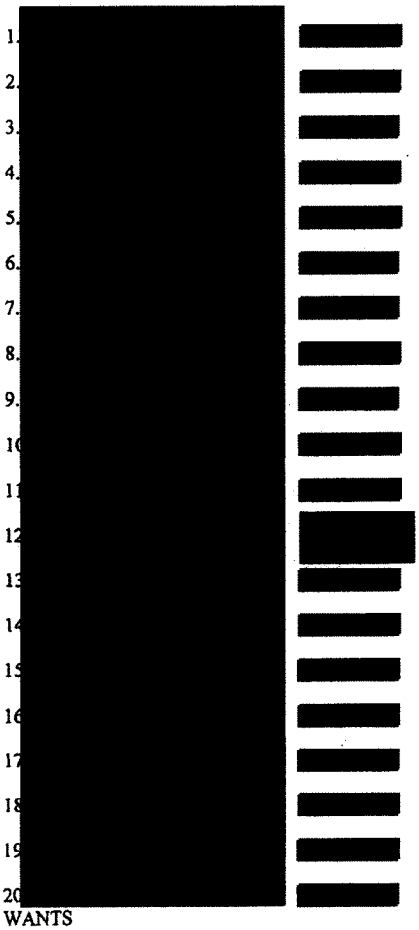
30. [redacted] [redacted] PHYSICAL

31. [redacted] [redacted] PHYSICAL, HAVE REPORT GO BACK TO 05/21/04

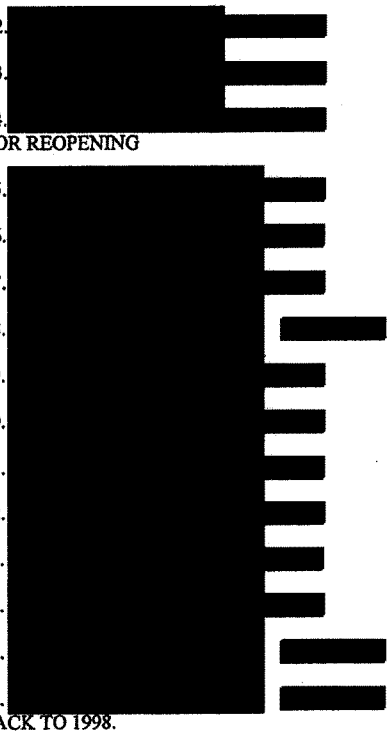
32. [redacted] [redacted] MENTAL

33. [redacted] [redacted] MENTAL

D.B. FEBRUARY 2008
DUE FEB 15, 2008



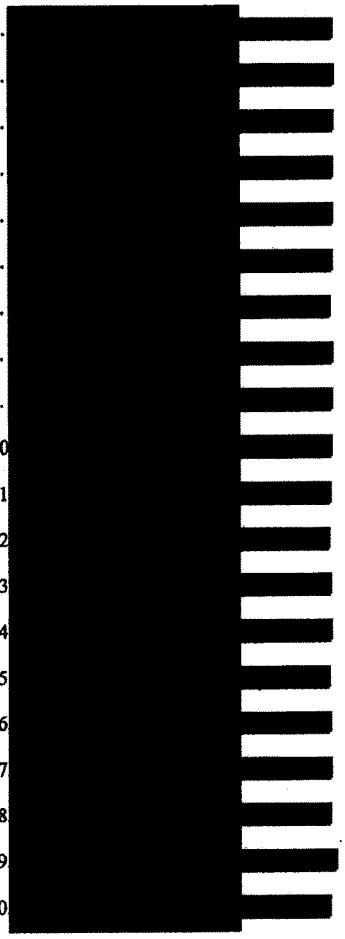
1. PHYSICAL
2. MENTAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL, AOD 05/04/06
9. MENTAL, AOD 01/05/07
10. MENTAL, AOD 10/24/06
11. PHYSICAL
12. PHYSICAL, AOD 06/28/07
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL, AOD 01/30/07
17. PHYSICAL, AOD 03/21/07
18. PHYSICAL, AOD 02/12/07
19. PHYSICAL
20. CHILD, WHATEVER ERIC WANTS



22. PHYSICAL, AOD 01/09/07
23. PHYSICAL
24. PHYSICAL GO BACK 12/15/06 FOR REOPENING
25. MENTAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. MENTAL 04/18/07
31. PHYSICAL
32. MENTAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL, HAVE REPORT GO BACK TO 1998.

D.B. JUNE 2008

DUE



1. PHYSICAL
2. PHYSICAL, AOD 01/13/07
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL, AOD 12/16/06
8. PHYSICAL
9. MENTAL
10. EITHER – CHECK FILE
11. PHYSICAL
12. MENTAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. MENTAL
18. PHYSICAL
19. PHYSICAL
20. MENTAL

21. [redacted] PHYSICAL AOD 07-16-05
22. PHYSICAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL
26. PHYSICAL
27. WHATEVER ERIC WANTS TO DO – CHECK FILE
28. [redacted] MENTAL, AOD, 06/27/07
29. MENTAL,AOD 12/10/07
30. PHYSICAL
31. PHYSICAL
32. MENTAL
33. PHYSICAL
34. PHYSICAL
35. MENTAL
36. MENTAL, AOD 05/31/07
37. PHYSICAL
38. PHYSICAL
39. PHYSICAL
40. PHYSICAL
41. PHYSICAL


42
43
44
MENTAL
PHYSICAL
NONE

D.B. JUNE 2008

DUE

1.	[redacted]	PHYSICAL
2.		PHYSICAL, AOD 01/13/07
3.		PHYSICAL
4.		PHYSICAL
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL, AOD 12/16/06
8.		PHYSICAL
9.		MENTAL
10		EITHER – CHECK FILE
11		PHYSICAL
12		MENTAL
13		PHYSICAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL
17		MENTAL
18		PHYSICAL
19		PHYSICAL
20		MENTAL

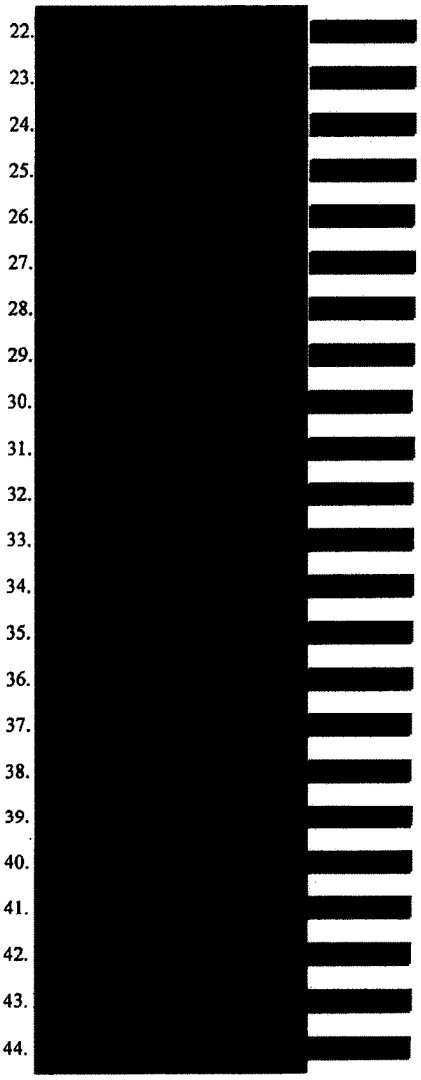


42. MENTAL
43. PHYSICAL
44. NONE

July D.B. LIST

DUE JULY 15, 2008

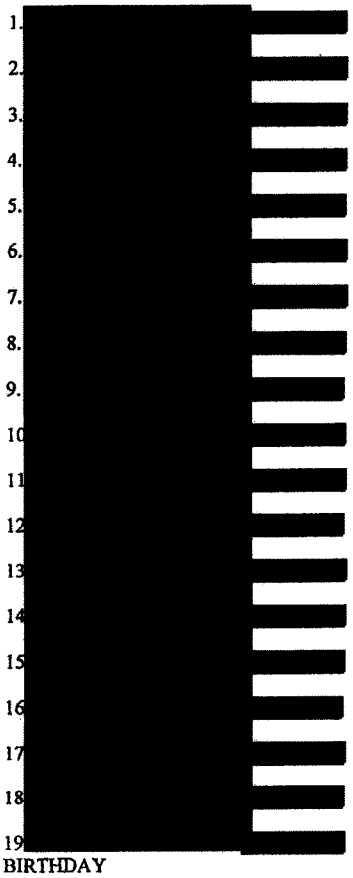
1. [redacted] PHYSICAL – I THINK WE ALREADY HAVE MENTAL – WILL BE OK
2. [redacted] PHYSICAL
3. [redacted] PHYSICAL
4. [redacted] PHYSICAL
5. [redacted] MENTAL, AOD 05/04/05
6. [redacted] MENTAL, AOD 09/29/07
7. [redacted] PHYSICAL,AOD 6/22/06
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] PHYSICAL
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL, AOD 09/18/07
13. [redacted] PHYSICAL
14. [redacted] PHYSICAL
15. [redacted] PHYSICAL
16. [redacted] MENTAL
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL
19. [redacted] PHYSICAL
20. [redacted] PHYSICAL
21. [redacted] MENTAL



22. MENTAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL, AOD 10/08/03
26. PHYSICAL, AOD10/25/07
27. PHYSICAL, AOD 06/07/06
28. PHYSICAL, AOD 11/01/07
29. PHYSICAL, AOD 01/03/07
30. PHYSICAL, AOD 10/29/07
31. PHYSICAL
32. MENTAL, AOD 04/12/07
33. PHYSICAL
34. MENTAL, AOD 09/19/06
35. PHYSICAL, AOD 03/10/06
36. PHYSICAL, AOD 03/22/07
37. PHYSICAL
38. PHYSICAL
39. PHSYICAL, AOD 06/29/07
40. PHYSICAL
41. PHYSICAL
42. PHYSICAL
43. PHYSICAL
44. PHYSICAL

45. [redacted]

MAY 2009



1. PHYSICAL
2. PHYSICAL
3. PHYSICAL
4. MENTAL, AOD 08/26/08
5. PHYSICAL
6. PHYSICAL
7. MENTAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. MENTAL
12. MENTAL
13. PHYSICAL
14. MENTAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL, AOD [redacted] 50TH BIRTHDAY
20. PHYSICAL
21. PHYSICAL
22. MENTAL, AOD 11/26/08

23.	[redacted]	PHYSICAL
24.		PHYSICAL
25.		MENTAL
26.		PHYSICAL
27.		MENTAL
28.		PHYSICAL
29.		PHYSICAL
30.		PHYSICAL
31.		PHYSICAL
32.		PHYSICAL
33.		PHYSICAL, AOD 06/01/07
34.		MENTAL
35.		PHYSICAL
36.		PHYSICAL
37.		MENTAL
38.		PHYSICAL
39.		PHYSICAL
40.		PHYSICAL
41.		MENTAL

D.B. SEPTEMBER 2009

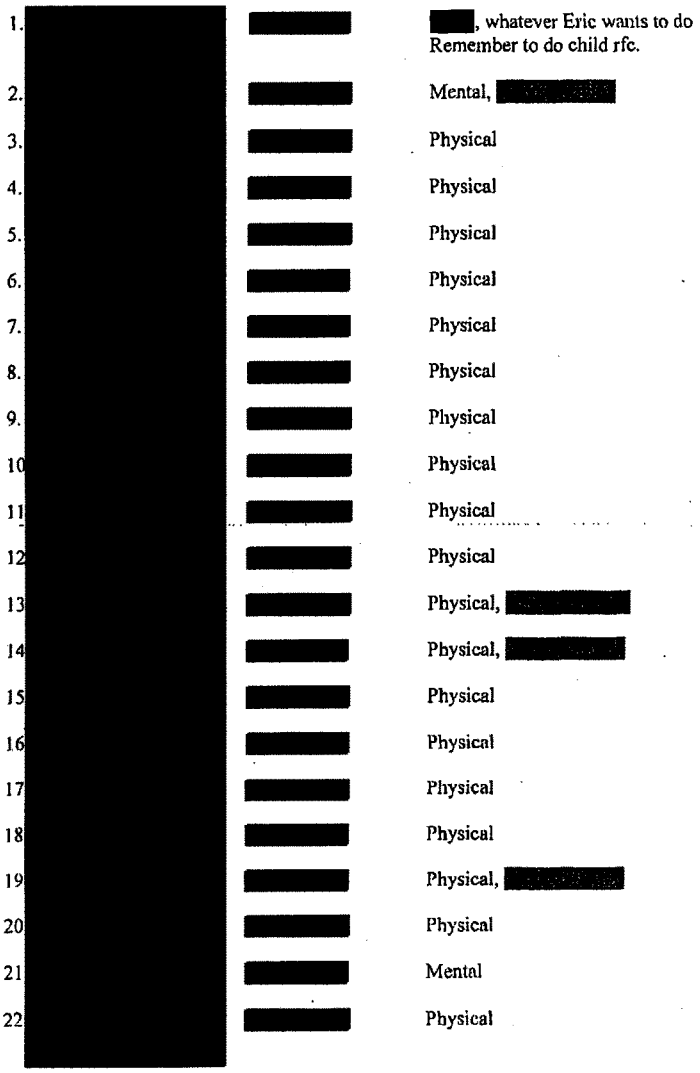
1.	[redacted]	PHYSICAL, AOD 07/19/08
2.		PHSYICAL, AOD 09/26/07
3.		MENTAL
4.		PHYSICAL
5.		MENTAL , AOD 05/01/08
6.		PHYSICAL
7.		MENTAL
8.		PHYSICAL, AOD 12/07/06
9.		PHYSICAL
10.		PHYSICAL
11.		MENTAL, AOD 06/10/08
12.		PHYSICAL, AOD 08/15/08
13.		PHYSICAL
14.		PHYSICAL
15.		PHYSICAL, AOD 08/13/07
16.		PHYSICAL
17.		PHYSICAL
18.		PHYSICAL, AOD 11/13/08
19.		PHYSICAL
20.		MENTAL
21.		PHYSICAL
22.		PHYSICAL

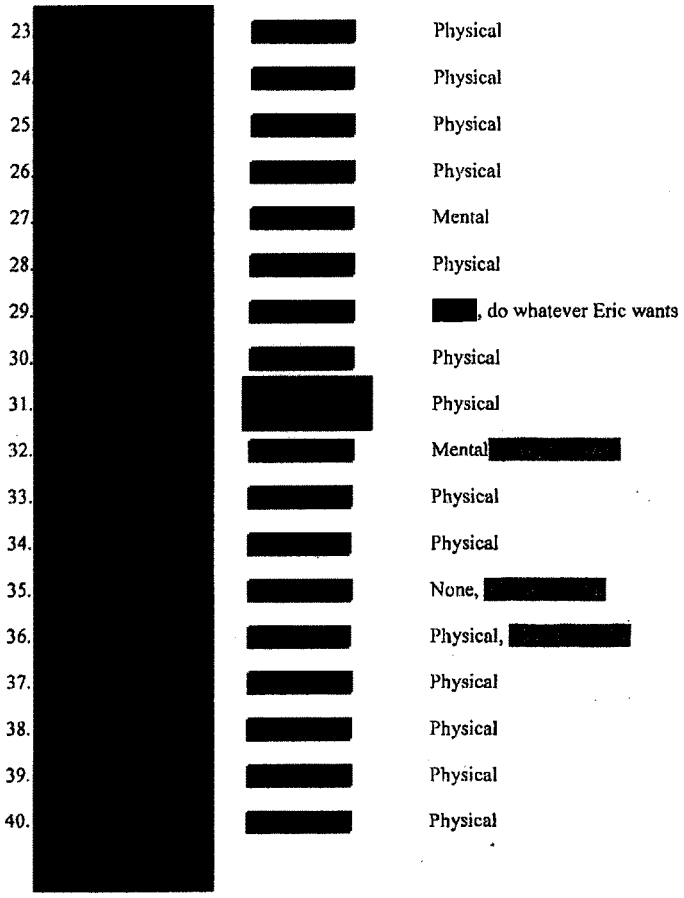
23. [redacted] MENTAL
24. MENTAL, AOD 10/28/08
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL, AOD 08/26/08
29. PHYSICAL. AOD 10/31/07
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. PHYSICAL AOD 12/09/08
39. PHYSICAL

DB OTR LIST (MAY)

CLIENT'S	NAME	SS#	FILE #	CASE TYPE	L.V.S. G	CALLED ?	PHONE #
[redacted]			[redacted]	SSD/SSI	YES		[redacted]
				SSD/SSI	YES	YES	
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD/SSI	YES	YES	
				SSI	YES	YES	
				SSD/SSI	YES	YES	
				SSD/SSI	YES	YES	
				SSD/SSI	YES	YES	
				SSD	NO		
				SSD/SSI	YES	DECEASED	
				SSD/SSI	YES	YES	
				SSD/SSI	YES	YES	
				SSI	YES	YES	
				SSI	YES		
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD/SSI	YES	YES	
				SSD	NO		
				SSD/SSI	YES	YES	
				SSD/SSI	YES	YES	
				SSD	NO		
				SSD	NO		
				SSI	YES	YES	
				SSD	NO		
				SSI	YES	YES	
				SSD	NO		
				SSD	NO		
				SSD	NO		
				SSD	NO		

August 2009 D.B.




23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
Physical
Physical
Physical
Physical
Mental
Physical
, do whatever Eric wants
Physical
Physical
Mental
Physical
Physical
None,
Physical,
Physical
Physical
Physical
Physical

D.B. OCTOBER LIST

1. [redacted] MENTAL
2. [redacted] BOTH, GO BACK TO 10/01/03 FOR REOPENING
3. [redacted] AOD 01/01/04 – BOTH, GO BACK TO 01/01/04
4. [redacted] NONE, ALREADY MENTAL
5. [redacted] MENTAL
6. [redacted] MENTAL
7. [redacted] PHYSICAL
8. [redacted] NONE, AOD TO CURRENT APP 08-17-05
9. [redacted] BOTH, REOPENING, HAVE REPORTS GO BACK TO 05-31-03
10. [redacted] PHYSICAL, AOD [redacted] 50TH BIRTHDAY
11. [redacted] PHYSICAL
12. [redacted] ASK ERIC – MENTAL? LISTING 11205 D 60-70 I.Q.
13. [redacted] NONE
14. [redacted] MENTAL
15. [redacted] MENTAL
16. [redacted] MENTAL
17. [redacted] EITHER
18. [redacted] PHYSICAL

19. [redacted] PHYSICAL
20. [redacted] NONE
21. [redacted] PHYSICAL
22. [redacted] MENTAL
23. [redacted] NONE
24. [redacted] NONE
25. [redacted] MENTAL
26. [redacted] MENTAL
27. [redacted] MENTAL
28. [redacted] PHYSICAL
29. [redacted] NONE
30. [redacted] PHYSICAL
31. [redacted] MENTAL
32. [redacted] PHYSICAL
33 [redacted] NONE, AMEND
ONSET DATE TO 03/08/05
34 [redacted] MENTAL, AMEND
ONSET DATE TO 04-05-05
35 [redacted] NONE, AMEND
ONSET DATE TO 01/27/06
36. [redacted] PHYSICAL, HAVE
IT GO BACK TO 07/20/04 FOR A REOPENING
37. [redacted] NONE

[redacted]

1. [redacted] MENTAL – AMEND ONSET DATE TO 05/14/04
2. [redacted] PHYSICAL
3. [redacted] PHYSICAL - AMEND ONSET DATE TO 08/26/05
4. [redacted] MENTAL – THIS IS A REOPENING, HAVE REPORT GO BACK TO 12/31/98
5. [redacted] MENTAL
6. [redacted] MENTAL
7. [redacted] MENTAL
8. [redacted] MENTAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL
12. [redacted] PHYSICAL – AMEND ONSET DAT E TO 07/26/05 – YOU WILL NEED FOR HIM TO SIGN THE AOD LETTING HIM KNOW HE IS GETTING SSI ONLY – BECAUSE HIS DATE LAST INSURED IS UP.
13. [redacted] PHYSICAL
14. [redacted] MENTAL

6 MORE ADDED 07/05/06 **********

15. [redacted] PHYSICAL
16. [redacted] MENTAL – AMEND ONSET TO 10/11/05
17. [redacted] MENTAL
18. [redacted] MENTAL

19. [redacted] MENTAL

20. [redacted] NONE, AMEND ONSET DATE TO 10/22/04.

D.B. JULY OTR'S

1. [redacted] NONE, AOD 04/04/05

2. NONE, AOD TO 01/23/04

3. NONE, AOD 08/31/04

4. NONE, AOD 05/06/04

5. NONE, AOD 10/04/04

6. NONE, AOD 08/25/04

7. NONE

8. NONE

9. NONE

10. NONE

11. NONE

12. NONE

13. NONE

14. NONE

15. NONE

16. NONE

17. NONE, AMEND ONSET DATE FOR GRID RULE – 6 MONTHS BEFORE 50TH BIRTHDAY [redacted]

18. [redacted] NONE

19. NONE

20. [redacted] [redacted] NONE

AUGUST OTR'S - DUE BY AUGUST 9, 2006
2ND HALF DUE BY 17TH

#37 [redacted] WAS REPLACED WITH [redacted] WHO WAS TAKEN FROM THE SEPTEMBER SCHEDULE.

1. [redacted] – PHYSICAL
2. [redacted] – REOPENING – NEED A MENTAL AND GO BACK 02/07/04!!
3. [redacted] - PHYSICAL
4. [redacted] – EITHER AMEND ONSET DATE TO 08/22/04, 1 DAY AFTER PREVIOUS DENIAL,
5. [redacted] - PHYSICAL
6. [redacted] PHYSICAL
7. [redacted] MENTAL, AMEND TO 11/02/04
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL
11. [redacted] PHYSICAL, AC REMAND
12. [redacted] PHYSICAL
13. [redacted] MENTAL
14. [redacted] NONE, needs AOD to 05/27/05
15. [redacted] PHYSICAL AMEND TO 08/31/04
16. [redacted] NONE
17. [redacted] PHYSICAL
18. [redacted] PHYSICAL,AMEND ONSET TO 05/13/04 – ONE DAY AFTER PARIS DECISION
19. [redacted] PHYSICAL

20. [redacted] PHYSICAL
21. PHYSICAL
22. PHYSICAL
23. PHYSICAL, AMEND ONSET TO 09/10/04 1 DAY AFTER ANDRUS DECISION

24. [redacted] PHYSICAL
25. NONE
26. NONE
27. NONE
28. NONE, AMEND ONSET TO 06/08/04, DATE OF APPLICATION.

29. [redacted] NONE
30. NONE
31. NONE
32. NONE
33. NONE
34. NONE
35. PHYSICAL, REOPENING – HAVE REPORT GO BACK TO 02/13/01 – AMEND ONSET DATE TO 02/13/01~

36. [redacted] NONE
37. NONE
38. PHYSICAL
39. MENTAL AMEND TO 02/08/05
40. MENTAL

41 – 49 ADDED 08/17/06 – WE NEED TO HAVE AMENDED ONSET DATES BACK TO HIM ASAP !!!

41. [redacted] NONE, AOD 08/20/04
42. [redacted] NONE, AOD 03/15/04
43. [redacted] NONE
44. [redacted] NONE
45. [redacted] NONE
46. [redacted] NONE, AOD TO 09/20/04
47. [redacted] NONE
48. [redacted] NONE, AOD 01/27/04
49. [redacted] NONE

SEPTEMBER OTR'S
THE REPORTS ARE DUE NO LATER THAN 09/18/06

1. [redacted] NONE, AMEND ONSET TO 03/31/05
2. [redacted] PHYSICAL
3. [redacted] BOTH
4. [redacted] NONE
5. [redacted] NONE, AMEND ONSET DATE, 09-14-05
6. [redacted] PHYSICAL

****

7. [redacted] NONE
8. [redacted] PHYSICAL
9. [redacted] BOTH
10. [redacted] MENTAL
11. [redacted] MENTAL,

SEND WORK ACTIVITY WHEN WE SEND REPORT!

12. [redacted] PHYSICAL
13. [redacted] PHYSICAL
14. [redacted] MENTAL
15. [redacted] PHYSICAL, AMEND ONSET DATE TO 08/31/04
16. [redacted] NONE
17. [redacted] NONE
18. [redacted] NONE
19. [redacted] NONE

[redacted]

20. [redacted] NONE

21. [redacted] AMEND ONSET DATE TO 50TH BIRTHDAY [redacted] PHYSICAL

22. [redacted] PHYSICAL

23. [redacted] MENTAL

24. [redacted] NONE

SEPTEMBER OTR'S
THE REPORTS ARE DUE NO LATER THAN 09/18/06

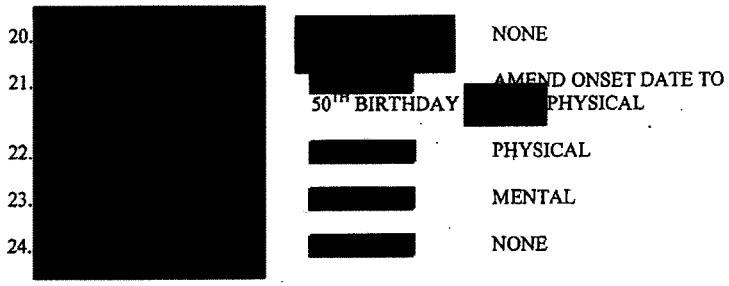
1. [redacted] NONE, AMEND ONSET TO 03/31/05
2. [redacted] PHYSICAL
3. [redacted] BOTH
4. [redacted] NONE
5. [redacted] NONE, AMEND ONSET DATE, 09-14-05
6. [redacted] PHYSICAL

****

7. [redacted] NONE
8. [redacted] PHYSICAL
9. [redacted] BOTH
10. [redacted] MENTAL
11. [redacted] MENTAL,

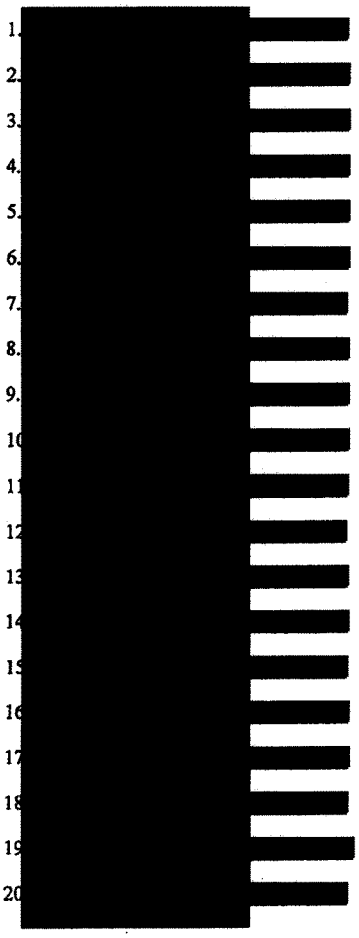
SEND WORK ACTIVITY WHEN WE SEND REPORT!

12. [redacted] PHYSICAL
13. [redacted] PHYSICAL
14. [redacted] MENTAL
15. [redacted] PHYSICAL, AMEND ONSET DATE TO 08/31/04
16. [redacted] NONE
17. [redacted] NONE
18. [redacted] NONE
19. [redacted] NONE

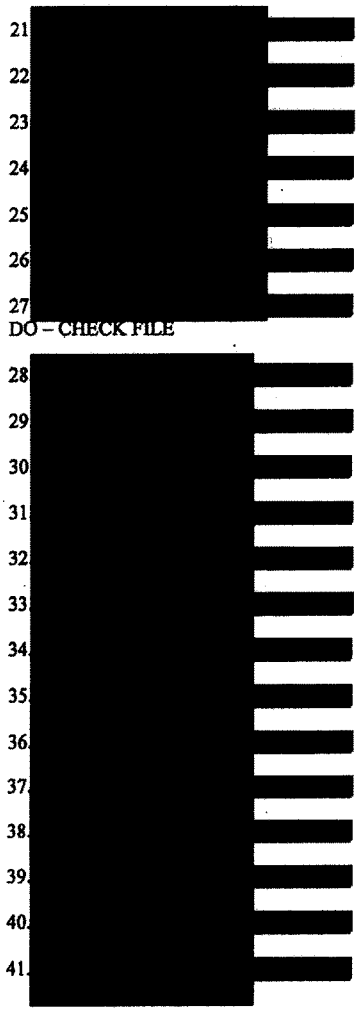

20.
21.
22.
23.
24.
NONE
AMEND ONSET DATE TO
50TH BIRTHDAY
PHYSICAL
PHYSICAL
MENTAL
NONE

D.B. JUNE 2008

DUE



1. PHYSICAL
2. PHYSICAL, AOD 01/13/07
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL, AOD 12/16/06
8. PHYSICAL
9. MENTAL
10. EITHER – CHECK FILE
11. PHYSICAL
12. MENTAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. MENTAL
18. PHYSICAL
19. PHYSICAL
20. MENTAL



21 PHYSICAL AOD 07-16-05
22 PHYSICAL
23 PHYSICAL
24 PHYSICAL
25 PHYSICAL
26 PHYSICAL
27 WHATEVER ERIC WANTS TO DO – CHECK FILE
28 MENTAL, AOD, 06/27/07
29 MENTAL,AOD 12/10/07
30 PHYSICAL
31 PHYSICAL
32 MENTAL
33 PHYSICAL
34 PHYSICAL
35 MENTAL
36 MENTAL, AOD 05/31/07
37 PHYSICAL
38 PHYSICAL
39 PHYSICAL
40 PHYSICAL
41 PHYSICAL



MENTAL

PHYSICAL

NONE

July D.B. LIST

DUE JULY 15, 2008

1 [redacted] [redacted] PHYSICAL – I THINK WE ALREADY HAVE MENTAL – WILL BE OK

2 [redacted] PHYSICAL

3 [redacted] PHYSICAL

4 [redacted] PHYSICAL

5 [redacted] MENTAL, AOD 05/04/05

6 [redacted] MENTAL, AOD 09/29/07

7 [redacted] PHYSICAL,AOD 6/22/06

8 [redacted] PHYSICAL

9 [redacted] PHYSICAL

1[redacted] PHYSICAL

1[redacted] PHYSICAL

1[redacted] PHYSICAL, AOD 09/18/07

1[redacted] PHYSICAL

1[redacted] PHYSICAL

1[redacted] PHYSICAL

1[redacted] MENTAL

1[redacted] PHYSICAL

1[redacted] PHYSICAL

1[redacted] PHYSICAL

2[redacted] PHYSICAL

2[redacted] MENTAL

CLF030731

[redacted] MENTAL
PHYSICAL
PHYSICAL

July D.B. LIST

DUE JULY 15, 2008

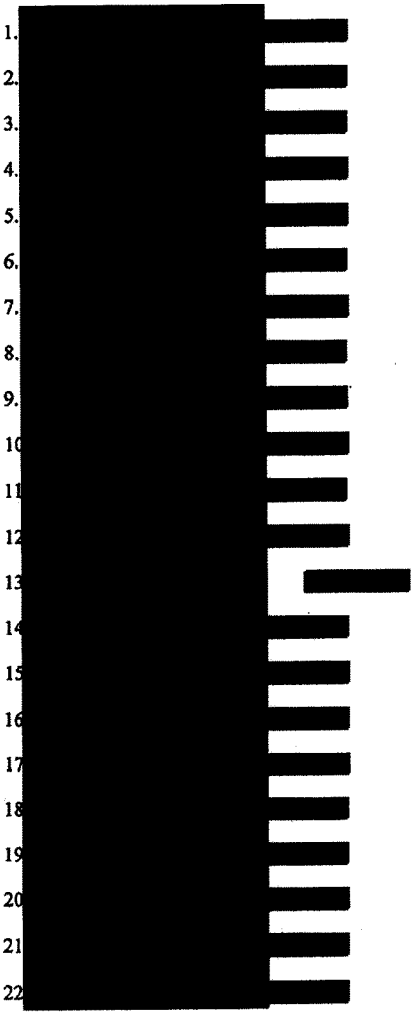
1. [redacted] [redacted] PHYSICAL – I THINK WE ALREADY HAVE MENTAL – WILL BE OK
2. [redacted] [redacted] PHYSICAL
3. [redacted] [redacted] PHYSICAL
4. [redacted] [redacted] PHYSICAL
5. [redacted] [redacted] MENTAL, AOD 05/04/05
6. [redacted] [redacted] MENTAL, AOD 09/29/07
7. [redacted] [redacted] PHYSICAL,AOD 6/22/06
8. [redacted] [redacted] PHYSICAL
9. [redacted] [redacted] PHYSICAL
10. [redacted] [redacted] PHYSICAL
11. [redacted] [redacted] PHYSICAL
12. [redacted] [redacted] PHYSICAL, AOD 09/18/07
13. [redacted] [redacted] PHYSICAL
14. [redacted] [redacted] PHYSICAL
15. [redacted] [redacted] PHYSICAL
16. [redacted] [redacted] MENTAL
17. [redacted] [redacted] PHYSICAL
18. [redacted] [redacted] PHYSICAL
19. [redacted] [redacted] PHYSICAL
20. [redacted] [redacted] PHYSICAL
21. [redacted] [redacted] MENTAL



22. MENTAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL, AOD 10/08/03
26. PHYSICAL, AOD10/25/07
27. PHYSICAL, AOD 06/07/06
28. PHYSICAL, AOD 11/01/07
29. PHYSICAL, AOD 01/03/07
30. PHYSICAL, AOD 10/29/07
31. PHYSICAL
32. MENTAL, AOD 04/12/07
33. PHYSICAL
34. MENTAL, AOD 09/19/06
35. PHYSICAL, AOD 03/10/06
36. PHYSICAL, AOD 03/22/07
37. PHYSICAL
38. PHYSICAL
39. PHSYICAL, AOD 06/29/07
40. PHYSICAL
41. PHYSICAL
42. PHYSICAL
43. PHYSICAL
44. PHYSICAL

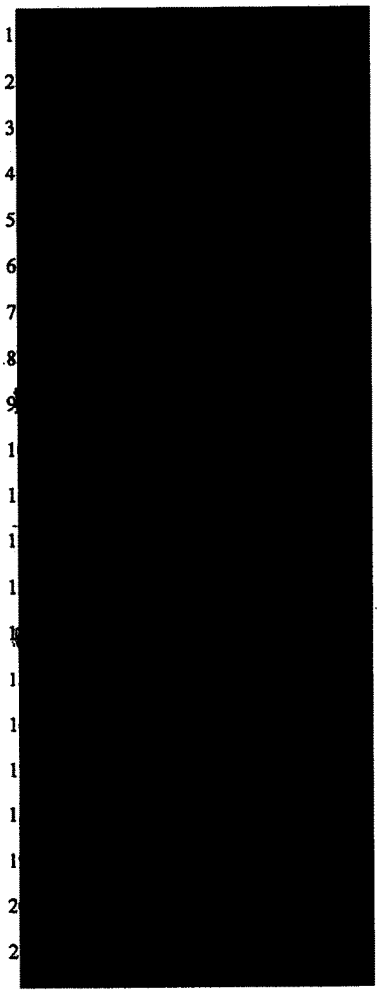
45. [redacted]

D.B. AUGUST 2008



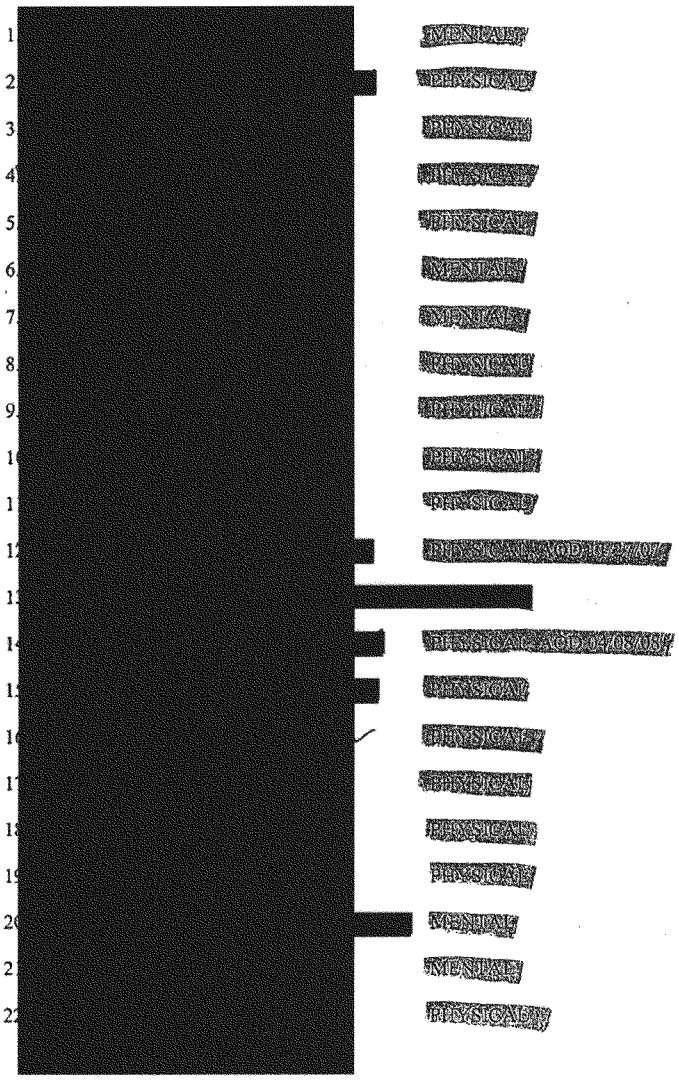
1. PHYSICAL – I THINK WE HAVE
2. PHYSICAL
3. PHYSICAL, AOD 12/01/06
4. PHYSICAL
5. PHYSICAL, AOD 10/19/07
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL, AOD 12/11/07
12. PHYSICAL
13. PHYSICAL, AOD 02/08/07
14. PHYSICAL
15. PHYSICAL
16. MENTAL, AOD 02/26/08
17. PHYSICAL, AOD 02/19/08
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL
21. PHYSICAL
22. PHYSICAL

DUE 09/15/08

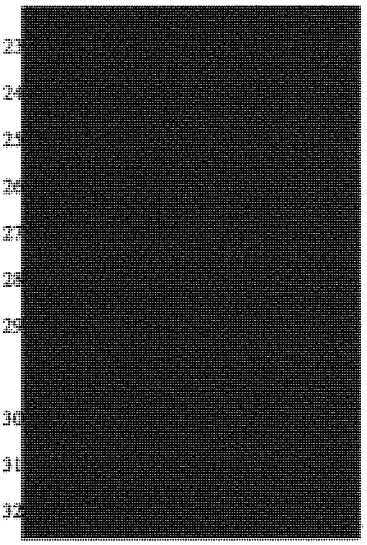


1 PHYSICAL
2 MENTAL
3 MENTAL
4 MENTAL
5 PHYSICAL
6 PHYSICAL
7 PHYSICAL
8 MENTAL, AOD 09/28/07
9 PHYSICAL
1 PHYSICAL, AOD 02/09/07
1 PHYSICAL
1 PHYSICAL, AOD 09/20/07
1 MENTAL
1 PHYSICAL
1 PHYSICAL, AOD 08/29/06
1 PHYSICAL,AOD 07/10/07
1 [redacted]
1 MENTAL
1 PHYSICAL
2 MENTAL, AOD 12/31/07
2 PHYSICAL

OCTOBER 2008



CLF030738



PHYSICAL

PHYSICAL

PHYSICAL, AOD 06/07/03

PHYSICAL, AOD 06/07/03

PHYSICAL

MENTAL

PHYSICAL
REOPEN-REPORT TO GO BACK
TO 09/06/02.

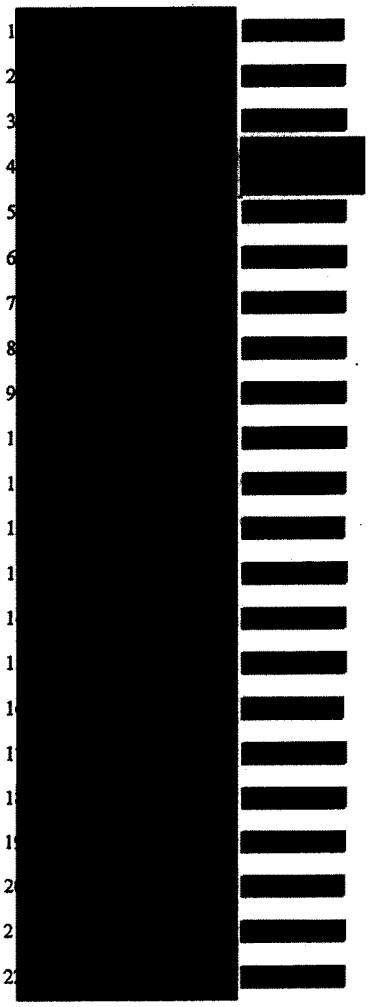
PHYSICAL

PHYSICAL

PHYSICAL, AOD 05/07/08

DB List

DUE 09/15/08



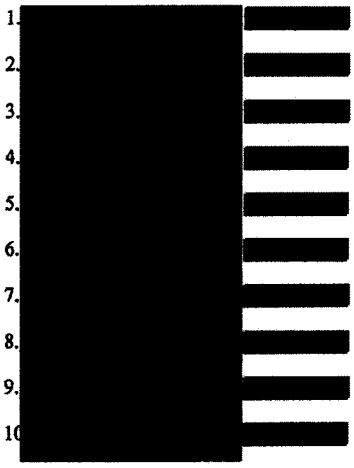
1	PHYSICAL
2	MENTAL
3	MENTAL
4	MENTAL
5	PHYSICAL
6	PHYSICAL
7	PHYSICAL
8	MENTAL, AOD 09/28/07
9	PHYSICAL
1	PHYSICAL, AOD 02/09/07
1	PHYSICAL
1	PHYSICAL, AOD 09/20/07
1	MENTAL
1	PHYSICAL
1	PHYSICAL, AOD 08/29/06
1	PHYSICAL, AOD 07/10/07
1	MENTAL, AOD 02/26/08
1	MENTAL
1	PHYSICAL
2	MENTAL, AOD 12/31/07
2	PHYSICAL
2	PHYSICAL, AOD 08/27/07

23. [redacted] PHYSICAL
24. PHYSICAL OR MENTAL
25. PHYSICAL, AOD 11/30/07
26. PHYSICAL, AOD 02/20/08
27. PHYSICAL
28. PHYSICAL, AOD 04/24/07
29. PHYSICAL
30. PHYSICAL, AOD 10/11/06
31. PHYSICAL
32. PHYSICAL

*** [redacted]N REPORT DR. MUST SAY CONDITIONS EXISTED AS FAR BACK AS AUGUST 2002. PAPER FILE MUST BE EMAILED TO DB.

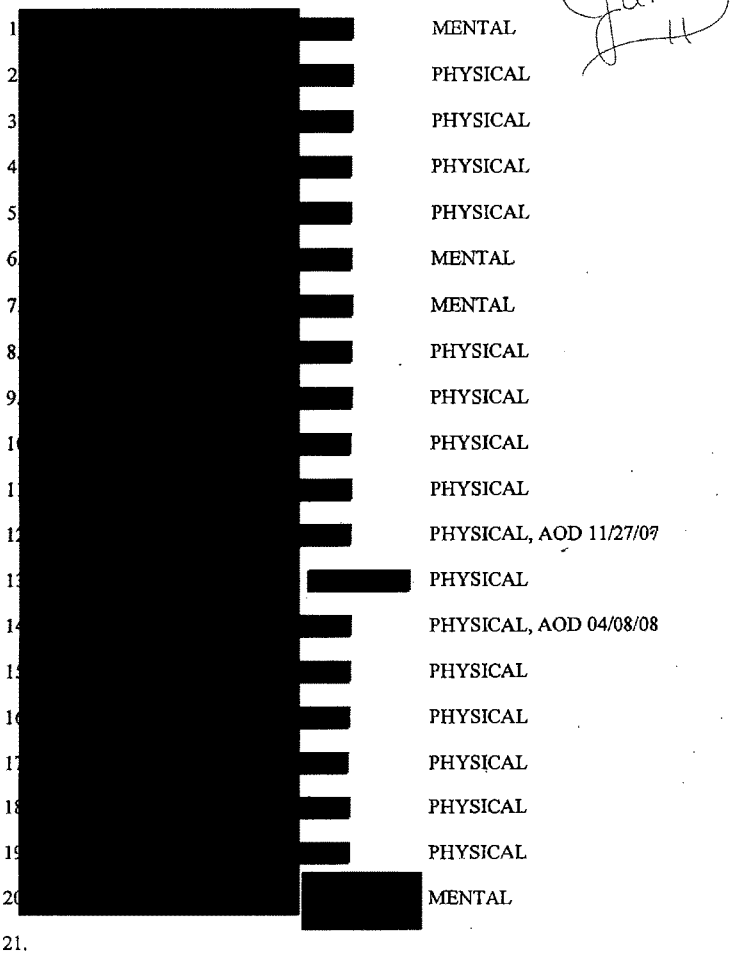
*** [redacted] MUST BE EMAILED TO DB PAPER FILE

OCTOBER 2008



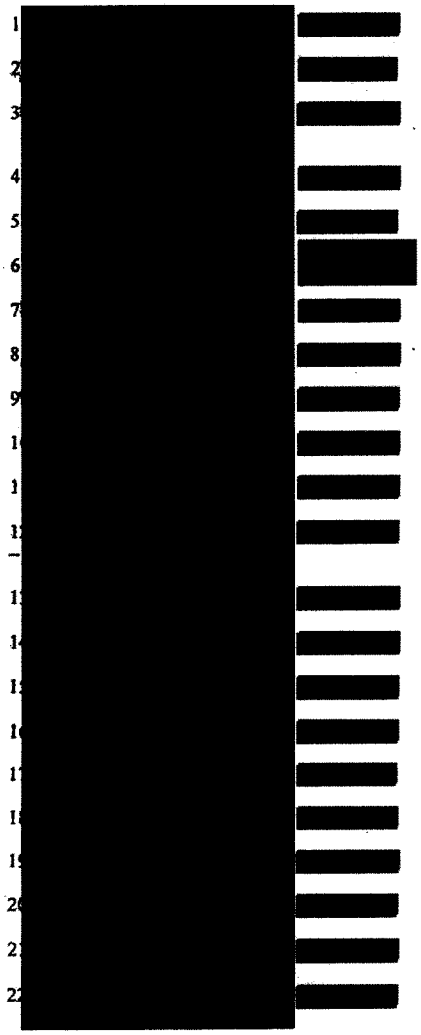
1. MENTAL
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. MENTAL
7. MENTAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11.

OCTOBER 2008



21.

D.B. NOVEMBER 2008



PHYSICAL

PHYSICAL, AOD 04/30/08

PHYSICAL, HAVE REPORT
GO BACK TO 05/15/00

PHYSICAL

PHYSICAL

PHYSICAL

PHYSICAL

PHYSICAL

PHYSICAL, AOD 03/24/08

PHYSICAL, AOD 10/12/07

MENTAL, AOD 03/24/08

WHATEVER ERIC WANTS
AOD 06/25/07- mental

MENTAL

PHYSICAL, AOD 04/28/07

PHYSICAL

PHYSICAL, AOD 09/29/07

PHYSICAL, AOD 09/29/07

PHYSICAL, AOD 10/20/07

PHYSICAL, AOD 12/11/07

PHYSICAL

PHYSICAL, AOD 11/04/07

PHYSICAL, AOD 12/28/07

[redacted]

23 [redacted] PHYSICAL, AOD 12/18/07

24 [redacted] PHYSICAL

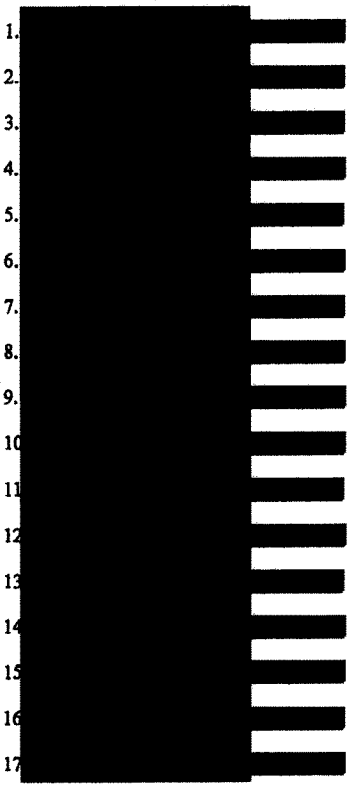
25 [redacted] PHYSICAL

26 [redacted] PHYSICAL

27 [redacted] MENTAL,PAPER FILE

AOD 11/13/07

DECEMBER 2008 D.B.



1. MENTAL, AOD 10/31/07
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHSYICAL, AOD, 07/13/07
6. PHYSICAL, AOD 02/07/08
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL, AOD 08/28/07
13. MENTAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL, AOD 09/26/03
17. PHYSICAL

[redacted]

[redacted]CEMBER 2008 D.B.

[redacted]

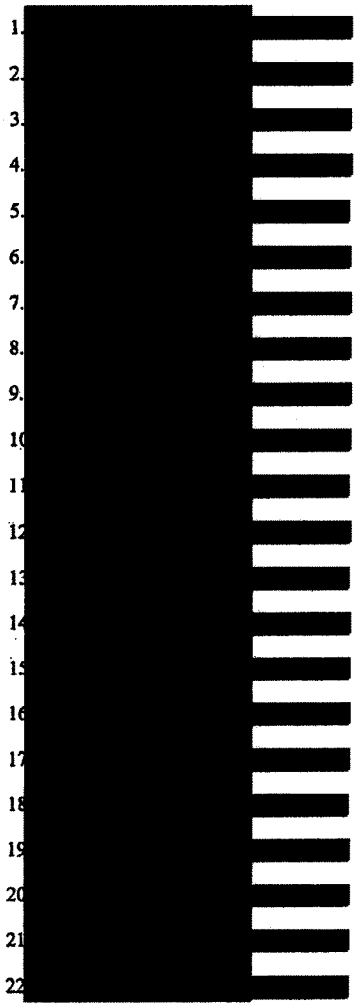
1.	MENTAL, AOD 10/31/07
2.	PHYSICAL
3.	PHYSICAL
4.	PHYSICAL
5.	PHSYICAL, AOD, 07/13/07
6.	PHYSICAL, AOD 02/07/08
7.	PHYSICAL
8.	PHYSICAL
9.	PHYSICAL
10.	PHYSICAL
11.	PHYSICAL
12.	PHYSICAL, AOD 08/28/07
13.	MENTAL
14.	PHYSICAL
15.	PHYSICAL
16.	PHYSICAL, AOD 09/26/03
17.	PHYSICAL
18.	PHYSICAL
19.	PHYSICAL, AOD 03/15/06
20.	PHYSICAL, AOD 07/19/05

[redacted]

DECEMBER 2008 D.B.

1.	[redacted]	MENTAL, AOD 10/31/07
2.		PHYSICAL
3.		PHYSICAL
4.		PHYSICAL
5.		PHSYICAL, AOD, 07/13/07
6.		PHYSICAL, AOD 02/07/08
7.		PHYSICAL
8.		PHYSICAL
9.		PHYSICAL
10		PHYSICAL
11		PHYSICAL
12		PHYSICAL, AOD 08/28/07
13		MENTAL
14		PHYSICAL
15		PHYSICAL
16		PHYSICAL, AOD 09/26/03
17		PHYSICAL
18		PHYSICAL
19		PHYSICAL, AOD 03/15/06
20		PHYSICAL, AOD 07/19/05
21		PHYSICAL

DECEMBER 2008 D.B.



1. MENTAL, AOD 10/31/07
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHSYICAL, AOD, 07/13/07
6. PHYSICAL, AOD 02/07/08
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL, AOD 08/28/07
13. MENTAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL, AOD 09/26/03
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL, AOD 03/15/06
20. PHYSICAL, AOD 07/19/05
21. PHYSICAL
22. MENTAL, AOD 07/08/08

[redacted] PHYSICAL

[redacted]

JANUARY 2009

1. [redacted] PHYSICAL, AOD 11/02/07
2. MENTAL, AOD 05/09/08
3. MENTAL
4. PHYSICAL
5. PHYSICAL
6. MENTAL
7. MENTAL
8. MENTAL, AOD 01/05/07
9. PHYSICAL, AOD 05/10/06
10. MENTAL, AOD 08/22/08
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL, AOD 06/24/08
15. [redacted] PHYSICAL, AOD 09/28/07 SIGN SPECIAL AMENDED ONSET SO THAT SHE WILL LOSE HER SSD – CHECK WITH SSA BECAUSE DB THINKS THIS CLAIM WAS ONLY SSI

JUNE 2009

1. [redacted] MENTAL, REOPEN, HAVE REPORT GO BACK TO 07/31/02

2. [redacted] PHYSICAL, AOD 08/23/07

3. [redacted] MENTAL, AOD 01/20/09

4. [redacted] PHYSICAL

5. [redacted] PHYSICAL

6. [redacted] PHYSICAL

7. [redacted] PHYSICAL, HAVE REPORT GO BACK TO 07/07/06 FOR REOPENING.

8. [redacted] PHYSICAL

9. [redacted] PHYSICAL

10. [redacted] PHYSICAL

11. [redacted] PHYSICAL, AOD 01/19/08

12. [redacted] PHYSICAL

13. [redacted] MENTAL

14. [redacted] MENTAL, SSD/SSI AOD (SPECIAL AOD) LOSING SSD 01/22/09

15. [redacted] PHYSICAL

16. [redacted] MENTAL

17. [redacted] MENTAL, AOD 06/17/08

18. [redacted] PHYSICAL

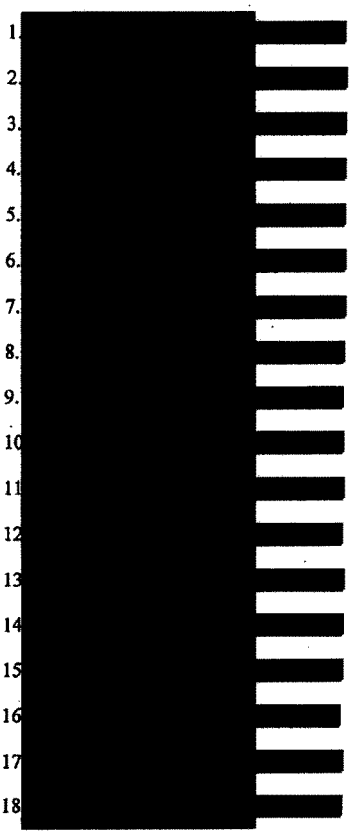
19. [redacted] PHYSICAL

20. [redacted] PHYSICAL

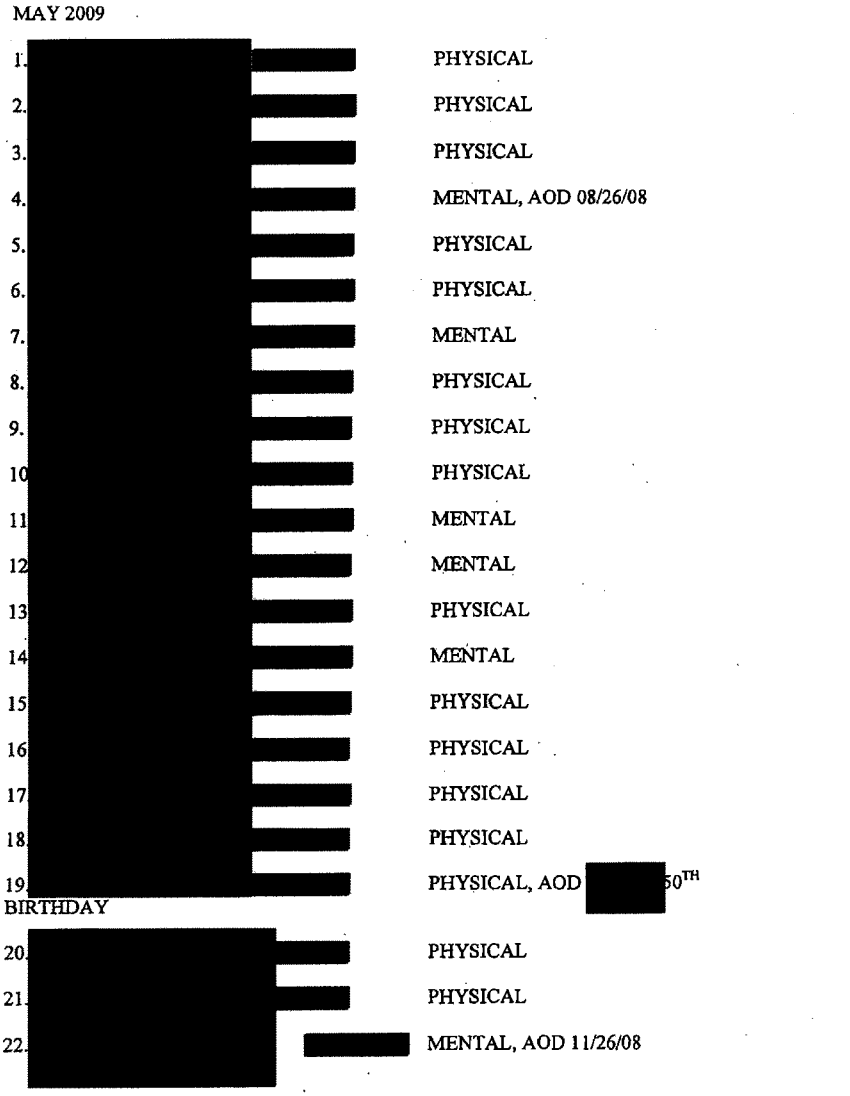
21. [redacted] PHYSICAL

22. [redacted] MENTAL
23. [redacted] PHSICAL, AOD 11/09/06
24. [redacted] MENTAL
25. [redacted] PHYSICAL
26. [redacted] PHYSICAL
27. [redacted] PHYSICAL
28. [redacted] WHATEVER ERIC WANTS!!!!!!!
DO CHILD RFC!!!!
29. [redacted] PHYSICAL, AOD 08/15/07
30. [redacted] PHYSICAL
31.

MAY 2009



1. PHYSICAL
2. PHYSICAL
3. PHYSICAL
4. MENTAL, AOD 08/26/08
5. PHYSICAL
6. PHYSICAL
7. MENTAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. MENTAL
12. MENTAL
13. PHYSICAL
14. MENTAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19.


MAY 2009
1. PHYSICAL
2. PHYSICAL
3. PHYSICAL
4. MENTAL, AOD 08/26/08
5. PHYSICAL
6. PHYSICAL
7. MENTAL
8. PHYSICAL
9. PHYSICAL
10 PHYSICAL
11 MENTAL
12 MENTAL
13 PHYSICAL
14 MENTAL
15 PHYSICAL
16 PHYSICAL
17 PHYSICAL
18 PHYSICAL
19 PHYSICAL, AOD [redacted] 50TH
BIRTHDAY
20. PHYSICAL
21. PHYSICAL
22. MENTAL, AOD 11/26/08

CLF030755

23. [redacted] PHYSICAL

24.

April 2009-03-18
D.B.

1. [redacted] PHYSICAL
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL – REOPEN!! HAVE REPORT GO BACK TO 03/01/06!!!
10. [redacted] PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. CHILD – DO WHATEVER ERIC WANTS AOD 06/21/07
20. [redacted] PHYSICAL, AOD 12/27/07

21. [redacted] PHYSICAL

22. [redacted] PHYSICAL, AOD TO DATE OF MOST CURRENT APP DATE

23. [redacted] PHSYICAL

24. [redacted] PHYSICAL

25. [redacted] PHYSICAL

26. [redacted] PHYSICAL, AOD 03/07/07

27. [redacted] MENTAL

28. [redacted] PHYSICAL

29. [redacted] CHILD CASE – DO MENTAL WITH CHILD FORM

30 [redacted] PHYSICAL

JUNE 2009

1 [redacted] MENTAL, REOPEN, HAVE REPORT GO BACK TO 07/31/02

2. [redacted] PHYSICAL, AOD 08/23/07

3. [redacted] MENTAL, AOD 01/20/09

4. [redacted] PHYSICAL

5. [redacted] PHYSICAL

6. [redacted] PHYSICAL

7. [redacted] PHYSICAL, HAVE REPORT GO BACK TO 07/07/06 FOR REOPENING.

8. [redacted] PHYSICAL

9. [redacted] PHYSICAL

1[redacted] PHYSICAL

1[redacted] PHYSICAL, AOD 01/19/08

1[redacted] PHYSICAL

1[redacted] MENTAL

1[redacted] MENTAL, SSD/SSI AOD (SPECIAL AOD) LOSING SSD 01/22/09

15. [redacted] PHYSICAL

16. [redacted] MENTAL

17. [redacted] MENTAL, AOD 06/17/08

18. [redacted] PHYSICAL

19. [redacted] PHYSICAL

20. [redacted] PHYSICAL

21. [redacted] PHYSICAL

22. [redacted] MENTAL

23. [redacted] PHSICAL, AOD 11/09/06
24. [redacted] MENTAL
25. [redacted] PHYSICAL
26. [redacted] PHYSICAL
27. [redacted] PHYSICAL
28. [redacted] WHATEVER ERIC WANTS!!!!!!!
DO CHILD RFC!!!!

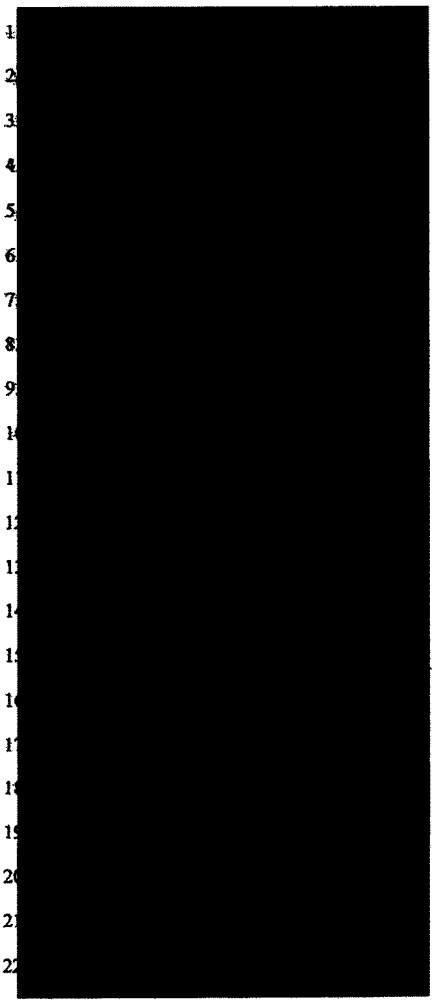
29. [redacted] PHYSICAL, AOD 08/15/07
30. [redacted] PHYSICAL
31. [redacted] PHYSICAL
32. [redacted] PHYSICAL
33. [redacted] MENTAL, GO BACK TO
09/23/04(already receiving)

34. [redacted] MENTAL, AOD 02/17/07
35. [redacted] PHYSICAL, AOD 07/06/07
36. [redacted] PHYSICAL
37. [redacted] CHILD'S CASE MENTAL
38. [redacted] PHYSICAL
39. [redacted] PHYSICAL
40. [redacted] MENTAL, AOD 12/05/06
41. [redacted] PHYSICAL
42. [redacted] PHYSICAL, AOD 06/29/07 – DO
SPECIAL AOD FORM LOSING TITLE II

43. [redacted] PHYSICAL, AOD 11/16/07
44. [redacted] PHYSICAL, AOD 10/05/07
45. [redacted] BOTH??? ASK Eric

46	[redacted]	PHYSICAL
47	[redacted]	PHYSICAL, 01/01/07

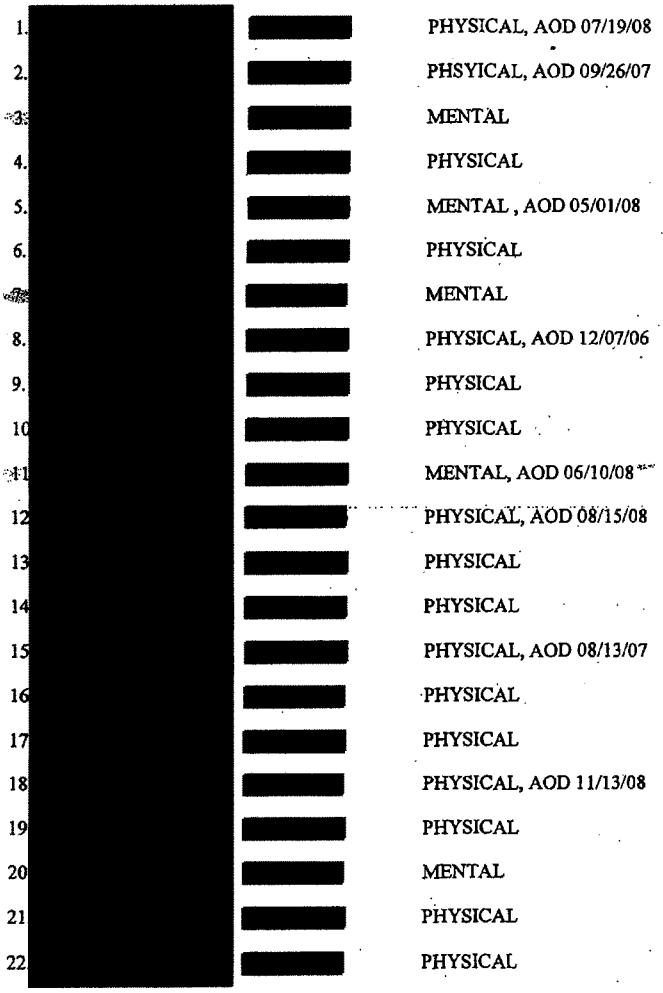
AUGUST 2009 D.B.



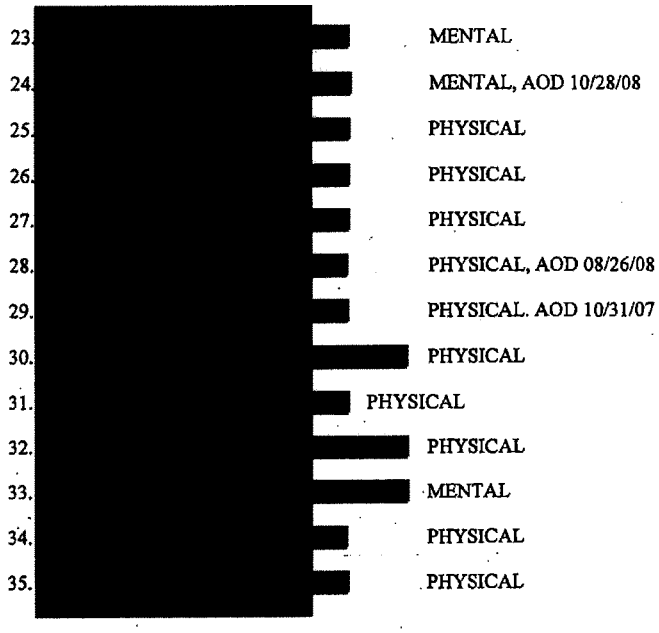
MENTAL CHILD
MENTAL AOD 04/29/08
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL AOD 01/30/09
PHYSICAL AOD 02/27/08
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL AOD 09/14/07
PHYSICAL
MENTAL
PHYSICAL

23.	[redacted]	PHYSICAL
24.		PHYSICAL
25.		PHYSICAL
26.		PHYSICAL
27.		MENTAL
28.		PHYSICAL
29.		CHILD PHYSICAL
30.		PHYSICAL
31.		PHYSICAL
32.		MENTAL, AOD 10/21/08
33.		PHYSICAL
34.		PHYSICAL
35.		NONE, AOD 03/19/08
36.		PHYSICAL, AOD 07/06/07
37.		PHYSICAL
38.		PHYSICAL
39.		PHYSICAL
40.		PHYSICAL

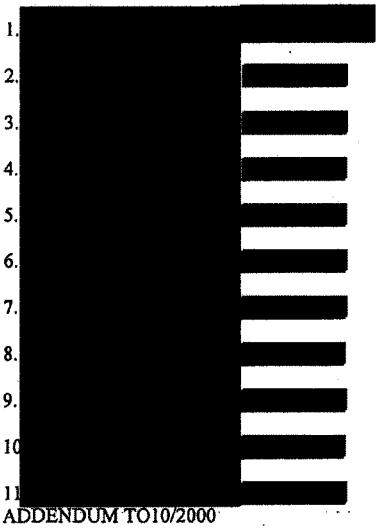
D.B. SEPTEMBER 2009



1. PHYSICAL, AOD 07/19/08
2. PHSYICAL, AOD 09/26/07
3. MENTAL
4. PHYSICAL
5. MENTAL , AOD 05/01/08
6. PHYSICAL
7. MENTAL
8. PHYSICAL, AOD 12/07/06
9. PHYSICAL
10. PHYSICAL
11. MENTAL, AOD 06/10/08
12. PHYSICAL, AOD 08/15/08
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL, AOD 08/13/07
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL, AOD 11/13/08
19. PHYSICAL
20. MENTAL
21. PHYSICAL
22. PHYSICAL

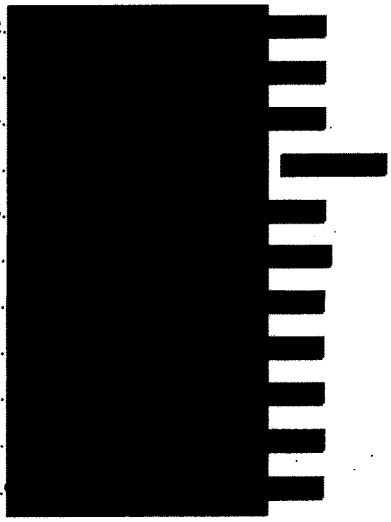

23. MENTAL
24. MENTAL, AOD 10/28/08
25. PHYSICAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL, AOD 08/26/08
29. PHYSICAL. AOD 10/31/07
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL

D.B. OCTOBER 2009

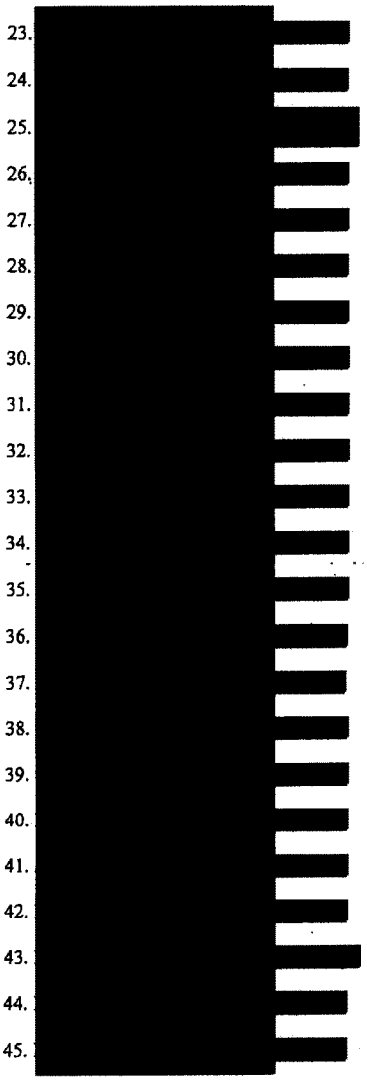


1. MENTAL AOD 01/25/06
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. MENTAL AOD 12/08/08
6. MENTAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL AOD 10/16/08
11. PHYSCIAL

ADDENDUM TO10/2000



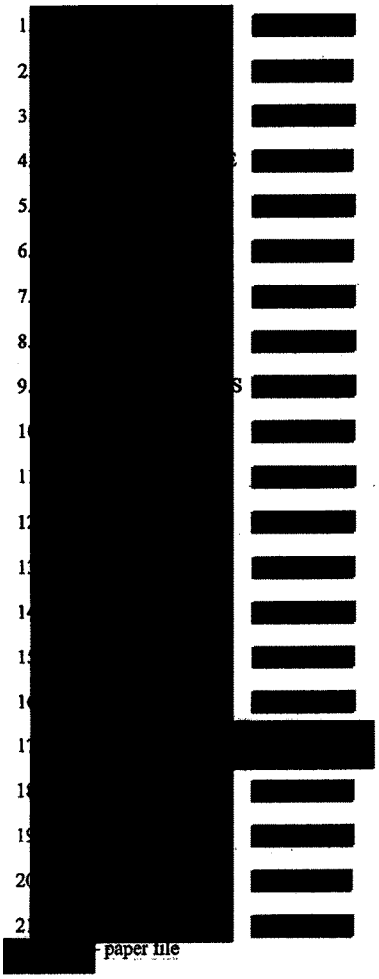
12. PHYSICAL
13. PHYSICAL
14. MENTAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL AOD 04/19/06
21. MENTAL
22. PHYSICAL



23. PHYSICAL AOD 05/07/08
24. PHYSICAL AOD 05/13/08
25. PHYSICAL
26. PHYSICAL AOD 07/01/08
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. PHYSICAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. PHYSICAL
39. PHYSICAL
40. PHYSICAL
41. PHYSICAL
42. PHYSICAL
43. PHYSICAL
44. PHYSICAL
45. PHYSICAL

46 [redacted] [redacted] PHYSICAL AOD 11/01/06

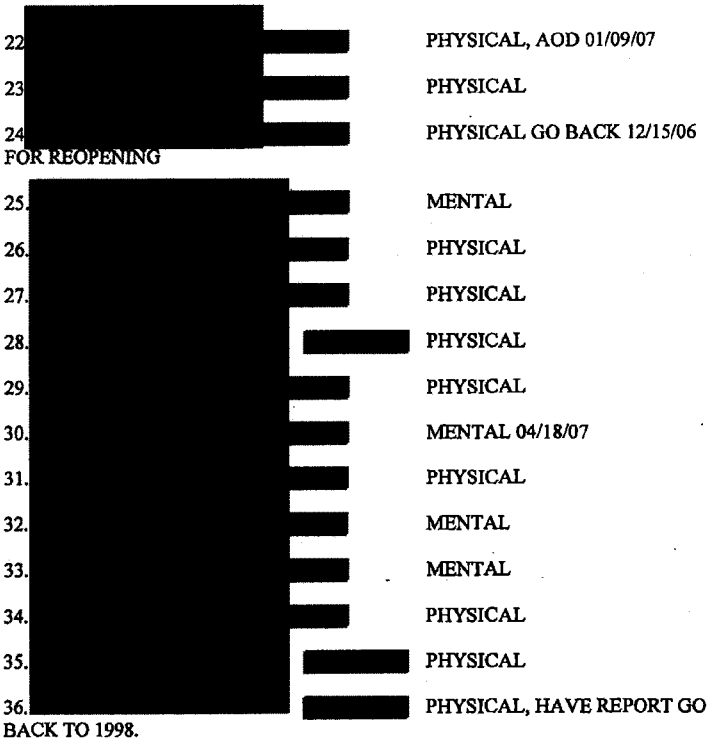
D.B. MAY 2008
DUE MAY 15, 2008



1	EITHER
2	PHYSICAL, AOD 10/25/06
3	PHYSICAL
4	PHYSICAL
5	PHYSICAL
6	PHYSICAL
7	PHYSICAL
8	PHYSICAL, AOD 08-11-07
9	PHYSICAL
10	PHYSICAL
11	PHYSICAL, AOD 02/15/07
12	PHYSICAL
13	MENTAL
14	PHYSICAL
15	PHYSICAL
16	PHYSICAL
17	PHYSICAL,AOD 06/25/07
18	PHYSICAL
19	PHYSICAL
20	PHYSICAL
21	PHYSICAL, AOD 50TH BIRTHDAY

paper file

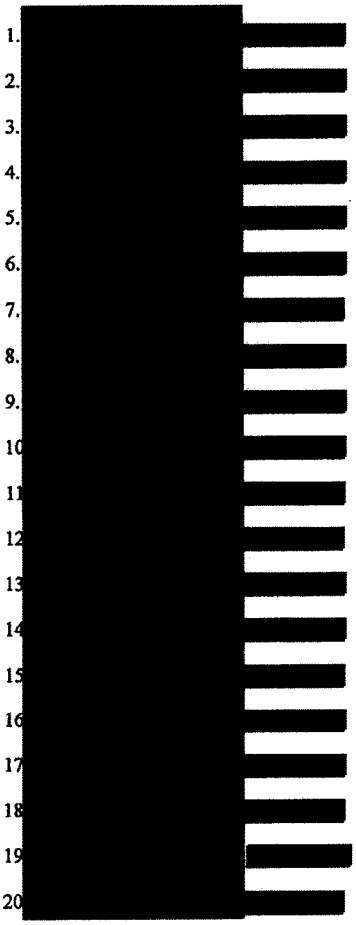
CLF030769



22. PHYSICAL, AOD 01/09/07
23. PHYSICAL
24. PHYSICAL GO BACK 12/15/06 FOR REOPENING
25. MENTAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. MENTAL 04/18/07
31. PHYSICAL
32. MENTAL
33. MENTAL
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL, HAVE REPORT GO BACK TO 1998.

D.B. JUNE 2008

DUE



1. PHYSICAL
2. PHYSICAL, AOD 01/13/07
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL, AOD 12/16/06
8. PHYSICAL
9. MENTAL
10. EITHER – CHECK FILE
11. PHYSICAL
12. MENTAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. MENTAL
18. PHYSICAL
19. PHYSICAL
20. MENTAL

21 [redacted] [redacted] PHYSICAL AOD 07-16-05

D.B. APRIL 2008
DUE 04/15/08

1. [redacted] MENTAL
2. [redacted] PHYSICAL, AOD 03/29/07
3. [redacted] PHYSICAL
4. [redacted] PHYSICAL
5. [redacted] PHYSICAL
6. [redacted] PHYSICAL
7. [redacted] PHYSICAL
8. [redacted] PHYSICAL GO BACK TO 09/19/05 AND AMEND ONSET DATE TO 09/15/05
9. [redacted] PHYSICAL, AOD 04/27/07
10. [redacted] PHYSICAL
11. [redacted] MENTAL
12. [redacted] PHYSICAL, AOD 10/22/07
13. [redacted] MENTAL, AOD 06/17/07
14. [redacted] PHYSICAL
15. [redacted] PHYSICAL
16. [redacted] PHYSICAL, AOD 03/30/06
17. [redacted] PHYSICAL
18. [redacted] MENTAL
19. [redacted] AOD 03/22/06 WHATEVER ERIC WANTS
20. [redacted] NOTHING

21. [redacted] PHYSICAL
22. PHYSICAL, AOD 12/12/06
23. MENTAL, REOPENING GO BACK 07/15/05
24. PHYSICAL
25. MENTAL, AOD 08-28-07
26. PHYSICAL, AOD 06/30/07
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL, REOPEN HAVE REPORT GO BACK TO 12/27/06

D.B. MAY 2008
DUE MAY 15, 2008

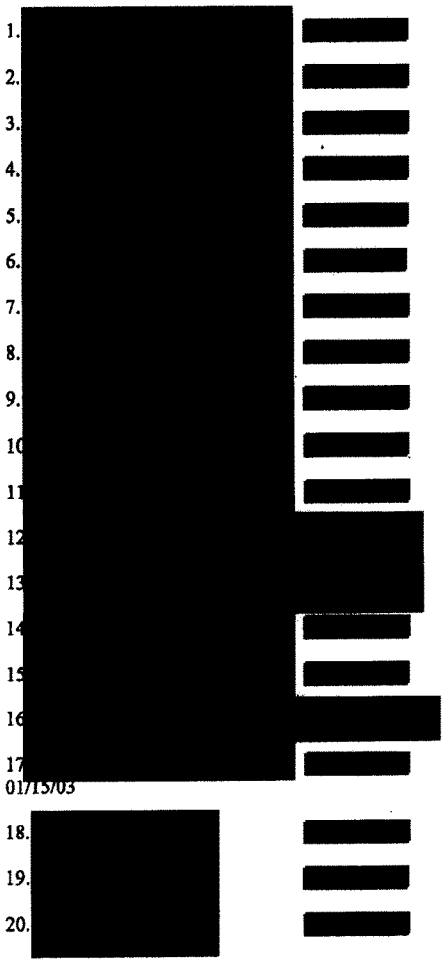
1.	[redacted]	EITHER
2.	[redacted]	PHYSICAL, AOD 10/25/06
3.	[redacted]	PHYSICAL
4.	[redacted]	PHYSICAL
5.	[redacted]	PHYSICAL
6.	[redacted]	PHYSICAL
7.	[redacted]	PHYSICAL
8.	[redacted]	PHYSICAL, AOD 08-11-07
9.	[redacted]	PHYSICAL
10	[redacted]	PHYSICAL
11	[redacted]	PHYSICAL, AOD 02/15/07
12	[redacted]	PHYSICAL
13	[redacted]	MENTAL
14	[redacted]	PHYSICAL
15	[redacted]	PHYSICAL
16	[redacted]	PHYSICAL
17	[redacted]	PHYSICAL,AOD 06/25/07
18	[redacted]	PHYSICAL
19	[redacted]	PHYSICAL
20	[redacted]	PHYSICAL
21	[redacted]	PHYSICAL, AOD 50TH BIRTHDAY

CLF030775

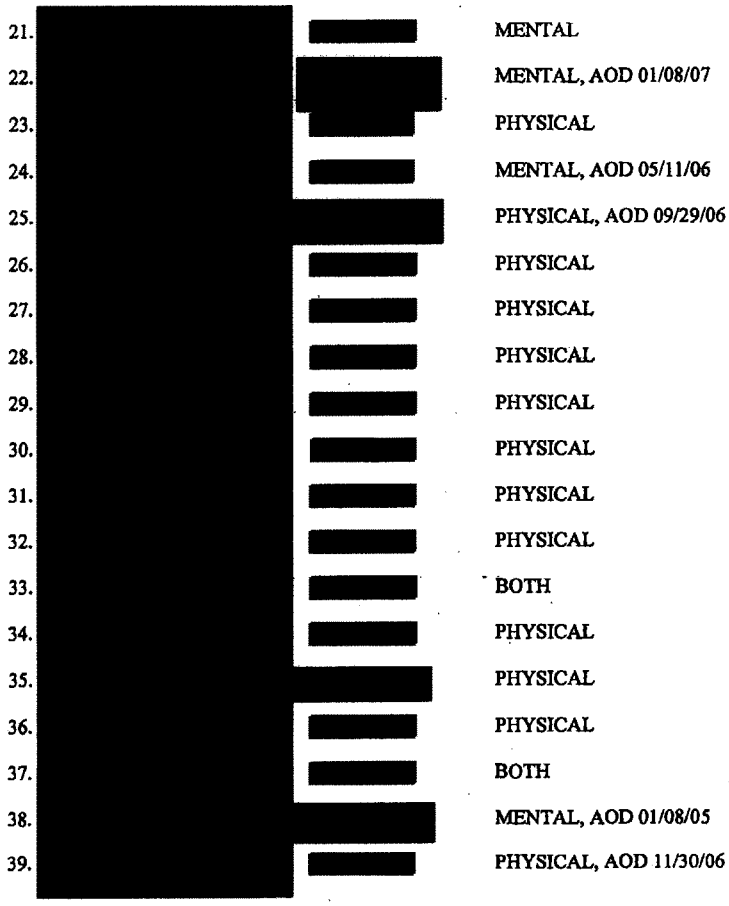
22. [redacted] PHYSICAL, AOD 01/09/07
23. PHYSICAL
24. PHYSICAL GO BACK 12/15/06
FOR REOPENING
25. [redacted] MENTAL
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29.

JULY 2007 LIST

DUE JULY 6, 2007



1. PHYSICAL
2. BOTH
3. MENTAL, AOD 08/28/06
4. MENTAL, AOD 09/29/06
5. BOTH,AOD 04/19/06
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. MENTAL
10. BOTH
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. MENTAL, AOD 05/23/06
16. PHYSICAL, AOD 05/06/06
17. PHYSICAL GO BACKTO 01/15/03
18. PHYSICAL
19. PHYSICAL, AOD 04/24/04
20. PHYSICAL


21. MENTAL
22. MENTAL, AOD 01/08/07
23. PHYSICAL
24. MENTAL, AOD 05/11/06
25. PHYSICAL, AOD 09/29/06
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. BOTH
34. PHYSICAL
35. PHYSICAL
36. PHYSICAL
37. BOTH
38. MENTAL, AOD 01/08/05
39. PHYSICAL, AOD 11/30/06

D.B. AUGUST 2007

DUE AUGUST 1, 2007

1. [redacted] PHYSICAL
2. [redacted] PHYSICAL, AOD 06/20/06
3. [redacted] PHYSICAL
4. [redacted] MENTAL
5. [redacted] PHYSICAL
6. [redacted] PHSYICAL
7. [redacted] PHYSICAL
8. [redacted] PHYSICAL
9. [redacted] PHYSICAL
10. [redacted] MENTAL, AOD 10/31/06
11. [redacted] MENTAL, AOD 11/30/06
12. [redacted] MENTAL, AOD 02/28/06
13. [redacted] PHYSICAL – FILE ERASED FROM DAYTIMER!!!! - FIX
14. [redacted] PHYSICAL, AOD 10/25/06 – TAKEN OFF THE LIST BECAUSE HE STILL HAS AN APPEALS COUNCIL CLAIM PENDING
15. [redacted] PHYSICAL, AOD 09/29/06
16. [redacted] PHYSICAL
17. [redacted] PHYSICAL AOD 05/22/06
18. [redacted] PHYSICAL AOD 12/12/06 – TAKEN OFF THE LIST BECAUSE SHE STILL HAS APPEALS COUNCIL CLAIM PENDING

19. [redacted] MENTAL AOD 03/03/05
BE CAREFUL WE HAVE 2 [redacted]

20. [redacted] MENTAL

21. [redacted] MENTAL, AOD 07/20/06 –
DISMISS THE DAC CLAIM - DO SPECIAL AMENDED ONSET DATE FORM – I WILL HELP

22. [redacted] PHYSICAL

23. [redacted] PHYSICAL

24. PHYSICAL

25. PHYSICAL

26. PHYSICAL

27. PHYSICAL, AOD 12/27/06

28. PHYSICAL, AOD 05/27/05

29. PHYSICAL, AOD 10/16/03

30. PHYSICAL, AOD 07/26/05

31. DO WHATEVER ERIC WANTS

32. MENTAL

33. PHYSICAL

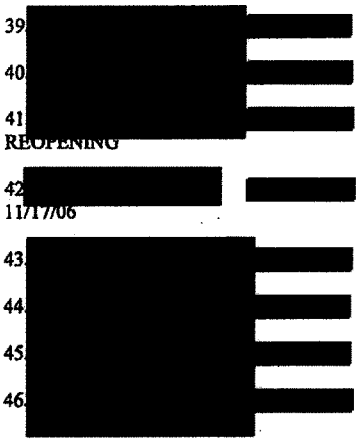
34. MENTAL

35. PHYSICAL

36. PHYSICAL

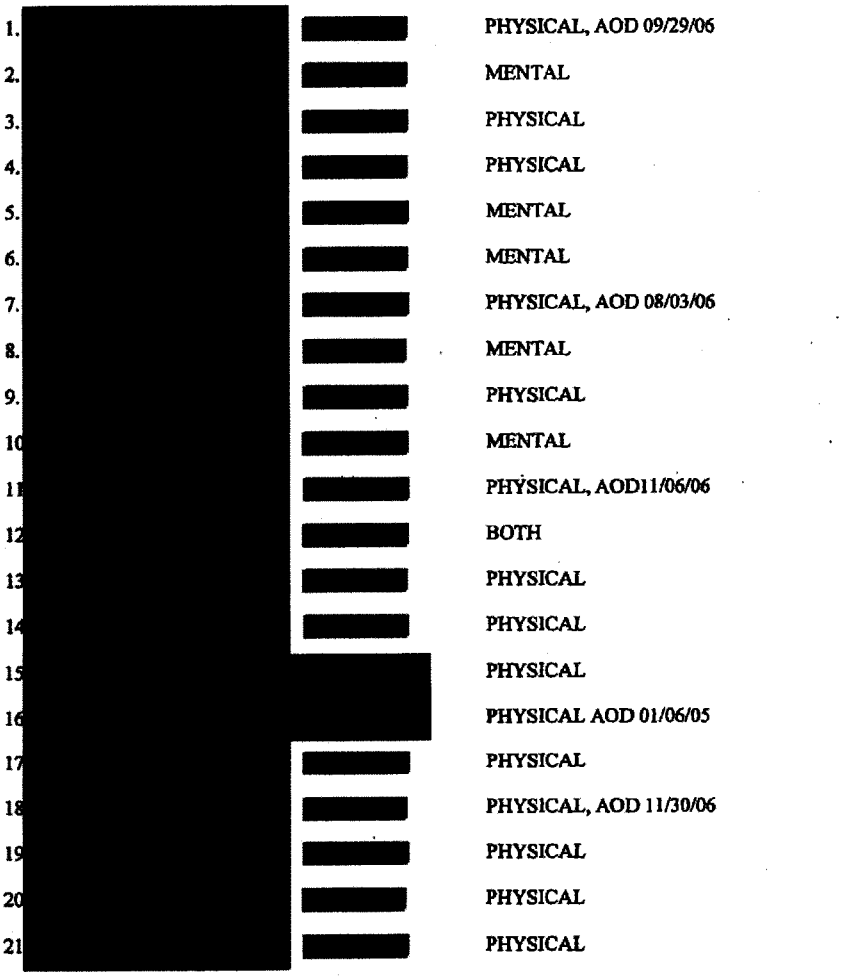
37. PHYSICAL

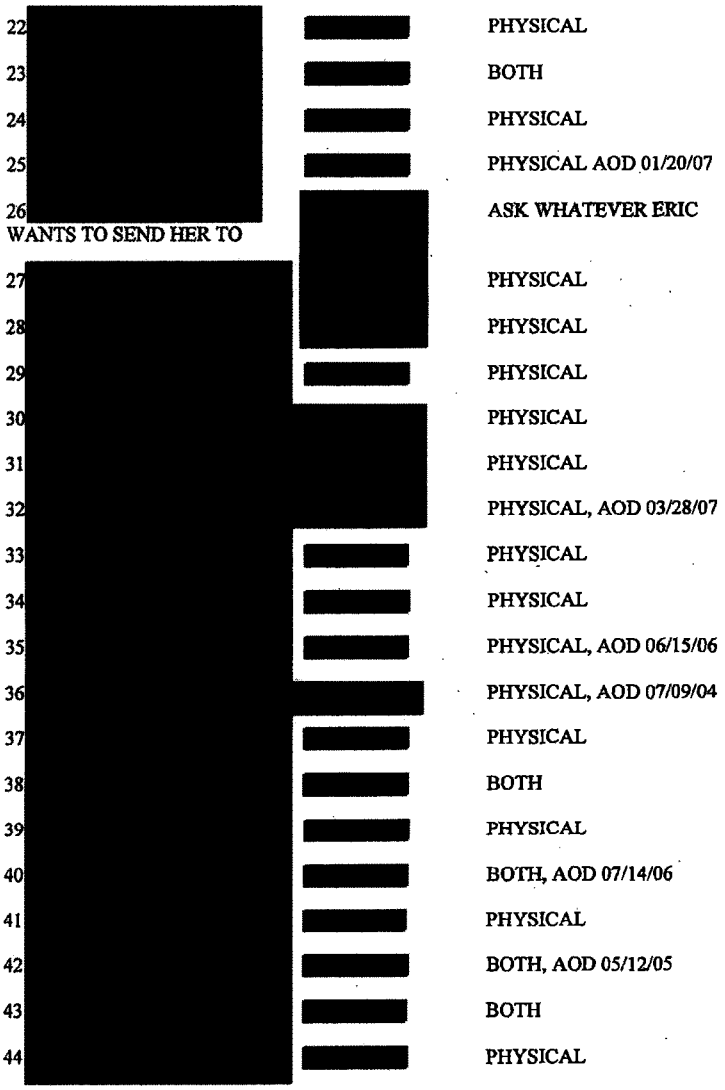
38. [redacted] BOTH – TAKEN OFF THE LIST
BECAUSE HE HAS DECIDED TO STAY WITH [redacted] WE PROBABLY NEED TO FILE A FEE PETITION. I WILL SEND [redacted] A NOTE ON THIS.

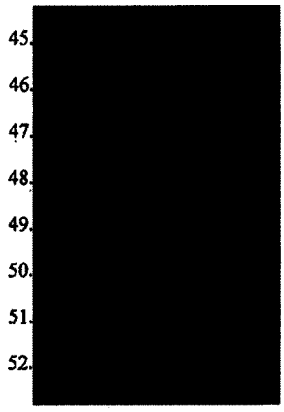


39. MENTAL
40. PHYSICAL
41. MENTAL, GO BACK 11/15/04
REOPENING
42. MENTAL, AOD APP DATE
11/17/06
43. PHYSICAL
44. PHYSICAL
45. BOTH, AOD 01/29/05
46. BOTH

D.B. SEPTEMEBER
DUE SEPTEMBER 4, 2007




22 PHYSICAL
23 BOTH
24 PHYSICAL
25 PHYSICAL AOD 01/20/07
26 ASK WHATEVER ERIC
WANTS TO SEND HER TO
27 PHYSICAL
28 PHYSICAL
29 PHYSICAL
30 PHYSICAL
31 PHYSICAL
32 PHYSICAL, AOD 03/28/07
33 PHYSICAL
34 PHYSICAL
35 PHYSICAL, AOD 06/15/06
36 PHYSICAL, AOD 07/09/04
37 PHYSICAL
38 BOTH
39 PHYSICAL
40 BOTH, AOD 07/14/06
41 PHYSICAL
42 BOTH, AOD 05/12/05
43 BOTH
44 PHYSICAL

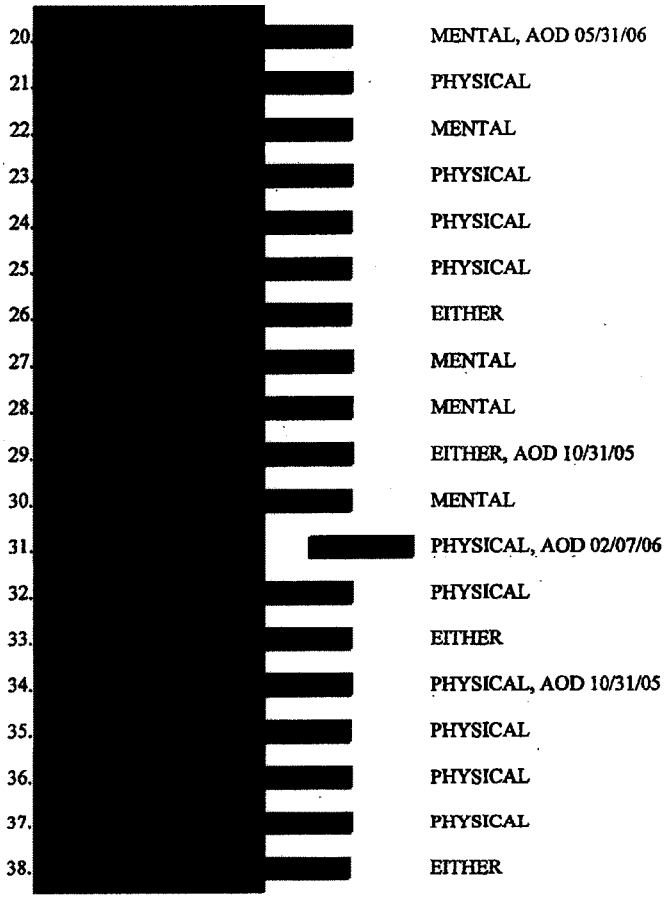


45. [redacted] PHYSICAL
46. [redacted] PHYSICAL
47. [redacted] PHYSICAL
48. [redacted] PHYSICAL, AOD 03/25/06
49. [redacted] PHYSICAL,AOD 01/20/06
50. [redacted] MENTAL
51. [redacted] PHYSICAL
52. [redacted] PHYSICAL

D.B.DUE OCTOBER 1, 2007

D.B. OCTOBER 2007

1. [redacted] PHYSICAL, AOD 02/04/05
2. [redacted] PHYSICAL
3. [redacted] PHYSICAL
4. [redacted] PHYSICAL, AOD 08/11/06
5. [redacted] PHYSICAL
6. [redacted] WHATEVER ERIC WANTS
7. [redacted] WHATEVER ERIC WANTS
8. [redacted] EITHER
9. [redacted] PHYSICAL, AOD 07/25/04 – SHE MUST SIGN THE SPECIAL AOD FORM STATING THAT SHE REALIZES THAT SHE WILL NOT RECEIVE SSD
10. [redacted] PHYSICAL, AOD 11/22/06
11. [redacted] PHYSICAL
12. [redacted] REOPENING – GET PHYSICAL TAKE BACK TO 11/01/2002
13. [redacted] SEND PROOF THAT SHE NO LOGER HAS RESOURCE
14. [redacted] PHYSICAL
15. [redacted] EITHER
16. [redacted] PHYSICAL
17. [redacted] EITHER, AOD 10/23/06
18. [redacted] PHYSICAL
19. [redacted] PHYSICAL


20. MENTAL, AOD 05/31/06
21. PHYSICAL
22. MENTAL
23. PHYSICAL
24. PHYSICAL
25. PHYSICAL
26. EITHER
27. MENTAL
28. MENTAL
29. EITHER, AOD 10/31/05
30. MENTAL
31. PHYSICAL, AOD 02/07/06
32. PHYSICAL
33. EITHER
34. PHYSICAL, AOD 10/31/05
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. EITHER

D.B. NOVEMBER 2007
DUE 11/15/07

[redacted] PHYSICAL – THIS WILL BE JUDGE QUINLIVAN'S CASE – TAKE OFF

1. [redacted] PHYSICAL, AOD 08/25/06
2. PHYSICAL, AOD 10/25/06
3. PHYSICAL
4. MENTAL,AOD 03/31/07
5. MUST DISMISS FEDERAL CASE!!!!!! – [redacted] WILL DO!!! DO EITHER AND HAVE REPORT REOPEN – HAVE REPORT GO BACK TO 09-22-04
6. [redacted] PHYSICAL
7. PHYSICAL
8. PHYSICAL,AOD 05/20/06
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. EITHER,AOD 08/24/05
13. WHATEVER ERIC WANTS TO DO ON THIS
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. WHATEVER ERIC WANTS TO DO ON THIS
18. [redacted] PHYSICAL

19 [redacted] PHYSICAL

20 [redacted] PHYSICAL

21 [redacted] PHYSICAL

22 [redacted] EITHER – HAVE REPORT
GO BACK TO 07/31/04

23 [redacted] MENTAL

24 [redacted] PHYSICAL

25 [redacted] AOD 11/30/06, PHYSICAL

26 [redacted] PHYSICAL

27 [redacted] PHYSICAL

28 [redacted] PHYSICAL

29 [redacted] MENTAL

30 [redacted] PHYSICAL

31 [redacted] PHYSICAL

32 [redacted] EITHER

33 [redacted] PHYSICAL

34 [redacted] EITHER

35 [redacted] MENTAL

36 [redacted] - JUST GET EVIDENCE
REGARDING TECH RFH – SHOWING THAT HE SOLD VEHICLE

37 [redacted] PHYSICAL – AOD TO
01/12/07

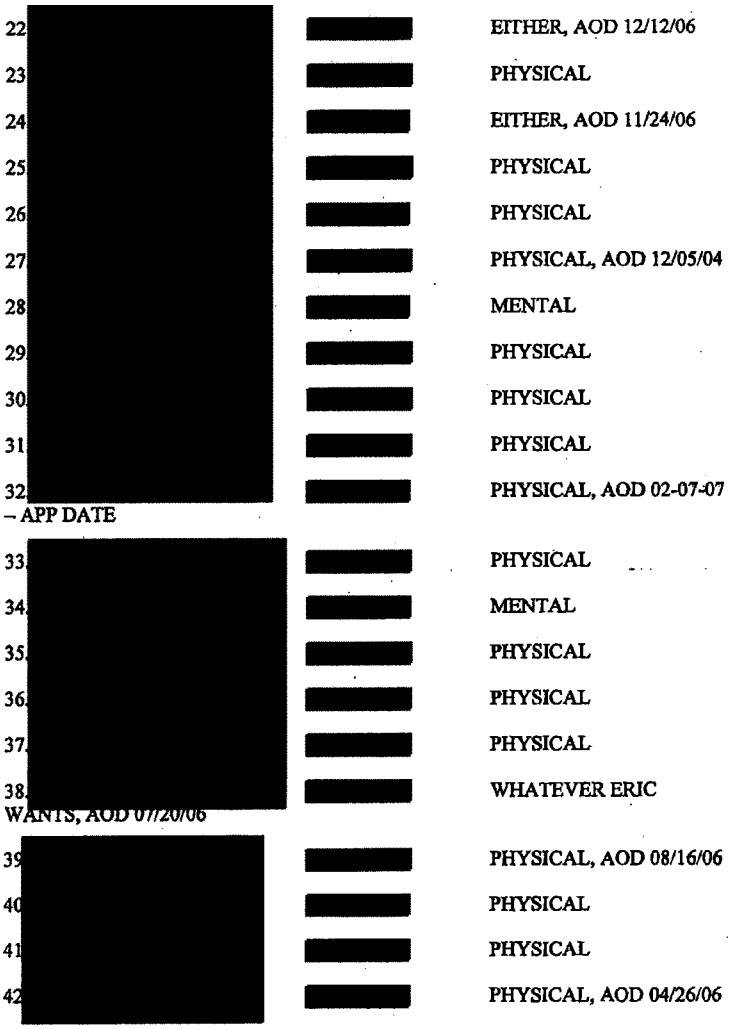
38 [redacted] MENTAL - she is coming to
the office this week. She is not a client yet

39 [redacted] PHYSICAL

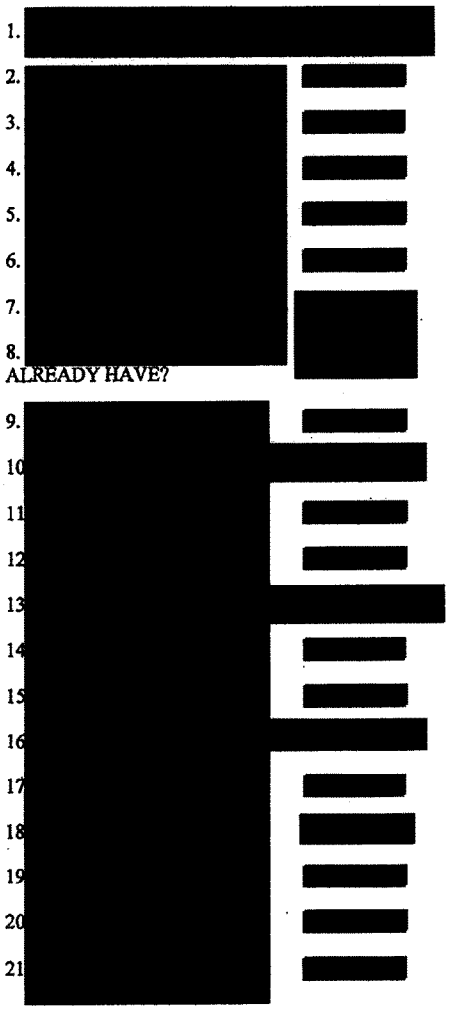
40 [redacted] PHYSICAL

D.B. – DECEMBER 2007
DUE DECEMBER 14, 2007

1. [redacted] [redacted] PHYSICAL - REOPENING–
TAKE REPORT BACK TO 09-18-01
2. [redacted] [redacted] MENTAL
3. [redacted] [redacted] PHYSICAL
4. [redacted] [redacted] PHYSICAL
5. [redacted] [redacted] PHYSICAL
6. [redacted] [redacted] PHYSICAL AOD 04/27/05
7. [redacted] [redacted] EITHER AOD, 09/14/05
8. [redacted] [redacted] EITHER
9. [redacted] [redacted] MENTAL, AOD 04/04/2007
10. [redacted] [redacted] PHYSICAL
11. [redacted] [redacted] MENTAL
12. [redacted] [redacted] PHYSICAL
13. [redacted] [redacted] MENTAL, AOD 03/09/07
14. [redacted] [redacted] PHYSICAL
15. [redacted] [redacted] PHYSICAL
16. [redacted] [redacted] PHYSICAL
17. [redacted] [redacted] MENTAL
18. [redacted] [redacted] PHYSICAL
19. [redacted] [redacted] MENTAL
20. [redacted] [redacted] PHYSICAL
21. [redacted] [redacted] PHYSICAL


22 [redacted] EITHER, AOD 12/12/06
23 PHYSICAL
24 EITHER, AOD 11/24/06
25 PHYSICAL
26 PHYSICAL
27 PHYSICAL, AOD 12/05/04
28 MENTAL
29 PHYSICAL
30 PHYSICAL
31 PHYSICAL
32 PHYSICAL, AOD 02-07-07
– APP DATE
33 [redacted] PHYSICAL
34 MENTAL
35 PHYSICAL
36 PHYSICAL
37 PHYSICAL
38 WHATEVER ERIC
WANTS, AOD 07/20/06
39 [redacted] PHYSICAL, AOD 08/16/06
40 PHYSICAL
41 PHYSICAL
42 PHYSICAL, AOD 04/26/06

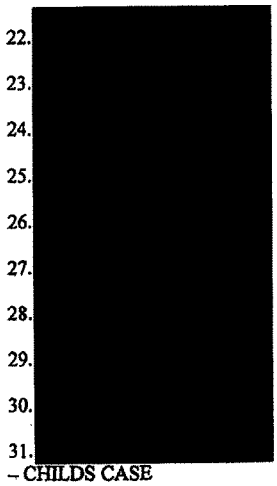
D.B. JANUARY 2008
DUE JANUARY 10, 2008



1. PHYSICAL, AOD 08/11/06
2. PHYSICAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. AOD 08/22/06, PHYSICAL

ALREADY HAVE?

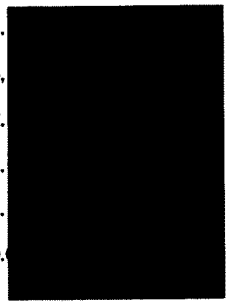
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL
21. PHYSICAL



22. [redacted] PHYSICAL
23. [redacted] MENTAL
24. [redacted] PHYSICAL
25. [redacted] PHYSICAL
26. [redacted] PHYSICAL
27. [redacted] PHYSICAL
28. [redacted] PHYSICAL
29. [redacted] PHYSICAL
30. [redacted] PHYSICAL
31. [redacted] WHATEVER ERIC WANTS – CHILDS CASE

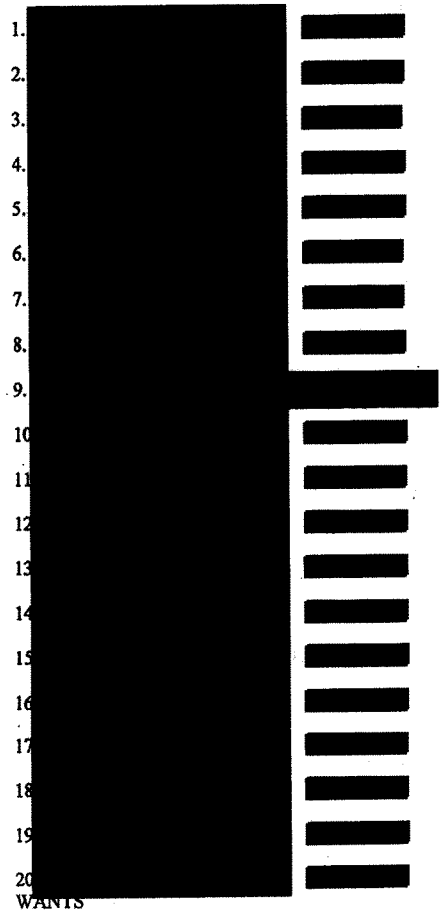


32. [redacted] PHYSICAL
33. [redacted] PHYSICAL
34. [redacted] PHYSICAL. REOPENING, HAVE REPORT GO BACK TO 08-15-03



35. [redacted] EITHER – CHECK FILE
36. [redacted] PHYSICAL
37. [redacted] PHYSICAL
38. [redacted] PHYSICAL
39. [redacted] PHYSICAL
40. [redacted] PHYSICAL, AOD 03-22-07

D.B. FEBRUARY 2008
DUE FEB 15, 2008



1. PHYSICAL
2. MENTAL
3. PHYSICAL
4. PHYSICAL
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL, AOD 05/04/06
9. MENTAL, AOD 01/05/07
10. MENTAL, AOD 10/24/06
11. PHYSICAL
12. PHYSICAL, AOD 06/28/07
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL, AOD 01/30/07
17. PHYSICAL, AOD 03/21/07
18. PHYSICAL, AOD 02/12/07
19. PHYSICAL
20. CHILD, WHATEVER ERIC

WANTS

21. [redacted] [redacted] CHILD, WHATEVER ERIC WANTS – SHE HAS VISION PROBLEMS!!!

22 [redacted] [redacted] PHYSICAL

23 [redacted] [redacted] PHYSICAL, HAVE REPORT GO BACK TO ONSET DATE – SAME AS THIS DATE [redacted] KNOWS THE LANGUAGE TO USE) 05/15/02 – CHECK ONSET

24. [redacted] [redacted] PHYSICAL.AOD 06/01/06

25. [redacted] PHYSICAL

26. [redacted] CHILD, WHATEVER ERIC WANTS

27. [redacted] [redacted] PHYSICAL, DO ADDENDUM TO HAVE GO BACK TO 02/15/04!!! – PAPER FILE, NO BARCODE NEEDED

28. [redacted] EITHER, CHECK FILE FOR MORE MENTAL OR PHYSICAL

29 [redacted] [redacted] MENTAL

30 [redacted] PHYSICAL

31 [redacted] PHYSICAL, HAVE REPORT GO BACK TO 05/21/04

32. [redacted] [redacted] MENTAL

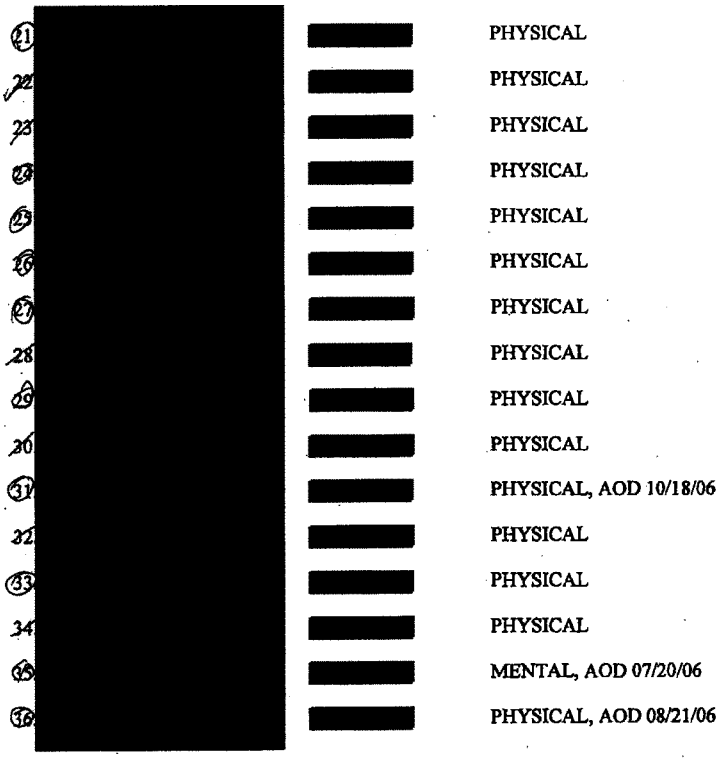
33. [redacted] MENTAL

D.B. MARCH 2008
DUE ON 03/15/08

1.	[redacted]	PHYSICAL
2.		PHYSICAL
3.		PHYSICAL, AOD 09/01/05
4.		MENTAL, AOD 07/27/07
5.		PHYSICAL
6.		PHYSICAL
7.		PHYSICAL
8.		PHYSICAL
9.		PHYSICAL
10.		PHYSICAL
11.		PHYSICAL
12.		PHYSICAL
13.		PHYSICAL
14.		REOPENING!! – MENTAL

- HAVE REPORT GO BACK TO 08/20/05 – OSENT DATE. CHECK FILE

15.	[redacted]	PHYSICAL
16.		PHYSICAL
17.		PHYSICAL
18.		PHYSICAL
19.		PHYSICAL
20.		PHYSICAL,AOD 11/17/06


[redacted]
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL, AOD 10/18/06
PHYSICAL
PHYSICAL
PHYSICAL
MENTAL, AOD 07/20/06
PHYSICAL, AOD 08/21/06

D.B. APRIL 2008
DUE 04/15/08

Shum

1. [redacted] MENTAL
2. [redacted] PHYSICAL, AOD 03/29/07
3. [redacted] PHYSICAL
4. [redacted] PHYSICAL
5. [redacted] PHYSICAL
6. [redacted] PHYSICAL
7. [redacted] PHYSICAL
8. [redacted] PHYSICAL, AOD 07/31/07
9. [redacted] PHYSICAL, AOD 04/27/07
10. [redacted] PHYSICAL
11. [redacted] MENTAL
12. [redacted] PHYSICAL, AOD 10/22/07
13. [redacted] MENTAL, AOD 06/17/07
14. [redacted] PHYSICAL
15. [redacted] PHYSICAL
16. [redacted] PHYSICAL, AOD 03/30/06
17. [redacted] PHYSICAL
18. [redacted] MENTAL
19. [redacted] AOD 03/22/06 WHATEVER ERIC WANTS
20. [redacted] NOTHING
21. [redacted] PHYSICAL

22. [redacted] PHYSICAL, AOD 12/12/06

23. [redacted] MENTAL, REOPENING GO
BACK 07/15/05

24. [redacted] PHYSICAL

25. [redacted] MENTAL, AOD 08-28-07

26. [redacted] PHYSICAL, AOD 06/30/07

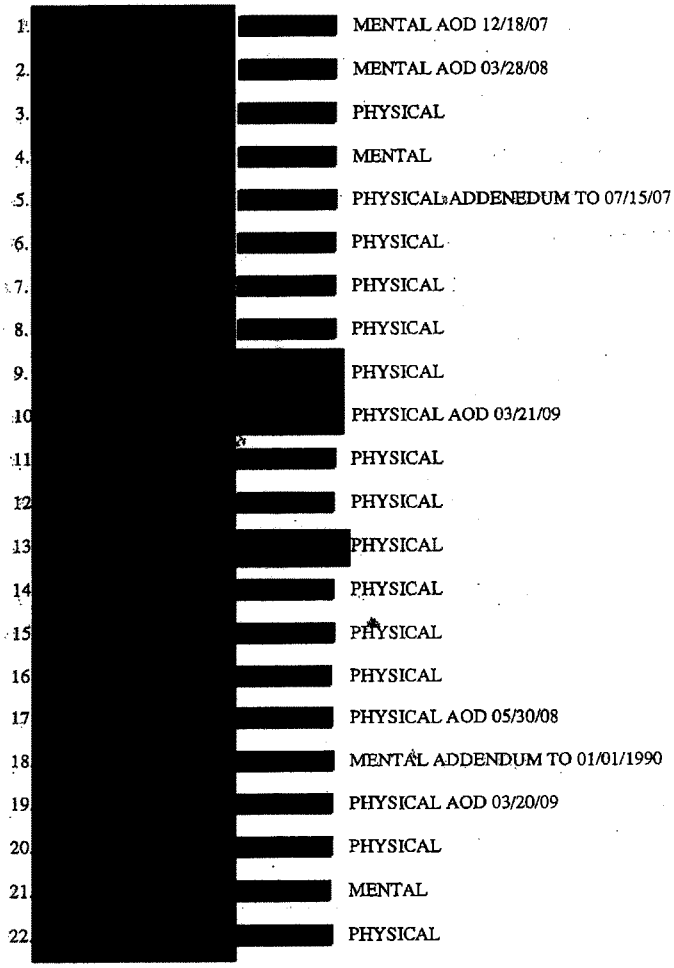
27. [redacted] PHYSICAL

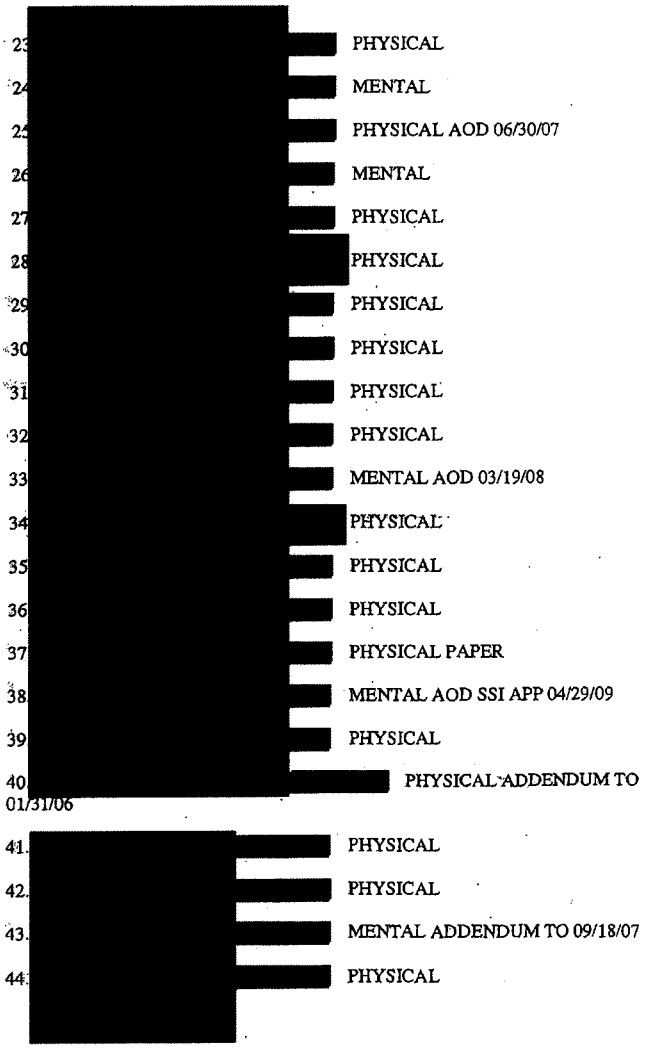
28. [redacted] PHYSICAL

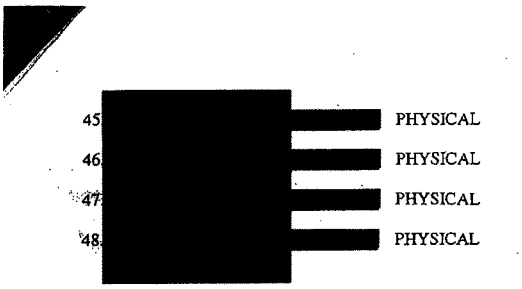
29. [redacted] PHYSICAL

30. [redacted] PHYSICAL

D.B. JANUARY 2010

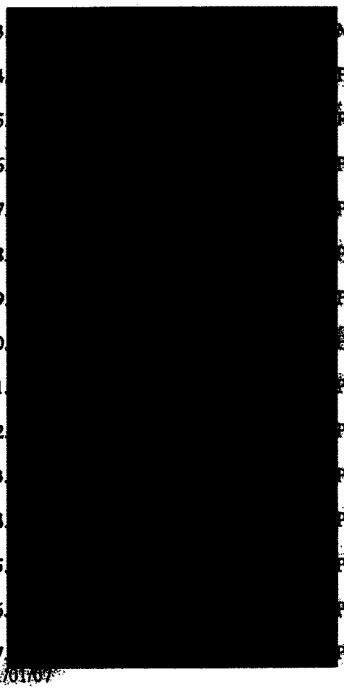



PHYSICAL
MENTAL
PHYSICAL AOD 06/30/07
MENTAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL
MENTAL AOD 03/19/08
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL PAPER
MENTAL AOD SSI APP 04/29/09
PHYSICAL
PHYSICAL ADDENDUM TO 01/31/06
PHYSICAL
PHYSICAL
MENTAL ADDENDUM TO 09/18/07
PHYSICAL

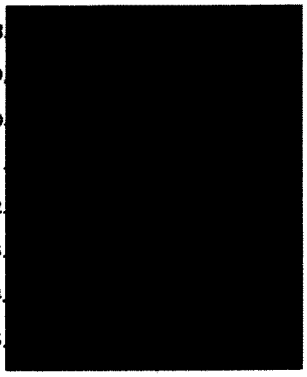

45
46
47
48
PHYSICAL
PHYSICAL
PHYSICAL
PHYSICAL

FEBRUARY DB

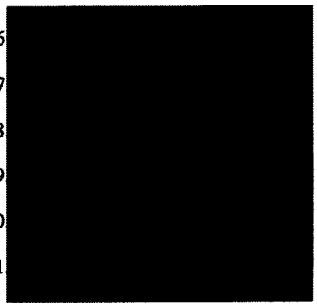
1.	PHYSICAL AOD 11/02/07 - Possible closed period - wmg.
2.	PHYSICAL
3.	PHYSICAL AOD 03/25/08
4.	PHYSICAL AOD 06/16/08
5.	PHYSICAL
6.	PHYSICAL
7.	PHYSICAL
8.	PHYSICAL
9.	PHYSICAL
10.	PHYSICAL AOD 11/15/08
11.	PHYSICAL
12.	MENTAL
13.	MENTAL
14.	PHYSICAL
15.	PHYSICAL
16.	PHYSICAL AOD 10/18/07
17.	PHYSICAL
18.	MENTAL
19.	PHYSICAL
20.	MENTAL
21.	PHYSICAL
22.	MENTAL AOD 05/13/09



23. MENTAL
24. PHYSICAL
25. PHYSICAL AOD 02/14/08
26. PHYSICAL
27. PHYSICAL
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. PHYSICAL
34. PHYSICAL
35. PHYSICAL AOD 06/30/09
36. PHYSICAL
37. PHYSICAL WORTEN ADDENDUM TO 01/01/07



38. PHYSICAL SSI APP DATE AOD 08/26/08
39. PHYSICAL
40. NOTHING
41. NOTHING
42. MENTAL CHILD AOD 07/12/07
43. NOTHING
44. NOTHING
45. NOTHING



46	[redacted]	NOTHING
47		NOTHING
48		MENTAL CHILD AOD 12/01/08
49		PHYSICAL
50		NOTHING
51		PHYSICAL

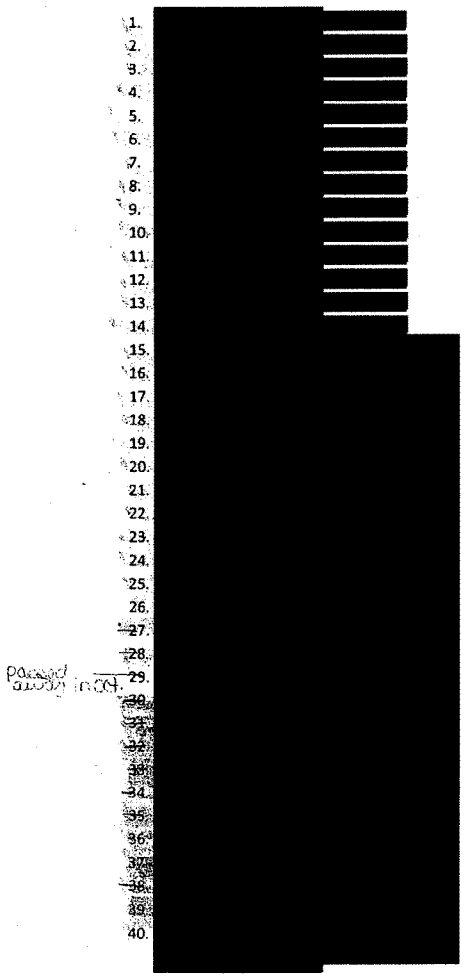
MARCH DB

[redacted]

1. PHYSICAL
2. PHYSICAL
3. MENTAL
4. PHYSICAL
5. PHYSICAL AOD 06/26/09
6. PHYSICAL
7. PHYSICAL
8. PHYSICAL
9. PHYSICAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. MENTAL
16. PHYSICAL
17. PHYSICAL
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL
21. PHYSICAL
22. PHYSICAL
23. PHYSICAL AOD 08-30-09
24. PHYSICAL
25. PHYSICAL
26. MENTAL
27. MENTAL AOD 05/28/09
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL AOD 11/28/08
32.
33.

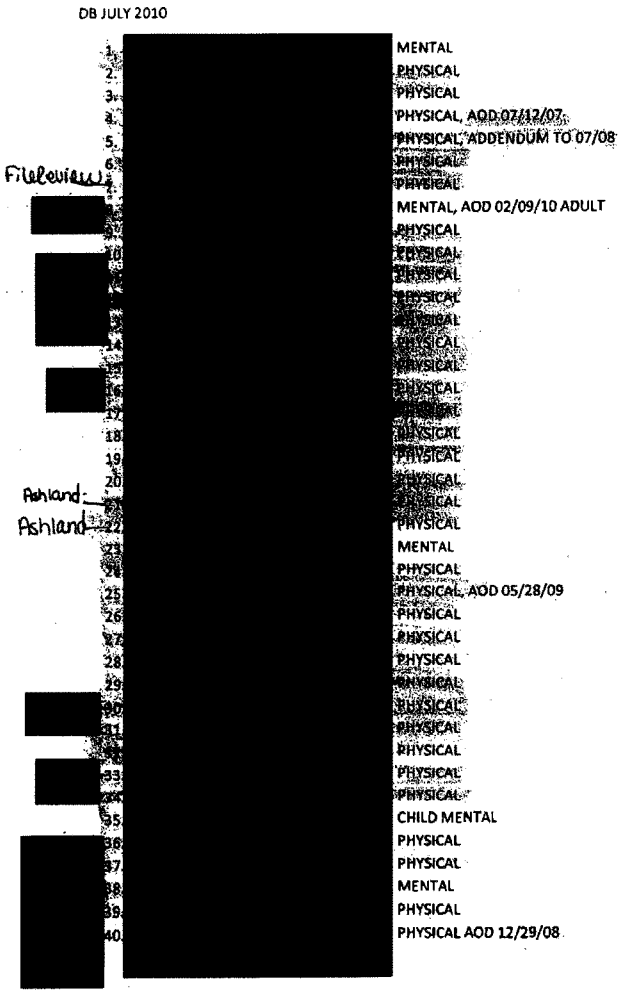
CLF030806

APRIL 2010 D.B.



1. PHYSICAL
2. MENTAL CHILD AOD 04/29/09
3. NOTHING
4. PHYSICAL AOD 06/25/08
5. PHYSICAL
6. PHYSICAL
7. PHYSICAL AOD 08/05/09
8. PHYSICAL
9. MENTAL
10. PHYSICAL
11. PHYSICAL
12. PHYSICAL
13. PHYSICAL
14. PHYSICAL
15. PHYSICAL
16. PHYSICAL
17. MENTAL AOD 06/30/08
18. PHYSICAL
19. PHYSICAL
20. PHYSICAL
21. PHYSICAL ADDENDUM TO 06/15/08
22. PHYSICAL AOD 06/25/09
23. MENTAL
24. MENTAL AOD 09/30/09
25. PHYSICAL
26. MENTAL ADDENDUM 01/15/06
27. PHYSICAL AOD 05/31/08
28. PHYSICAL
29. PHYSICAL
30. PHYSICAL
31. PHYSICAL
32. PHYSICAL
33. PHYSICAL
34. MENTAL
35. PHYSICAL
36. PHYSICAL
37. PHYSICAL
38. MENTAL
39. PHYSICAL
40. PHYSICAL

41. [redacted] PHYSICAL


DB JULY 2010
[redacted]
MENTAL
PHYSICAL
PHYSICAL
PHYSICAL, AOD 07/12/07
PHYSICAL, ADDENDUM TO 07/08
PHYSICAL
PHYSICAL
Fileviewed
MENTAL, AOD 02/09/10 ADULT
PHYSICAL
[redacted]
Ashland
Ashland
PHYSICAL
MENTAL
PHYSICAL
PHYSICAL, AOD 05/28/09
PHYSICAL
PHYSICAL
PHYSICAL
[redacted]
PHYSICAL
CHILD MENTAL
PHYSICAL
PHYSICAL
MENTAL
PHYSICAL
PHYSICAL AOD 12/29/08

CLF030809


PHYSICAL
MENTAL
PHYSICAL, AOD 09/09/09
PHYSICAL, ADDENDUM TO 11/08

Kemper Jr, James D.

From: Kemper Jr, James D.
Sent: Tuesday, October 04, 2005 10:21 AM
To: Andrus, Charlie Paul
Cc: Chwalibog, Andrew J.; Gitlow, William H.
Subject: Taking cases off the master docket--Daugherty's decisions on the record

As I discussed with you yesterday, I have a court remand on a case ([redacted], [redacted]) which was decided by me on June 27, 2003 and in an earlier decision by Judge Paris on June 28 2002. Claimant alleged the same onset date in both filings (September 12, 2000). Thereafter, Daugherty takes the record off the master docket and issues a fully favorable decision on April 11, 2004, with the original onset date of September 12, 2000. He completely ignored both Judge Paris' decision and mine, making no reference to either in the decision. This makes it particularly difficult to now decide the case on remand. I have spoken to Judges Chwalibog and Gitlow about this. Judge Chwalibog believes that a similar situation happened with one of his cases.

You stated that you would discuss this matter with him to the extent that he should at least check to see if there have been any prior applications and decisions made on a particular case. It seems to me when you have a remote onset date as here, a red flag would have been raised that yes, there may very well have been such a prior application and decision on the case.

Message0491	
Subject:	**RE: Protect Your Account Info-SCAM ALERT!!**
From:	Gitlow, William H.
Date:	5/18/2006 3:59:28 PM
To:	Kayser, Ronald M.

Message Body

Thanks for the heads up. I shall call Bluegrass to try to get an appointment with [redacted]

Amazing how it takes a ***** ALJ in an office to make the numbers each month. We have Judge Daugherty here who scans the master docket each month, pays 90+% and gets out 80 to 100 cases each month. So we make our numbers each month. Without him we would not. Ever.

Congratulations on becoming grandparents. I agree that it is a wonderful situation. Our daughter maintains that it is the reward for never having killed her during adolescence.

What exactly is [redacted] doing in [redacted] is she an ADA or AUSA? Does your son continue with [redacted] (do I have the right company)? I see that he still is in [redacted].

[redacted] continues to run her own company, a one person [redacted] ([redacted] LLC) with independent contracts with 2 hospitals (one in-patient, one home health), two nursing homes and one school system (two elementary schools). It continues to be a blessing for her - no boss to tell her how much to get out in what amount of time, so she does whatever it takes to do the job right. Sometimes it is feast or famine, but overall it is terrific for her.

The kids are fine - thanks for asking. [redacted] continues out of [redacted] as operations and sales manager of a five store cellular sales region in eastern [redacted] (Verizon Wireless). We drive down there to visit about every 2 months. [redacted] just graduated from her M.A. in counseling from [redacted]. She is working as a counselor for [redacted] as a [redacted] at the regional high school [redacted]. The grandkids are [redacted] and [redacted] and doing fine - and as you can imagine a real pleasure.

What are your plans? Are you going to keep working indefinitely? Do you continue to feel well s/p neck and back surgery? Will you guys stay in Lexington? [redacted] and I have talked some about retirement. Tentatively we are figuring on about another 5 years. That would make me [redacted] and [redacted]. Obviously, however, that is always so health dependent. I suspect that [redacted] will be gone from [redacted] at that time (she wants to go to [redacted] to be near her brother), so we may follow them down there after our retirement.

[redacted] and I were in Lexington very briefly (for a couple of hours) to see a hand doctor for [redacted] at [redacted] a couple of months ago. We drove past your development and could not believe the difference from when we were all looking at building houses out there. That area is so busy and fully developed now! It has everything at your fingertips, although the feel of the place is so very different. How do you feel about what has happened?

Good to hear from you.

Bill

Message0497	
Subject:	**FW: Changing judge assignments for Eric Conn cases and Bill Redd cases.**
From:	Andrus, Charlie Paul
Date:	7/31/2006 10:58:12 AM
To:	#PH WV ODAR Huntington All

Message Body

> All,
>
> As you know, we have a large amount of cases from Eric Conn's office and Bill Redd's office. The only way that we can fairly handle these cases is by strict rotation. If we don't assign these cases in rotation we leave ourselves open to charges of favoritism, judge shopping, as well as complaints from the lawyers that they only see "certain judges and not others". These allegations have been raised in the past and we have been able to show that the cases for these lawyers are divided equally among all the ALJs.
>
> In addition, I want to remind everyone of the policy we have followed for several years that these cases are NOT to be reassigned to another judge for any reason other than a judge leaving the office or recusal and then they are to be assigned out in strict rotation. I must personally approve any exception to this rule. In addition, The Case Intake Specialists and anyone else adding cases are to assign these cases to the next ALJ in rotation immediately when they are entered onto our system.
>
> Social Security pays these lawyers a lot of money in fees each year due to the size of their caseload (into seven figures). The only way we can refute unfounded allegations of improper assignment of cases to generate more fees for the lawyer is to follow a strict rotation and a "no change" policy.
>
> If any one has any questions about this they can see me.
>
> Judge Andrus

Outlook Header Information

Conversation Topic: Changing judge assignments for Eric Conn cases and Bill Redd cases.
Subject: FW: Changing judge assignments for Eric Conn cases and Bill Redd cases.
From: Andrus, Charlie Paul
Sender Name: Andrus, Charlie Paul
To: #PH WV ODAR Huntington All
Received By: Gitlow, William H.
Delivery Time: 7/31/2006 10:58:12 AM
Creation Time: 7/31/2006 10:58:12 AM
Modification Time: 7/31/2006 10:58:20 AM
Submit Time: 7/31/2006 10:58:12 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 0 = Unread
Size: 5789

From: Randolph, Sarah
Sent: Thursday, January 25, 2007 11:04 AM
To: Hall, Gregory ODAR Huntington HO

It has come to my attention the Eric Conn electronic cases are not being equally divided among those judges who have been trained on the electronic files. In fact, as you are now aware, DBD has, on his own initiative, elected to go in and assign himself SEVERAL electronic cases, all of which are Eric Conn cases. I guess this answers my question to you as to why group B was getting all these E. Conn electronic cases to close.

Greg, as I continue to argue the point of all the work that group B does that consistently goes unnoticed, or shall I say not acknowledged. We are constantly be reminded by Arthur of how much more Group A works up. And here we are now working up cases for their group and our group is repetitively closing a numerous amount of cases over and above group A's closings. We have consistently sat back and watched all of group A get awards. (except for the last award period).

If these electronic cases were being assigned out for workup, then Andrus and Chwalibog would also be putting out decisions on electronic files. Also, it would only make since to train the remaining ALJ's on the electronic files. This way, it would put a stop to Eric Conn calling DBD and giving him a list of his electronic cases, knowing that the other judges are not holding hearings. How else would DBD have knowledge of Conn's pending electronic cases?

Greg, all of this is not going unnoticed. People on the floor are beginning to talk and if not taken care of, this could escalate into a bigger problem.

Tracking:

Recipient	Read
Hall, Gregory ODAR Huntington HO	Read: 1/25/07 11:09 AM
Nordhoff, Rita	Read: 1/25/07 11:14 AM
Hicks, Pam ODAR Huntington HO	Read: 1/25/07 11:09 AM
Griffith, Jennifer	Read: 1/25/07 11:04 AM

From: Randolph, Sarah
Sent: Wednesday, May 09, 2007 2:16 PM
To: Hall, Gregory ODAR Huntington HO

Greg, I did not realize that Group A does not do Edits and closings for the 20 cases they have of Tinsleys. They also do not do the Pre and Post. What is the justification on this procedure? Also, please let me know as to what your findings are on the Request for Hearing dates on DBD's schedules. Particularly Conn cases. This month DBD has closed 29 electronic cases. 29 of these are Eric Conn cases. Why? We have other representatives which have electronic cases with this office. The word favoritism comes to mind. This is clearly favoritism. More so than what you brought up about Donna. Why is this "swept" under the rug, but the mere fact that Donna recommended Conn and OTHER reps to a claimant was such a "big deal". I have been unable to find anything which states what she did was wrong. She said she also gave the claimant's other reps names in addition to Conns name. But as I discussed with you, It is a known fact that Conn goes around telling his claimant's that he can get their case heard faster than any other attorney in his area. It has come to my attention there has been a bar complaint filed by some attorneys in Pburg against Conn. I am in the process of obtaining a copy. Is our office involved in this complaint?

Greg, all of the above has been the subject of "office chatter" for some time. This is not anything new. It just seems that "some issues" are being ignored and others are not. I clearly got aggravated when you mentioned the word "favoritism". Just knowing what goes on in this office. The Eric Conn situation is going to bite this office in the butt one day. All I ask is that you open your eyes and try to change the way his cases are handled before it does become an issue outside of this office.

9/18

On the week of 8/30/07, I found 2 Efiles that I had pencil-scheduled from a July Judge Gitlow-assigned list, that had been put in Judge Daugherty's name on 8/20/07. The two files were [redacted] and [redacted]. I told Judge Andrus about them and showed them to him at my desk. Judge Andrus said that he knew how that happened and told me to tell Kathie Goforth about it. Kathie had left for the day. Later, Greg asked me to come into his office. He talked about this incident and he tried to make out like it was a Master Docket Clerk error. Greg strongly inferred it to be Jennifer's error. At first, it looked like it had been unassigned and that Judge Daugherty had went into the system and picked it out to be one of his cases. After a while, we both noticed that it wasn't a Master Docket Clerk error, it had been assigned to Judge Gitlow since February 2007 and Judge Daugherty had switched it to his own case on 8/20/07. Greg told me to not tell anyone about this and to ask Judge Gitlow if he had looked the cases over yet and if not, to reschedule 2 others in place of them.

I went directly into Judge Gitlow's office and asked him if he had looked these two files over. He said no. I said well, good, because I need to switch them out. He asked why. I told him what had happened. He copied down my information of the two files, copied the listing that I had been working from and acted like it wasn't a big deal.

Later, Greg called me back into his office and told me that Judge Gitlow had went to Judge Andrus with this matter and was very upset about it. He again told me not to tell anyone about it.

Later that week, the Union Representative, Sarah Randolph, was having a meeting with Management concerning Union issues. She addressed this incident with Management. After that, Greg again called me into his office. As he was at my desk to ask me to come into his office, Arthur Weathersby was going into Greg's office. So when we entered Greg's office, I was taken aback because Arthur was standing there. Arthur was at the fax machine. Greg acted like it wasn't nothing for Arthur to be there. Greg told me that he knew that I had told Sarah about this incident and that he didn't want me to tell anyone else about this incident. He said that he didn't want it to get back to Judge Daugherty before Judge Andrus had a chance to look into the matter. Greg said explicitly for me not to tell anyone else about it.

Dana George

Gitlow, William H.

From: Gitlow, William H.
Sent: Friday, August 31, 2007 10:48 AM
To: Gitlow, William H.
Subject: Reassigned Cases

On Tuesday, 8/28/07 Donna came to me with my pencil schedule for October Prestonsburg, saying that she wanted to know if I had already prepped two cases. I had not yet done so. She explained that while those cases were assigned to me in the system, they had now been changed from being in my name to being in Judge Daugherty's name. I had no knowledge of this. As such Donna needed to cancel those two hearings and find two different cases for me.

I then went to Chief Judge Andrus to explain what had happened. Since they were e files, they were not papered and as such did not have a folder with my initials on it in the master docket drawer. I asked Judge Andrus if Judge Daugherty would know that these had been assigned to me. His response was that it would depend upon where Judge Daugherty had looked. I explained that I was concerned that our office remain above reproach. He led me to believe that he would take care of this problem.

From: Griffith, Jennifer
Sent: Tuesday, September 11, 2007 9:52 AM
To: Hall, Gregory ODAR Huntington HO
Cc: Randolph, Sarah

I am aware that while I was out of the office Judge Daugherty felt it necessary to take some more cases that were assigned to another Judge and place them in his name. I am aware that it was brought to your attention and you tried to blame me. I do not appreciate this.

DBD does many things like this every month. When I find them I make management aware of it. Nothing is ever done about it. Somehow it always ends up being the fault of the Master Docket clerks. We cannot control him or anything he does.

Further, yes I have threatened to quit before, when you were being unreasonable and unwilling to listen. We have had our differences and generally you have been a person that I as well as others could trust. This time, your failure to deal with the issues brought to your attention leaves me no choice. I am not threatening now, I have applied to return to school, and for 7 positions outside of the federal government.

I will no longer allow the stress of this office to negatively affect my health till it kills me. The situations in this office are the direct cause of the excessive increase in my blood pressure. My doctor's advice is to leave this place before it kills me.

You once told me that you should work to live not live to work, this environment is just not worth it.

Jennifer

[redacted]

From: Randolph, Sarah
Sent: Thursday, October 25, 2007 10:07 AM
To: Hall, Gregory ODAR Huntington HO
Cc: Griffith, Jennifer
Subject: RE: MDKT CASES

Greg, after long thought on this situation I just have one question. You said "47 days from the time case is received until docketing is completed is not acceptable". The policy our office follows on Eric Conn cases is to strictly use a rotational system as to evenly distribute his cases. To my knowledge, I do not know of an exception to that rule/policy as to any time limits on docketing. There are SEVERAL things that DBD is doing that are "not acceptable", however, management chooses to turn its head in order to achieve our numbers. Is it acceptable for what DBD is doing? You try to shift the blame when it comes to this situation, however, what DBD is unacceptable.

From: Hall, Gregory ODAR Huntington HO
Sent: Wednesday, October 24, 2007 10:44 AM
To: Randolph, Sarah
Subject: RE: MDKT CASES

Sarah, the case of [redacted] was received on September 6,2007. Jennifer did not docket the case until 9-28-07 which is 22 days after the case receipt date. She charged this to Judge Daugherty on 9-28-07 and when it appeared on his list his took possession of the case. Furthermore, Jennifer docketed the case on
September 28, 2007, but waited until October 23, 2007 to run the notices and complete the docketing. The case was here from September 6 until October 23, 2007 (a total of 47 days) before Jennifer attempted to complete the docketing. The case was charged to Judge Daughtery, he picked it up from CPMS, and began processing on it. 47 days from the time case is received until docketing is completed is not acceptable.

From: Randolph, Sarah
Sent: Wednesday, October 24, 2007 10:11 AM
To: Hall, Gregory ODAR Huntington HO
Subject: RE: MDKT CASES

Greg, This continues to be a problem and management has been notified on NUMEROUS occasions. My main concern is the cases he is assigning himself out of rotation. This exhibits favoritism towards E. Conn and puts this office in the same scenario as the Atlanta office which we spoke about a couple of months ago. This issue is also interfering with our master docket clerks and our CTe. I am voicing my concerns again as I have spoke with our union president who recommends that I file a union management grievance since the practice is continuing and has been for the last several years. Please let me know when you will be available for yet another discussion regarding this matter.

From: Griffith, Jennifer
Sent: Tuesday, October 23, 2007 2:50 PM
To: Hall, Gregory ODAR Huntington HO
Cc: Randolph, Sarah
Subject: MDKT CASES

[redacted]

The above named case, was removed from my name and initials before I had completed all of the mdkt functions on it. I assigned the case to judge Daugherty as a part of the regular rotation but I still had it in mdkt to complete the letters, generate barcodes, and screen. When I went to try and run the barcode it had disappeared from my list of cases.

Homeland Security & Governmental Affairs
Committee
EXHIBIT #27 [redacted]

I am tired of him doing this to the master docket and no one doing or saying anything about it. Yes in this instance the case was assigned to him, but it happens frequently with cases that are and are not assigned to him. He is granting cases before we can even get them docketed properly. Had I not looked I could have sent the master docket letter out on this AFTER THEY GOT A FAVORABLE DECISION.

Tracking:

Recipient	Read
Hall, Gregory ODAR Huntington HO	Read: 10/25/07 2:01 PM
Griffith, Jennifer	Read: 10/25/07 10:08 AM
Kemper Jr, James D.	Read: 10/25/07 10:17 AM

[redacted]

[redacted]

From: Carver, Sarah
Sent: Monday, March 29, 2010 3:38 PM
To: Gitlow, William H.

FYI Someone was closing this case and seen it was originally your case and DBD took it and did an OTR on it. [redacted])

Sarah A. Carver
Senior Case Technician

Homeland Security & Governmental Affairs
Committee
EXHIBIT #28
[redacted]

Message0006	
Subject:	**Case Reassignments**
From:	Gitlow, William H.
Date:	4/29/2011 5:29:17 PM
To:	Gitlow, William H.

Message Body

I found out yesterday, 4/28/11, that some cases assigned to me in 12/10 had been reassigned by Judge Daugherty to himself in 1/11. This is the third such incident to which I was aware, with the first in 8/07 and the second in 12/09. In the first instance I went to my HOCALJ; those contemporaneous notes are set forth. The second time I went to Judge Chwalibog (AJC) to discuss this and whether I should go directly to the RCALJ. AJC suggested that I give the HOCALJ another opportunity to end this reassignment. I followed his suggestion and went to the HOCALJ a second time. I told the HOCALJ at that time that if it happened again I would be forced to go higher up. Now I have been put in a position where I am faced with knowledge of this a third time. Obviously I am inclined to go directly to the RCALJ. However, I first sought guidance from other experienced ALJs, so I asked AJC and Judge Buel to meet with me. We met on Friday at 2pm, 4/29/11. After I set forth all the facts, they were in agreement that I should go a third time to the HOCALJ, but this time with them as well. I was reluctant to do so, as I felt that if I did not do something further that I would be viewed as somehow complicit or condoning such activity. However, both Judges were in agreement that if the three of us met with the HOCALJ together that such action would an appropriate step up on my part. As such, the three of us met with the HOCALJ and explained that Judge Daugherty had for the third time been reassigning my cases over to him. Judge Andrus assured me that he would (a) put the instruction to Daugherty in writing this time rather than orally; and (b) take this matter to the RCALJ, Judge Bede, on Monday.

Unfortunately, what I have seen post meeting is a generic message to all the office reminding everyone of the HOCALJ policy on case reassignments. If this is all that the HOCALJ meant by putting the instruction to Daugherty in writing, I feel that I have been misguided. However, I made my decision (not to go directly to RCALJ) and I now feel bound and constrained to stand by it.

Outlook Header Information

Conversation Topic: Case Reassignments
Sender Name: Gitlow, William H.
Received By: Gitlow, William H.
Delivery Time: 4/29/2011 5:29:17 PM
Creation Time: 4/29/2011 5:29:17 PM
Modification Time: 4/29/2011 5:29:17 PM
Submit Time: 4/29/2011 5:29:16 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 33 = Read, From Me
Size: 14471

Standard Header Information

Received: from PH-MB-01.ph.ad.ssa.gov ([10.26.86.121]) by
PH-CAS-HT-01.ph.ad.ssa.gov ([10.26.86.136]) with mapi; Fri, 29 Apr 2011
17:29:17 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: "Gitlow, William H." <William.H.Gitlow@ssa.gov>
To: "Gitlow, William H." <William.H.Gitlow@ssa.gov>

Message0037	
Subject:	**FW: Reassignment of cases between judges**
From:	Andrus, Charlie Paul
Date:	5/3/2011 9:52:00 AM
To:	Cerulli, Nicholas; Bede, Jasper J.

Message Body

Nick,

I had no clue that he was doing this to this extent. I do notice one name is conspicuously absent from the list of the judges. Do we know when the people will be by?

CPA

From: Daugherty, David B.
Sent: Monday, May 02, 2011 4:49 PM
To: Andrus, Charlie Paul
Cc: Buel, Toby; Chwalibog, Andrew J.; Gitlow, William H.; Hall, Gregory ODAR Huntington HO
Subject: RE: Reassignment of cases between judges

OOPS! I looked further and found the following:

[redacted] Judge Buel
[redacted] Judge Buel
[redacted] Judge Buel
[redacted] Judge Buel
[redacted] Judge Buel
[redacted] Judge Buel

[redacted] Judge Chwalibog
[redacted] Judge Chwalibog
[redacted] Judge Chwalibog
[redacted] Judge Chwalibog

[redacted] Judge Dunlap
[redacted] Judge Dunlap
[redacted] Judge Dunlap

[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow

That should be it! There are no other cases for me to screen.

Thank goodness I don't have to do these cases!!!

Again, I have caused all but the Dunlap cases to be returned to their respective original assignees. Let me know what you would like me to do with the Dunlap cases.

Again, I apologize for the inconvenience, if any, which may have resulted from this these errors.

D. B. Daugherty

From: Andrus, Charlie Paul
Sent: Monday, May 02, 2011 3:09 PM
To: Daugherty, David B.
Cc: Buel, Toby; Chwalibog, Andrew J.; Gitlow, William H.; Hall, Gregory ODAR Huntington HO
Subject: RE: Reassignment of cases between judges

D.B.,

I believe that the cases from Judge Dunlap and Judge Quinlivan were your share of those cases that were left when the judge left, so just keep them. I appreciate your returning the other cases.

Judge Andrus

From: Daugherty, David B.
Sent: Monday, May 02, 2011 2:36 PM
To: Andrus, Charlie Paul
Cc: Buel, Toby; Chwalibog, Andrew J.; Gitlow, William H.
Subject: RE: Reassignment of cases between judges

Your e-mail prompted me to check my Eric Conn cases to see if there were any that had been assigned to me from another ALJ. I discovered 23 of them. They are as follows:

[redacted] Judge Buel

[redacted] Judge Buel
[redacted] Judge Buel
[redacted] Judge Buel

[redacted] Judge Chwalibog
[redacted] Judge Chwalibog
[redacted] Judge Chwalibog
[redacted] Judge Chwalibog
[redacted] Judge Chwalibog
[redacted] Judge Chwalibog

[redacted] Judge Dunlap
[redacted] Judge Dunlap
[redacted] Judge Dunlap
[redacted] Judge Dunlap
[redacted] Judge Dunlap

[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow
[redacted] Judge Gitlow

[redacted] Judge Quinlivan
[redacted] Judge Quinlivan

I have caused all but the Dunlap and Quinlivan cases to be returned to their respective original assignees. Let me know what you would like me to do with the said Dunlap and Quinlivan cases.

I apologize for the inconvenience, if any, which may have resulted from this error.

D. B. Daugherty

From: Andrus, Charlie Paul
Sent: Friday, April 29, 2011 4:06 PM
To: #PH WV ODAR Huntington All
Subject: Reassignment of cases between judges

I want to remind everyone of my long-standing directive about re-assigning cases between

judges. Once a case is assigned to a judge, that case is to stay with that judge unless I find a specific reason to reassign the case, such as recusal. Therefore, NO ONE should reassign a case from one judge to another without clearing it through their supervisor who will clear it through me. Judges should come directly to me. We will continue our long standing policy of assigning Eric Conn's cases immediately upon receipt, by strict rotation, to all judges except Judge Meade. Once Judge Meade starts hearing cases in Prestonsburg, we will assign to him also.

If a case is unassigned, then it can be assigned to a judge without going through the above process. If a staff member has any questions about this procedure please see your supervisor. If the judges have any questions please see me.

Charlie Paul Andrus
Hearing Office Chief Judge
Huntington, WV Hearing Office

Outlook Header Information
Conversation Topic: Reassignment of cases between judges
Subject: FW: Reassignment of cases between judges
From: Andrus, Charlie Paul
Sender Name: Andrus, Charlie Paul
To: Cerulli, Nicholas; Bede, Jasper J.
Delivery Time: 5/3/2011 9:52:00 AM
Creation Time: 5/3/2011 9:52:10 AM
Modification Time: 5/3/2011 4:50:49 PM
Submit Time: 5/3/2011 9:52:10 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 28820

SOCIAL SECURITY ADMINISTRATION

Refer To:

Office of Disability Adjudication and Review
301 Ninth Street
2nd Floor Annex
Huntington, WV 25701
Tel: (866) 592-1607 / Fax: (304) 529-5066

June 10, 2011

To: ODAR Staff
Huntington, West Virginia

From: Gregory Hall
Hearing Office Director

Subject: Case assignment and other important Reminders
Under the direction of the Hearing Office Chief Judge the following actions will be implemented immediately:

- The Group Supervisors and I are delegated the authority to assign cases to judges. As outlined in the E-Business Process, CTT's will only assign exception cases to judges (the exceptions are cases that are Remands and cases that are Critical cases). No one else is to assign cases. No other employees, including judges, are authorized to assign cases.
- Judges who wish to review cases for possible OTR requests will e-mail the Hearing Office Chief Judge the request and the number of cases they desire. The Hearing Office Chief Judge will forward the request to the appropriate Group Supervisor who will first pull a list of high profile cases from the judge's existing docket, and a limited number of unassigned cases with high profiles if needed. They will further follow the procedure in the E-Business Process for coding and return the cases to UNWK if not granted.
- Cases are to be assigned to judges when the supervisor assigns the cases to WKUP and will be by rotation using the oldest request for hearing date. No case will be assigned as it arrives in the office except for those cases meeting the exception criteria as outlined within the E-Business Process (Remands and Critical Cases).
- Cases will be pulled according to the E-Business Process.

Message0006	
Subject:	**RE: Heard about this?**
From:	Andrus, Charlie Paul
Date:	5/19/2011 3:56:00 PM
To:	Helsper, William H.

Message Body

What can I say—judicial independence.

From: Helsper, William H.
Sent: Thursday, May 19, 2011 3:55 PM
To: Andrus, Charlie Paul
Subject: FW: Heard about this?

Shame on you!

From: Connally, Bill
Sent: Thursday, May 19, 2011 2:11 PM
To: King, Ward D.; Raines, Jack W.; Smith, Karen L.; Helsper, William H.
Subject: Heard about this?

<< OLE Object: Picture (Device Independent Bitmap) >> <javascript:void(0)>
US
Disability-Claim Judge Has Trouble Saying 'No'; Near-Perfect Approval Record; Social-Security Program Strained

By Damian Paletta
19 May 2011
The Wall Street Journal Online
WSJO
The Wall Street Journal - Print and Online
CTGSMFS
Copyright 2011 Dow Jones & Company, Inc. All Rights Reserved.
HUNTINGTON, W.Va.—Americans seeking Social Security disability benefits will often appeal to one of 1,500 judges who help administer the program, where the odds of winning are slightly better than even. Unless, that is, they come in front of David B. Daugherty.
In the fiscal year that ended in September, the administrative law judge, who sits in the impoverished intersection of West Virginia, Kentucky and Ohio, decided 1,284 cases and awarded benefits in all but four. For the first six months of fiscal 2011, Mr. Daugherty approved payments in every one of his 729 decisions, according to the Social Security Administration.
The judge has maintained his near-perfect record despite years of complaints from other judges and staff members. They say he awards benefits too generously and takes cases from other judges

Message0050	
Subject:	**FW: Hearing Schedules**
From:	Showalter, Judith
Date:	1/23/2002 2:55:44 PM
To:	Gitlow, William H.

Message Body

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Friday, January 18, 2002 2:42 PM
To: #PH WV OHA Huntington ALJs
Cc: Cyrus, Harriette M.; Hall, Gregory; Lytton Lane, Kathy
Subject: Hearing Schedules

Dear Judges,

I want to remind you all again that you need to clear any changes to the hearing schedule with me before hearing days are canceled. I found out that many times hearings which cannot be set one month are set for a month or even two months ahead. Therefore, if we cancel a week that has a hearing reporter and VE (currently through March) we can cause a lot of extra work. This can be avoided by clearing these changes through me or Harriette. We my be able to find another judge to cover those dates. I would also like to remind you that when dates are cancelled as opposed to being covered by another judge, the hearing reporter and the VE have committed time to us that is lost.

By a copy of this message, I am asking that Greg and Kathy instruct the scheduling clerks to check with me before canceling a hearing date. This way we have another chance of covering a date rather than losing it.

I appreciate your help in this area. We are still short staffed and if we can save the scheduling clerk extra work it will make that difficult job less difficult.

Judge Andrus

Outlook Header Information

Conversation Topic: Hearing Schedules
Subject: FW: Hearing Schedules
From: Showalter, Judith
Sender Name: Showalter, Judith
To: Gitlow, William H.
Received By: Gitlow, William H.
Delivery Time: 1/23/2002 2:55:44 PM
Creation Time: 1/23/2002 2:55:43 PM
Modification Time: 1/23/2002 2:55:44 PM
Submit Time: 1/23/2002 2:55:43 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 5725

Message0093	
Subject:	**Judge Daugherty - Huntington**
From:	Cristaudo, Frank
Date:	9/9/2002 5:37:56 PM
To:	Lowe, George
CC:	Loughran, Valerie

Message Body

More on the same issue.

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Thursday, September 05, 2002 8:32 PM
To: Cristaudo, Frank
Subject: FW: End of the year production

Please see the other message I sent today.

CPA
-----Original Message-----
From: Daugherty, David B.
Sent: Thursday, September 05, 2002 2:28 PM
To: Andrus, Charlie Paul
Subject: End of the year production

In an effort to contribute as many decisions as possible toward this month's goals, I have cancelled my P-burg hearings for the 23rd, 24th & 25th of this month and will , instead, write 30 OTR decisions from them. D. B. Daugherty

Outlook Header Information

Conversation Topic: End of the year production
Subject: Judge Daugherty - Huntington
From: Cristaudo, Frank
Sender Name: Cristaudo, Frank
To: Lowe, George
CC: Loughran, Valerie
Delivery Time: 9/9/2002 5:37:56 PM
Creation Time: 9/9/2002 5:37:54 PM
Modification Time: 9/9/2002 5:37:57 PM
Submit Time: 9/9/2002 5:37:57 PM
Importance: Normal
Priority: Normal

Social Security Administration **Office of Hearings and Appeals**

Office of the Regional
Chief Administrative Law Judge

P.O. Box 13496, 4th Floor
Philadelphia, PA 19101
Tel/Fax (215) 597-4100/4183

Refer to:

Date: December 2, 2002

To: Associate Commissioner

Thru: Acting Chief Judge

From: Regional Chief Judge
OHA – Region III – Philadelphia, PA

Subject: Official Letter of Reprimand for Judge Daugherty

The purpose of this memorandum is to request that an official letter of reprimand be issued to Judge David Daugherty, an administrative law judge in the Huntington (West Virginia) Hearing Office. I spoke with you about this matter when you visited Philadelphia. On September 5, 2002, I was advised by Hearing Office Chief Judge Charlie Andrus that Judge David Daugherty had cancelled a scheduled hearing trip and instead decided to issue favorable on-the-record decisions in 30 of the 35 cases. Judge Daugherty stated that he took this action to help the office attain numerical goals. In fact, he used annual leave on two of the days on which the hearings had been scheduled.

I am most concerned about the conduct of Judge David Daugherty and feel that a letter of reprimand is warranted. When a case is scheduled for hearing, there is an understanding that a hearing is needed in order to resolve the matter. To state that 30 hearings were cancelled and 30 on-the-record decisions issued to help the agency meet performance goals suggests possible impropriety and flawed decisions. I believe that the actions taken by Judge David Daugherty justify the issuance of a letter of reprimand. For your convenience a draft letter has been prepared and is enclosed along with the relevant background information.

If you have any questions, or would like to discuss this matter further please let me know. The staff contact is Regional Attorney Gregory Hamel, who can be reached on 215-597-4111.

/s/

Frank A. Cristaudo

Attachments

Date: [INSERT DATE], 2002

To: David Daugherty
Administrative Law Judge
Office of Hearings and Appeals
Huntington, West Virginia

From: Associate Commissioner
Office of Hearings and Appeals
Falls Church, Virginia

Subject: Official Reprimand

I am officially reprimanding you because of conduct unbecoming an administrative law judge, namely, your abrupt cancellation of hearings scheduled in Prestonsburg, Kentucky during the period September 23-25, 2002.

You scheduled 35 cases for hearing during this three- day period, 18 cases on September 23, 13 on the 24th, and 4 on September 25. On September 8, 2002, you notified Hearing Office Chief Judge Charlie Andrus that you had cancelled all hearings scheduled during these days and planned to issue favorable on-the-record decisions in 30 of them. You indicated that this action was taken "In an effort to contribute as many decisions as possible toward this month's goals." You later took annual leave on September 24th and September 25th.

When cases are scheduled for hearing by an administrative law judge, much time and effort is expended by the office staff. Moreover, claimants' representatives and expert witnesses set their schedules and set aside time to attend the hearing. Most importantly, the claimants are put on notice that a hearing will be needed to resolve their claims. When hearings in nearly an entire docket of cases are abruptly cancelled, for reasons related to personal convenience or to help satisfy numerical goals, the integrity of our system of claims adjudication is cast in doubt.

The principal purpose of scheduling a hearing is to afford the claimant an opportunity to be heard and to review the evidence and cross-examine witnesses. This is an important and solemn event, and no hearing should be scheduled if it is unnecessary. The act of scheduling a case for hearing evinces a belief that the documentary record is not sufficient to decide the case, and that oral testimony is needed. Therefore, no hearing should be cancelled without a compelling reason. Moreover, as in this case, the sudden and wholesale cancellation of nearly an entire docket of cases suggests that the hearings were cancelled without individualized attention the cases deserve. What makes your actions even more egregious is that they were motivated by personal interest as well as by your stated desire to promote office productivity. This behavior cannot be tolerated.

As an administrative law judge, you hold a high position in our Federal service and are held to the highest of ethical standards. Your flagrant abuse of the hearing scheduling process is not worthy of the high position of trust which you hold. In order for the agency to meet its

obligations, it is essential that all judges discharge their duties in a manner consistent with the high degree of responsibility, trust, and integrity required of administrative law judges. Therefore, a reprimand is fully warranted and necessary to deter future misconduct and promote the efficiency of the Federal service.

A copy of this reprimand will be placed in your Official Personnel Folder (OPF) and your SF-7B Extension File for a period not to exceed one year. Be advised, however, that future acts of misconduct could lead to more serious forms of disciplinary action.

You may grieve this action in accordance with the provisions of Article 10 of the Agreement between the Social Security Administration, Office of Hearings and Appeals and the Association of Administrative Law Judges. If you choose to do so, you must, within 35 workdays of receipt of this notice, present your grievance in writing to me. You also have the right to a union representative to assist you in preparing and presenting any such grievance.

If you believe this action is based on discrimination because of your race, color, religion, sex, national origin, physical or mental handicap, or age, you have the right to file a complaint through the agency's Equal Employment Opportunity (EEO) procedure. To initiate this process you must contact an EEO counselor within 45 calendar days of the date you receive this reprimand. If you wish to know the name of an EEO counselor, you must contact Agnes P. Sampson, Civil Rights and Equal Opportunity (CREO) Manager, on 215-597-1694. You may have an attorney or other representative assist you in filing a discrimination complaint.

You have the option of filing a grievance under the negotiated grievance procedure or a formal complaint of discrimination with the agency, but not both. You should consider the Employee Assistance Program (EAP) as a possible resource for assistance in resolving any personal problems which may be adversely affecting you. The toll-free telephone number is 1-800-222-0364.

If you have any questions regarding the reasons for this action, please contact me. If you have any questions regarding your rights or the procedures involved, please contact Howard Goldberg, Employee Relations Specialist, Social Security Administration, Center for Human Resources, P.O. Box 8788, Philadelphia, PA 19101. Mr. Goldberg's telephone number is 215-597-7856.

_____

A. Jacy Thurmond, Jr.

cc:
Frank Cristaudo, Regional Chief Judge, Philadelphia, Pennsylvania
Charlie Andrus, Hearing Office Chief Judge
SF 7-B Extension File

Social Security Administration **Office of Hearings and Appeals**

Office of the Regional
Chief Judge

Refer to:

300 Spring Garden St
P.O. Box 13496
Fourth Floor
Philadelphia, PA 19123
Phone: 215-597-4100
FAX: 215-597-4183

DATE: April 24, 2003

MEMORANDUM TO: Charlie Paul Andrus
Hearing Office Chief Judge

FROM: Regional Chief Judge
OHA - Region III -- Philadelphia

SUBJECT: Inquiry Regarding Cancellation of Hearings by
Administrative Law Judge David Daugherty

Judge Daugherty scheduled 35 cases for hearing during the three-day period September 23-25. Judge Daugherty later informed you that he had cancelled all hearings scheduled during these days and planned to issue favorable on-the-record decisions in 30 of them. He added that this action was taken "In an effort to contribute as many decisions as possible toward this month's goals." I understand that he later took annual leave on September 24th and September 25th.

Deputy Chief Judge Bisantz has directed me to conduct a bias and unfair hearing inquiry on this matter. Under the procedures issued by the Associate Commissioner on January 15, 1993 and modified on April 30, 1997, the initial inquiry involves soliciting relevant comments and information from the administrative law judge who is the subject of the complaint. Because this investigation could result in disciplinary action, you must be sure to provide Judge Daugherty with appropriate Weingarten rights as provided by the AALJ contract. Under Section 4 of Article 5 of the contract, the union must be given an opportunity to be present at any examination of a Judge in connection with an investigation, if the Judge reasonably believes that the examination may result in disciplinary action against the Judge and the Judge requests representation.

Please initiate investigation of this matter by obtaining comments from Judge Daugherty and by reviewing the written materials that have already been procured in this matter. Judge Daugherty should be asked why he canceled the hearings, and subsequent questioning should focus on whether he was trying to increase his dispositions or whether he had a public service motive. Secondly, he should be asked whether he has previously cancelled a large number of hearings and issued on-the-record decisions; and, if so, he should be asked to give some specifics about when, how many cases, and why were they cancelled.

Homeland Security & Governmental Affairs Committee
EXHIBIT #37

PSI-SSA-96D2-004021

Upon completion of your investigation, prepare a report detailing your findings. **Please submit this report within 14 days from the date of this request.** The staff contact is [redacted] who may be reached at [redacted] For your convenience I have appended Judge Bisantz' memorandum and other written materials on the matter.

Frank A. Cristaudo

Attachments

	OFFIC	SURNAME	DATE	OFFICE	SURNAME	DATE
	RO	ELAM				
FILE	RO	HAMEL				
COPY						
	CERTIFIED: WRITTEN IN PLAIN LANGUAGE					

Message0329	
Subject:	**RE: Judge Daugherty canceling hearings**
From:	Loughran, Valerie
Date:	5/5/2003 5:38:26 PM
To:	Cristaudo, Frank

Message Body

Why does Andrus keep bringing up stuff on Daugherty and never follow through on any of it. I am getting tired of him.

-----Original Message-----
From: Cristaudo, Frank
Sent: Monday, May 05, 2003 5:24 PM
To: Loughran, Valerie; Hamel, Gregory; Goldberg, Howard; Ormson, Craig
Subject: FW: Judge Daugherty canceling hearings
Importance: High

We need to discuss our next step.

Frank A. Cristaudo
Regional Chief Judge
Office of the Regional Chief Judge
215-597-1700 (Direct Line)
215-597-4100 (General ORCJ Line)
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/
Region III - Committed to Providing Quality Due Process Hearings and Decisions
[Timely Hearing and Decision - Adequately Developed Record - Full and Fair Hearing - Legally Sufficient Written Decision]

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Monday, May 05, 2003 9:39 AM
To: Cristaudo, Frank
Subject: Judge Daugherty canceling hearings
Importance: High

Dear Judge Cristaudo,

As you requested I spoke with Judge Daugherty about the docket of hearings he canceled in September 2002. He related that the then Group Supervisor, Kathleen DeWeese, requested him to help get out cases before the end of the year by reviewing cases for OTR. Judge Daugherty said that he reviewed the cases scheduled in Prestonsburg as requested by Ms. DeWeese. Evidently Mr. Conn (who represented nearly all of the claimants) had sent in reports of consultative examinations he had obtained on the cases that were allowed in mid-September. This left Judge Daugherty with only four or five cases which were rescheduled as he no longer had enough cases to justify a travel docket and they could be rescheduled with three to four weeks. He had planned to go on vacation the last week of the month after he had done his hearings in Prestonsburg. At some point in time he changed the plans to leave earlier as he no longer had hearings.

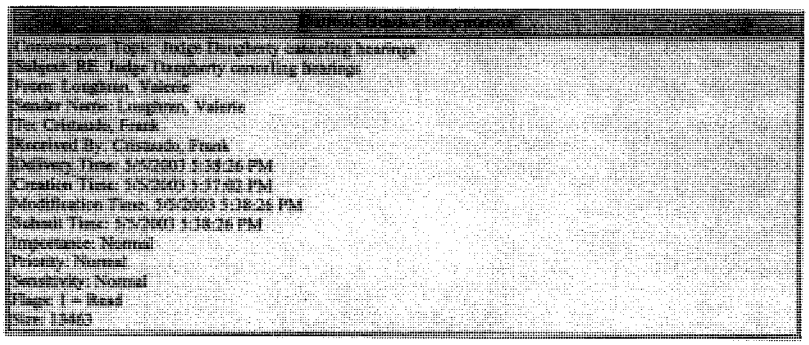
Mr. Conn does send many of his clients to physicians who, while not "bought sources", are more "liberal" in their assessments--as would be expected of an effective advocate. I have no hard evidence to support this, but I

think that either Judge Daugherty or Kathleen DeWeese called him and let him know that if he got the reports in early, the cases would be done OTR. If you wish, I can ask Mr. Conn (who I believe will give me a straight answer). I did not want to take this outside SSA without your knowledge.

I also spoke to Judge Daugherty about any prior cancellations of hearings. The was only one other incident and that was about one and on-half years ago. We were having difficulty getting enough cases pulled due to HPI changes and we were giving very short notice. Judge Daugherty postponed one set of Prestonsburg hearings to allow us to give a longer notice time for the hearings. He then reviewed cases on master docket for OTR to insure that he had production that month. He related that this would give the lawyers in Prestonsburg enough time to prepare for the hearings as he does not like to use post-hearing development if it can at all be avoided. He related that the attorneys now have enough advance time to get the evidence he needs to decide the cases as soon as the hearing is over in almost all cases. Given his allowance rates, I am sure that the reps are trying to get the information in before the hearing. I believe that he was trying to improve the disposition process and was trying to hold down the number of cases he had in POST.

If there is any further information you need. Please let me know. I will await further instructions before doing anything else on this.

Charlie Paul Andrus
HOCALJ
(304) 529-5531 ext. 348
Charlie.Paul.Andrus@ssa.gov



Message0628	
Subject:	**RE: AALJ Roundtable**
From:	Bernoski, Ronald
Date:	5/4/2009 12:28:22 PM
To:	Gitlow, William H.

Message Body

Bill:

Thank you for your message. We will keep Attorney Conn on our list for another situation because we have a full panel for this Roundtable.

Ron

> _____
> From: Gitlow, William H.
> Sent: Sunday, May 03, 2009 3:56 PM
> To: Bernoski, Ronald; Brown, Mark A. ODAR St. Louis HO
> Cc: Habermann, Robert S.
> Subject: AALJ Roundtable
>
> Ron and Mark,
>
> I just got finished reading the May 4th Newsletter and I saw that you have an experienced Atlanta attorney included for the AALJ Roundtable and plan to have additional people added. I believe that the addition of one of our attorneys, Eric C. Conn (Stanville, KY) would be a smart choice as an addition to the roundtable. Mr. Conn is extraordinarily experienced (his volume is huge, with roughly 50 percent of the cases heard at the highly busy Prestonsburg remote site); he is incredibly knowledgeable in the field of Social Security (he is very well read in the field; very well informed; has taught in the field; and is one of only a handful of attorneys nationally to be certified by the new Social Security process). I find him to be passionate about this field of law, always seeking to learn more, yet very moderate in his approach with others. In short, I believe his addition to the roundtable would serve the AALJ quite well and I am certain that afterward you would agree. (Please note I have raised his name without his prior approval).
>
> Bob Habermann has had a number of hearings in Prestonsburg, both in person and by video over the years, and he has had a fair amount of contact with Mr. Conn. You may wish to contact Bob to verify the accuracy of my statements.
>
> Bill Gitlow

Outlook Header Information

Conversation Topic: AALJ Roundtable
Sender Name: Bernoski, Ronald
Received By: Gitlow, William H.
Delivery Time: 5/4/2009 12:28:22 PM
Creation Time: 5/4/2009 12:28:21 PM
Modification Time: 5/12/2009 3:19:44 PM
Submit Time: 5/4/2009 12:28:21 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal

Message0155	
Subject:	**RE: Pburg Hearings 06-14-2011**
From:	Gitlow, William H.
Date:	6/14/2011 10:13:00 AM
To:	Powers, Barbara

Message Body

Love to hear that – and that is why it is a pleasure to do Eric Conn cases.

Bill

From: Powers, Barbara
Sent: Tuesday, June 14, 2011 8:27 AM
To: Gitlow, William H.
Subject: Pburg Hearings 06-14-2011

Judge Gitlow,

I reviewed the electronic files for all of the cases scheduled today and I did not find any additional evidence. As of this morning, I have not received any additional evidence for the paper files on the docket today.

Barbara E. Powers
Senior Case Technician
SSA/ODAR
301 9th Street
2nd Floor Annex
Huntington, WV 25701
Phone: 1-866-592-1607, Ext. 19949
Fax: 304-529-5066
Barbara.Powers@ssa.gov <mailto:Donna.George@ssa.gov>

Outlook Header Information

Conversation Topic: Pburg Hearings 06-14-2011
Subject: RE: Pburg Hearings 06-14-2011
From: Gitlow, William H.
Sender Name: Gitlow, William H.
To: Powers, Barbara
Delivery Time: 6/14/2011 10:13:00 AM
Creation Time: 6/14/2011 10:13:35 AM
Modification Time: 6/14/2011 10:13:35 AM
Submit Time: 6/14/2011 10:13:34 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 14224

file:///D|/Data/PSI%20Request-CHR1100015C/Group1%20Item%20155768.htm[2/8/2012 8:22:47 PM]

DR. IRA POTTER

Date 1-14-10 Name: [redacted]
SS#: [redacted]

Invoice to: Eric C. Conn Attorney at Law

UNITS	CPT	PROCEDURE(XRAYS)	FEE	TOTAL AMOUNT
		SINUSES		
		SKULL AP OR PA AND LAT		
		SKULL 4V		
1		CHEST 1V (ONE VIEW)	$75.00	*7500
		CHEST 2V		
		C-SPINE AP, LAT, ODONTOID	$110.40	
		C-SPINE COMPLETE	$126.40	
		THORACIC 2 VIEW		
		L-SPINE AP,LAT,SPOT	$110.40	
		L-SPINE COMPLETE	$126.40	
		PELVIS 1V		
		SCAPULA		
		SHOULDER 2V	$87.20	
		HUMERUS		
		ELBOW 2V		
		ELBOW 4V		
		FOREARM		
		WRIST 3V	$72.80	
		WRIST 4V		
		HAND 2V		
		HAND 3V		
		HIP UNILAT		
		FEMUR		
		KNEE-3V	$87.20	
		LOWER LEG		
		ANKLE 3V	$77.60	
		FOOT 2V		
		FOOT 3V		
		MRI OF C-SPINE	$952.00	
		MRI OF LUMBAR	$952.00	
		CT OF LUMBAR	$656.00	
			TOTAL	
			CHECK #	

SIGNATURE OF ORDERING OFFICE REP:_____

WE DO NOT WANT THE FILMS READ BY ANYONE!!!!

DR. IRA POTTER

Date 11/16/16 Name: [redacted]
SS#: [redacted]

Invoice to: Eric C. Conn Attorney at Law

UNITS	CPT	PROCEDURE(XRAYS)	FEE	TOTAL AMOUNT
		SINUSES		
		SKULL AP OR PA AND LAT		
		SKULL 4V		
1		CHEST 1V (ONE VIEW)	$75.00	$75.00
		CHEST 2V		
		C-SPINE AP, LAT, ODONTOID	$110.40	
		C-SPINE COMPLETE	$126.40	
		THORACIC 2 VIEW		
		L-SPINE AP,LAT,SPOT	$110.40	
		L-SPINE COMPLETE	$126.40	
		PELVIS 1V		
		SCAPULA		
		SHOULDER 2V	$87.20	
		HUMERUS		
		ELBOW 2V		
		ELBOW 4V		
		FOREARM		
		WRIST 3V	$72.80	
		WRIST 4V		
		HAND 2V		
		HAND 3V		
		HIP UNILAT		
		FEMUR		
		KNEE-3V	$87.20	
		LOWER LEG		
		ANKLE 3V	$77.60	
		FOOT 2V		
		FOOT 3V		
		MRI OF C-SPINE	$952.00	
		MRI OF LUMBAR	$952.00	
		CT OF LUMBAR	$656.00	
			TOTAL	
			CHECK #	

SIGNATURE OF ORDERING OFFICE REP:_____

WE DO NOT WANT THE FILMS READ BY ANYONE!!!!

DR. IRA POTTER

Date 1\18\10 Name: [redacted]
SS#: [redacted]

Invoice to: Eric C. Conn Attorney at Law

UNITS	CPT	PROCEDURE(XRAYS)	FEE	TOTAL AMOUNT
		SINUSES		
		SKULL AP OR PA AND LAT		
		SKULL 4V		
		CHEST 1V (ONE VIEW)		
		CHEST 2V		
		C-SPINE AP, LAT, ODONTOID	$110.40	
		C-SPINE COMPLETE	$126.40	
		THORACIC 2 VIEW		
	1	L-SPINE AP,LAT,SPOT	$110.40	110.40
		L-SPINE COMPLETE	$126.40	
		PELVIS 1V		
		SCAPULA		
		SHOULDER 2V	$87.20	
		HUMERUS		
		ELBOW 2V		
		ELBOW 4V		
		FOREARM		
		WRIST 3V	$72.80	
		WRIST 4V		
		HAND 2V		
		HAND 3V		
		HIP UNILAT		
		FEMUR		
		KNEE-3V	$87.20	
		LOWER LEG		
		ANKLE 3V	$77.60	
		FOOT 2V		
		FOOT 3V		
		MRI OF C-SPINE	$952.00	
		MRI OF LUMBAR	$952.00	
		CT OF LUMBAR	$656.00	
			TOTAL	110.40
			CHECK #	110.40

SIGNATURE OF ORDERING OFFICE REP [redacted]

WE DO NOT WANT THE FILMS READ BY ANYONE!!!!

DR. IRA POTTER

Date 1-19-10 Name: [redacted]
SS#: [redacted]

Invoice to: Eric C. Conn Attorney at Law

UNITS	CPT	PROCEDURE(XRAYS)	FEE	TOTAL AMOUNT
		SINUSES		
		SKULL AP OR PA AND LAT		
		SKULL 4V		
1		CHEST 1V (ONE VIEW)	$75.00	75.00
		CHEST 2V		
		C-SPINE AP, LAT, ODONTOID	$110.40	
		C-SPINE COMPLETE	$126.40	
		THORACIC 2 VIEW		
		L-SPINE AP,LAT,SPOT	$110.40	
		L-SPINE COMPLETE	$126.40	
		PELVIS 1V		
		SCAPULA		
		SHOULDER 2V	$87.20	
		HUMERUS		
		ELBOW 2V		
		ELBOW 4V		
		FOREARM		
		WRIST 3V	$72.80	
		WRIST 4V		
		HAND 2V		
		HAND 3V		
		HIP UNILAT		
		FEMUR		
		KNEE-3V	$87.20	
		LOWER LEG		
		ANKLE 3V	$77.60	
		FOOT 2V		
		FOOT 3V		
		MRI OF C-SPINE	$952.00	
		MRI OF LUMBAR	$952.00	
		CT OF LUMBAR	$656.00	
			TOTAL	
			CHECK #	

SIGNATURE OF ORDERING OFFICE REP:_____

WE DO NOT WANT THE FILMS READ BY ANYONE!!!!

DR. IRA POTTER

Date 1/8/10 Name: [redacted]
SS#: [redacted]

Invoice to: Eric C. Conn Attorney at Law

UNITS	CPT	PROCEDURE(XRAYS)	FEE	TOTAL AMOUNT
		SINUSES		
		SKULL AP OR PA AND LAT		
		SKULL 4V		
		CHEST 1V (ONE VIEW)		
		CHEST 2V		
		C-SPINE AP, LAT, ODONTOID	$110.40	
		C-SPINE COMPLETE	$126.40	
		THORACIC 2 VIEW		
	1	L-SPINE AP,LAT,SPOT	$110.40	110.40
		L-SPINE COMPLETE	$126.40	
		PELVIS 1V		
		SCAPULA		
		SHOULDER 2V	$87.20	
		HUMERUS		
		ELBOW 2V		
		ELBOW 4V		
		FOREARM		
		WRIST 3V	$72.80	
		WRIST 4V		
		HAND 2V		
		HAND 3V		
		HIP UNILAT		
		FEMUR		
Left	1	KNEE-3V	$87.20	87.20
		LOWER LEG		
		ANKLE 3V	$77.60	
		FOOT 2V		
		FOOT 3V		
		MRI OF C-SPINE	$952.00	
		MRI OF LUMBAR	$952.00	
		CT OF LUMBAR	$656.00	
			TOTAL	
			CHECK #	197.60

SIGNATURE OF ORDERING OFFICE REP: [redacted]

WE DO NOT WANT THE FILMS READ BY ANYONE!!!!

DR. IRA POTTER

Date 8/10/2010 Name [redacted]
SS#: [redacted]

Invoice to: Eric C. Conn Attorney at Law

UNITS	CPT	PROCEDURE(XRAYS)	FEE	TOTAL AMOUNT
		SINUSES		
		SKULL AP OR PA AND LAT		
		SKULL 4V		
		CHEST 1V (ONE VIEW)		
		CHEST 2V		
		C-SPINE AP, LAT, ODONTOID	$110.40	
		C-SPINE COMPLETE	$126.40	
		THORACIC 2 VIEW		
	1	L-SPINE AP,LAT,SPOT	$110.40	110.40
		L-SPINE COMPLETE	$126.40	
		PELVIS 1V		
		SCAPULA		
		SHOULDER 2V	$87.20	
		HUMERUS		
		ELBOW 2V		
		ELBOW 4V		
		FOREARM		
		WRIST 3V	$72.80	
		WRIST 4V		
		HAND 2V		
		HAND 3V		
		HIP UNILAT		
		FEMUR		
		KNEE-3V	$87.20	
		LOWER LEG		
		ANKLE 3V	$77.60	
		FOOT 2V		
		FOOT 3V		
		MRI OF C-SPINE	$952.00	
		MRI OF LUMBAR	$952.00	
		CT OF LUMBAR	$656.00	
			TOTAL	110.40
			CHECK #	

SIGNATURE OF ORDERING OFFICE REP [redacted]

WE DO NOT WANT THE FILMS READ BY ANYONE!!!!

Message0518	
Subject:	**Re: Debriefing from Eric C. Conn**
From:	Andrus, Charlie Paul
Date:	8/6/2010 12:57:33 PM
To:	'erickentucky@lycos.com'

Message Body

Eric,

I am in the Charlotte airport. Imet [redacted] and made sure she sent the letter--glad it came.

Your case proposals are fine. We can discuss any dismissals or OTRs you may wish. I have written the other OTRs and signed most of them.

See you next week.

Judge Andrus

Charlie Paul Andrus
Hearing office Chief Judge
Huntington, WV
Charlie.Paul.Andrus@SSA.gov

Sent from my BlackBerry Wireless Handheld Device

----- Original Message -----
From: erickentucky@lycos.com <erickentucky@lycos.com>
To: Andrus, Charlie Paul
Sent: Fri Aug 06 12:50:59 2010
Subject: Debriefing from Eric C. Conn

Dear Chief Judge,

Your call was really appreciated. We have received the letter from the electronic folder access system people. Further, pursuant to that letter we have contacted the responsible person and our appointment is at 10:30 a.m. on the 19th.

I am personally going on the 18th and staying at a hotel within walking distance of the site. Also, my employee [redacted] will be going with me. We are going on the 18th as we do not want anything to go wrong. We are returning on the 19th late as the entire procecdure only requires 30 minutes.

Grover, remarkably, flew to Las Vegas. Grover has asked me to cover two hearings he has with you on the 10th of this month (this coming Tuesday) as he will be in Vegas. The hearings are for [redacted] which starts at 9:00 a.m. and a [redacted] at 11:00 a.m. on the same date. I have Judge Buel scheduled from 9:00 a.m. to 1:30 on the same date. My thinking is to have John Earl cover the Judge Buel cases that take place during the two hearings with you as I want to cover the hearings with you myself. Hope this is acceptable. If not,

let me know and I will adjust per your instructions.

We have two possible dismissals that I would like to discuss with you when you have the time to do so.

Looking forward to hearing from you,

Eric

Outlook Header Information
Conversation Topic: Debriefing from Eric C. Conn
Subject: Re: Debriefing from Eric C. Conn
From: Andrus, Charlie Paul
Sender Name: Andrus, Charlie Paul
To: 'erickentucky@lycos.com'
Delivery Time: 8/6/2010 12:57:33 PM
Creation Time: 8/6/2010 12:57:33 PM
Modification Time: 8/10/2010 11:27:59 AM
Submit Time: 8/6/2010 12:57:33 PM
Importance: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 9252

ERIC C. CONN, P.S.C. ATTORNEY AT LAW - GENERAL ACCOUNT

DAVID P. HERR, M.D.

				29129
	10/29/2008			
		650.00		
		650.00		
		650.00		
		650.00		
		650.00		
		650.00		
		650.00		
		650.00		
			6,500.00	
CASH IN BANK - B B	SEE LIST			

LMP12 M/P CHECK

51N314 (5/09) 565354

Homeland Security & Governmental Affairs Committee
EXHIBIT #43

CLF06038

ERIC C. CONN, P.S.C. ATTORNEY AT LAW - GENERAL ACCT.

DAVID P. HERR, M.D.

03/04/2009

30204

	650.00
	650.00
	650.00
	300.00
	650.00
	650.00
	650.00
	650.00
	350.00
	650.00
[redacted] 01/21/09, CK 29871	-200.00
PAID 01/21/09, CK. 29872	-200.00

CASH IN BANK - B B CE'S, ETC. ON 02/18/09 5,450.00

LMP12 MP CHECK

51N314 (9/08) 570323

761

CLF02216

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **20 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **15 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **1 hour**

Without interruption: **30 minutes**

CLF029445

Homeland Security & Governmental Affairs
Committee
EXHIBIT #44

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How <u>often</u> can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping		X		
Crouching	X			
Kneeling			X	
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling			X	
Pushing/Pulling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes	X			
Chemicals			X	
Dust		X		
Noise			X	
Fumes	X			
Humidity		X		
Vibration	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

1/5/07
Date

Frederic T. Huffnagle, M.D.
FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

HUFFNAGLE APPOINTMENTS FOR 07/27/07

NAME	FILE #	EVALUATION
1. [redacted]	18793	EVALUATION
2. [redacted]	20057	EVALUATION
3. [redacted]	20686	EVALUATION
4. [redacted]	19749	EVALUATION
5. [redacted]	19277	EVALUATION
6. [redacted]	20344	EVALUATION
7. [redacted]	19903	EVALUATION
8. [redacted]	19079	EVALUATION
9. [redacted]	19202	EVALUATION
10. [redacted]	20037	EVALUATION
11. [redacted]	19872	EVALUATION
12. [redacted]	20470	EVALUATION
13. [redacted]	18631	EVALUATION
14. [redacted]	19257	EVALUATION
15. [redacted]	19725	EVALUATION
16. [redacted]	20439	EVALUATION
17. [redacted]	19361	EVALUATION NCV 730 -
18. [redacted]	20636	EVALUATION
19. [redacted]	19715	EVALUATION
[redacted]		200 - 200 - 750

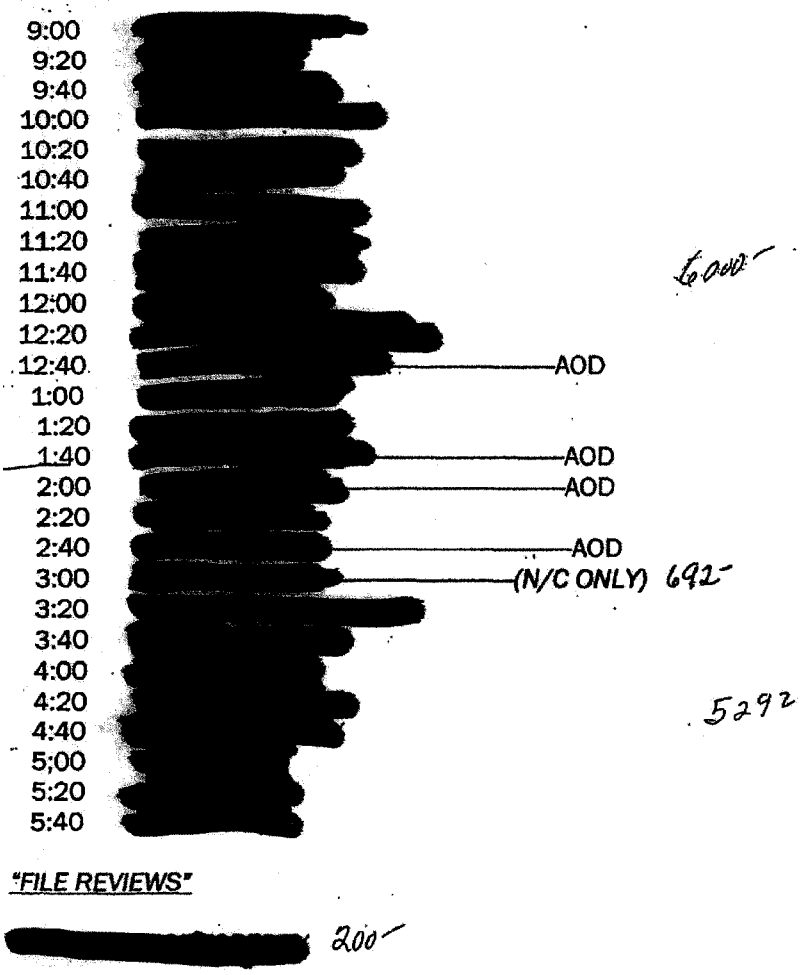
CLF033356

HUFFNAGLE APPOINTMENTS FOR 07/26/07

NAME	FILE #	TYPE OF EXAM
[redacted]	19451	EVALUATION
[redacted]	20103	EVAL. w/ NCV/RFC 720-
[redacted]	19626	EVALUATION
[redacted]	19748	EVALUATION
[redacted]	19597	EVALUATION
[redacted]	19206	EVALUATION
[redacted]	20443	EVALUATION
[redacted]	19233	EVALUATION
[redacted]	19588	EVALUATION
[redacted]	19972	EVALUATION
[redacted]	19477	EVALUATION
[redacted]	19589	EVAL. w/ NCV 685-
[redacted]	19474	EVALUATION
[redacted]	18062	EVALUATION
[redacted]	18750	EVALUATION
[redacted]	19690	EVAL w/ NCV 720-
[redacted]	19504	EVAL w/ NCV 640
[redacted]	18968	EVALUATION

7200-
2765
9965

DR HUFFNAGLE'S
APPT'S FOR 05/24/07



"FILE REVIEWS"

200-

DR HUFFNAGLE APPT'S FOR 4/27/07

9:00 [redacted]
9:20
9:40
10:00
10:20
10:40
11:00
11:20
11:40
12:00
12:20
12:40
1:00
1:20 - X Rays
1:40 Y - X Rays
2:00 [redacted] --------EVAL&N/C 720

7600
6400
720
7120

DR HUFFNAGLE'S
APPT'S FOR 3/27/07

9:00 [redacted]
9:20
9:40
10:00
10:20
10:40
11:00
11:20
11:40
12:00
12:20
12:40
1:00
1:20
1:40
2:20
2:40

Eval - N/C — Paid for N/C on ck

17 x 400 = ~~$6800~~

FRED ERIC T. HUFFNAGLE M.D.
Orthopedic Surgeon
720 Chestnut Street
Suite 102
Bowling Green, Kentucky 42101

Nerve Conduction Testing ORDER FORM

Patient: [redacted]
Date: 3.27.07
Physician: Dr. F.T. Huffnagle
Clinical Findings:

Patient ID: [redacted]
Age:
Height:
Weight:

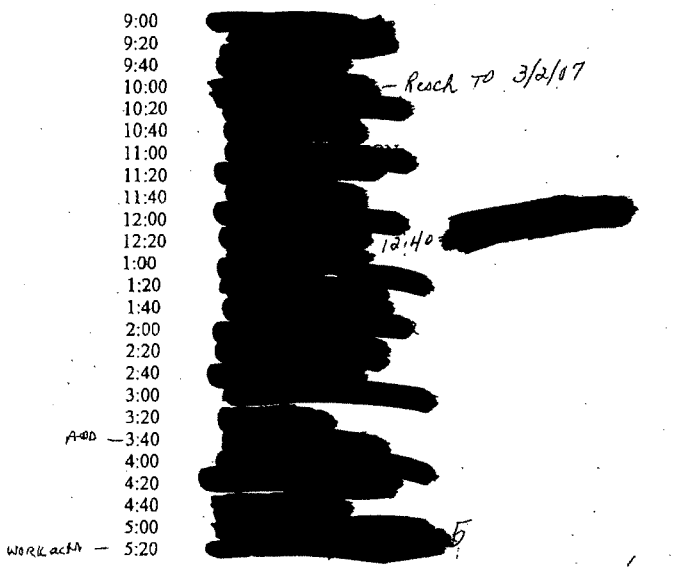
	FOR PHYSICIAN: Please Circle Indication	FOR TEST OPERATOR: Please Use Exam Type and Indicated Biosensors							RECOMMENDED CODING:	
	Clinical Indication	NC Stat Exam Type	Number of Biosensors	Ulnar #5003 & #5004	Median #5003 & #5005	Peroneal #5003	Tibial #5005	Sural #5004	CPT #95904 # of Units	CPT #95934 # of Units
Polyneuropathy (DPN)	**Diabetic Neuropathy (DPN)**	Diabetes	4		Either	L, R		Either	3	2
	Polyneuropathy	Polyneuro	4		Either	L, R		Either	3	2
	Lumbosacral Radiculopathy vs. Polyneuropathy	LSR & PN	6		Either	L, R	L, R	Either	5	2
Low Back & Leg Pain	**Back Pain** (non-localizing)	Back Pain	5			L, R	L, R	Either	4	1
	Radiating Back Pain/Leg Pain				170	64	56	50		
	Bilateral	Sciatica	6			L, R	L, R	L, R	4	2
	Left	Sciatica	4			L, R	L	L	3	1
	Right	Sciatica	4			L, R	R	R	3	1
	Spinal Stenosis	Sciatica	6			L, R	L, R	L, R	4	2
Upper Extremity	**Carpal Tunnel Syndrome**									
	Bilateral	CTS	4	L, R	L, R				4	4
	Left	CTS	3	L	L, R				3	3
	Right	CTS	3	R	L, R				3	3
	Cubital Tunnel Syndrome									
	Bilateral	Cubital	4	Elbow/Wrist L Elbow/Wrist R	L, R				4	4
	Left	Cubital	3	Elbow/Wrist L Elbow/Wrist R	L				3	3
	Right	Cubital	3	Elbow/Wrist L Elbow/Wrist R	R				3	3
	Neck C8-T1 Radiculopathy Only									
	Bilateral	Neck C8 / T1	4	L, R	L, R				4	4
	Left Side	Neck C8 / T1	3	L	L, R				3	3
	Right Side	Neck C8 / T1	3	R	L, R				3	3
Foot/Ankle	**Tarsal Tunnel Syndrome**									
	Bilateral	TTS	4			L, R	L, R		4	
	Left	TTS	3			L	L, R		3	
	Right	TTS	3			R	L, R		3	

* This information is intended to assist providers in accurately billing for healthcare services. However, it is always the responsibility of the provider to determine appropriate coding for services performed.

Amount Due: 560 + 170 = 72 0.00

CLF033386

DR HUFFNAGLE APPT 03/01/07



10,000 -
800 -
10 800 -

FILE REVIEWS

[redacted]

DR HUFFNAGLE APPTS FOR 2/1/07

9:00	[redacted]	EVAL
9:00		EVAL
9:20		EVAL
9:40		EVAL
10:00		EVAL/NC ✓ 400- +550- +120-
10:40		EVAL (CARBARY HAS FILE)
10:50		EVAL/NC ✓ 400+550+170-
11:00		EVAL
11:00		EVAL
11:20		EVAL
11:40		EVAL
12:00		EVAL
12:20		EVAL
12:40		EVAL
1:00		EVAL
1:00		EVAL
1:20		EVAL
1:40		EVAL
2:00		EVAL
2:20		EVAL
2:40		EVAL
3:00		EVAL
3:00		EVAL
3:20		EVAL
3:20		EVAL/NC ✓ 400- +550- +180
3:40		EVAL
4:00		EVAL
4:20		EVAL
4:40		EVAL
5:00		EVAL (CHILD)
5:00		EVAL
5:20		EVAL
5:40		EVAL
6:00		EVAL
6:20		EVAL

FILE REVIEWS

[redacted] ✓

RFC Version #1

Homeland Security & Governmental Affairs
Committee
EXHIBIT #45

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **8 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **3 hours**
Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	**X**			
Balancing				**X**
Stooping				**X**
Crouching				**X**
Kneeling				**X**
Crawling	**X**			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling				X
Feeling				X
Pushing/Pulling			X	

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

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"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights			X	
Moving Machinery		X		
Temperature Extremes				X
Chemicals				X
Dust				X
Noise				X
Fumes				X
Humidity				X
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

5/5/08
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #2

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **10-15 pound**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **4-5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2-3 hours**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **3-4 hours**

Without interruption: **15-20 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing			X	
Stooping		X		
Crouching		X		
Kneeling			X	
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes		X		
Chemicals			X	
Dust				X
Noise				X
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

10/6/09
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #3

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **8-10 pound**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2-3 hours**

Without interruption: **15-30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **3 hours**

Without interruption: **30-45 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing			X	
Stooping				X
Crouching				X
Kneeling				X
Crawling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling				X
Feeling				X
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights			X	
Moving Machinery			X	
Temperature Extremes			X	
Chemicals				X
Dust				X
Noise				X
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #4

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **8-10 pound**
Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2 hours**
Without interruption: **20 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4-5 hours**

Without interruption: **15-30 minutes**

IV. How often can the above individual perform the following ~~POSTURAL ACTIVITIES?~~

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping			X	
Crouching			X	
Kneeling			X	
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling			X	
Pushing/Pulling			X	

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how often the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes			X	
Chemicals			X	
Dust			X	
Noise			X	
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

2/11/08
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #5

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **10 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **1 hours**
Without interruption: **20 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **5 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping			X	
Crouching		X		
Kneeling		X		
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling		X		
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes				X
Chemicals				X
Dust				X
Noise			X	
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

Date 7/5/10

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #6

800

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **10 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2 hours**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping		X		
Crouching		X		
Kneeling		X		
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes			X	
Chemicals			X	
Dust			X	
Noise			X	
Fumes			X	
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

8/8/08
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #7

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **10 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **3 hours**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **3 hours**

Without interruption: **1 hour**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing				X
Stooping			X	
Crouching			X	
Kneeling			X	
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling				X
Pushing/Pulling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery	X			
Temperature Extremes				X
Chemicals			X	
Dust			X	
Noise			X	
Fumes			X	
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

12-3-07
Date



FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #8

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **15-20 pound**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **10 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2-3 hours**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **3 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing			X	
Stooping			X	
Crouching			X	
Kneeling			X	
Crawling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling				X
Feeling				X
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights	X			
Moving Machinery	X			
Temperature Extremes				X
Chemicals				X
Dust				X
Noise				X
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

12/23/09
Date

Frederic T. Huffnagle
FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #9

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **20 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **15 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **1 hour**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping		X		
Crouching	X			
Kneeling			X	
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling			X	
Pushing/Pulling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes	X			
Chemicals			X	
Dust		X		
Noise			X	
Fumes	X			
Humidity		X		
Vibration	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

12-3-07
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #10

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not bave any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **5-10 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **1-2 hours**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4-5 hours**

Without interruption: **15-20 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping		X		
Crouching		X		
Kneeling			X	
Crawling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling		X		
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery	X			
Temperature Extremes		X		
Chemicals			X	
Dust			X	
Noise			X	
Fumes			X	
Humidity			X	
Vibration	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

11/3/09
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #11

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual [redacted] Social Security Number [redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **15 pounds**
Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **3 hours**

Without interruption: **20-30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	**X**			
Balancing			**X**	
Stooping			**X**	
Crouching			**X**	
Kneeling			**X**	
Crawling	**X**			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling			X	
Feeling				X
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual

can be exposed to the following
ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes				X
Chemicals				X
Dust				X
Noise			X	
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

3/2/10
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #12

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **15 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **10 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **1 hour**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing			X	
Stooping	X			
Crouching		X		
Kneeling		X		
Crawling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling		X		
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights	X			
Moving Machinery	X			
Temperature Extremes		X		
Chemicals	X			
Dust		X		
Noise			X	
Fumes	X			
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

8/23/07
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #13

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **10 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **7-8 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **3 hours**

Without interruption: **20 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **3 hours**

Without interruption: **45 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing			X	
Stooping			X	
Crouching			X	
Kneeling		X		
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling		X		
Feeling			X	
Pushing/Pulling			X	

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery	X			
Temperature Extremes			X	
Chemicals			X	
Dust				X
Noise			X	
Fumes				X
Humidity			X	
Vibration	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

2/14/09
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #14

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **20 pounds**

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **10 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2 hours**

Without interruption: **30 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping		X		
Crouching	X			
Kneeling	X			
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling		X		
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery	X			
Temperature Extremes		X		
Chemicals		X		
Dust		X		
Noise			X	
Fumes		X		
Humidity		X		
Vibration	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

1/3/08
Date

Frederic T. Huffnagle
FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

RFC Version #15

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual [redacted] [redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. 25 pounds

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. 10 pounds

---

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES ( )

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: 3 hours

Without interruption: 20 minutes

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: 3 hours

Without interruption: 30 minutes

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASSIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping		X		
Crouching	X			
Kneeling		X		
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASSIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling		X		
Feeling			X	
Pushing/Pulling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASSIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASSIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes		X		
Chemicals		X		
Dust		X		
Noise		X		
Fumes			X	
Humidity	X			
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

1/4/08
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON

DRAFT: Report of the Division of Quality's Review of Decisions issued by the Huntington, WV Hearing Office

August 15, 2011

I. Overview of the Huntington Study

We were asked to do a post adjudicative study of decisions issued by ALJ David Daugherty (1527). Based on our findings in that study, we expanded the review to look at decisions from other Judges in the office in cases in which Attorney Eric Conn, or another attorney from his firm, was the representative of record. We discovered that a large number of the cases we reviewed contained reports from a few medical sources that consistently provided assessments that indicated the claimant was not capable of sustaining work activity for an 8-hour day. These sources include David Herr, D.O., Srini Ammisetty, M.D., Phil Pack, M.S., Timothy Carbary, Ph.D., and Bruce Guberman, M.D. These assessments were based on a one-time examination or just a review of the record without an examination. While these sources first came to our attention based on their consistent use by Attorney Conn, we also saw them in cases involving other representatives. We also discovered that many of the decisions we reviewed relied on these assessments, essentially giving them controlling weight although the regulations only allow controlling weight to be given to treating sources. Therefore, we took a closer look at reports from these sources.

From reviewing these decisions, we also discovered that two ALJs had a large number of cases in which the claimants withdrew their request for hearing. We took a closer look at these cases also.

Finally, we did a brief review of cases in which William Arnett was the representative of record after discovering that he was the representative of record in many of the cases we looked at.

The following summary addresses all aspects of our studies.

II. Cases Reviewed as Part of Our National Sample

Since September 27, 2010, we have been doing a pre-effectuation review of a sample of favorable hearing decisions issued across the country. The cases are selected at random, equally across all regions. Through August 12, 2011, we have completed a review of 23 fully and partially favorable decisions issued by Administrative Law Judges and Senior Attorney Advisors from the Huntington Hearing Office. Of those cases, we have effectuated (found the decision supported by substantial evidence) in 14 cases. We exercised own motion review in 9 others. This results in an own motion rate of 39%. This is significantly higher than the own motion rate for the national sample which is about 21%.[1]

For ALJ David Daugherty, we reviewed 8 cases and took own motion review in 3, for a rate of 37.5% (almost twice the national average).

For ALJ Charlie Paul Andrus, we reviewed 5 cases and took own motion review in 3, for a rate of 60% (almost three times the national average).

Again, these cases were selected at random by our system. We note that the Appeals Council generally does not take own motion review of a case to remand or issue a less favorable decision unless the

[1] The number of cases reviewed is not sufficient to provide a valid statistical analysis on a hearing office basis.

ultimate conclusion of disability is not supported by substantial evidence or the finding of disability is otherwise clearly erroneous. Thus, a decision may be sent for effectuation despite significant defects with the decision itself.

III. Review of decisions issued by Judge David Daugherty

We reviewed 128 decisions issued by this ALJ for the period January 15, 2011 through February 15, 2011. All of the decisions were favorable reversals. We did not find any unfavorable decisions issued by this ALJ during this period. The period was selected at random. Our findings are as follows:

- 62 of the decisions were issued on-the-record (no hearing held). The ALJ is shown in CPMS as the decision writer in 61 of these cases.

- Hearings were held in the remaining 66 cases. In 49 of these, the hearing lasted 2 minutes or less. One lasted 19 minutes, and the other 16 lasted 5 minutes or less. This is inconsistent with the large majority of cases we review which are usually much longer. From a sample of cases in which we audited the recording, a typical hearing involved the ALJ asking the claimant if they were seen by a certain medical source, usually one in which a report was submitted by their representative at the hearing level. The ALJ would then provide a hypothetical to the VE based on the functional assessment provided by that source and the VE would testify there were no jobs available. There was very little inquiry into the nature and extent of the claimant's limitations or activities, information usually solicited at most hearings.

- The claimants were represented in 100% of the cases reviewed. 15 different representatives were involved with the highest involvement by Eric Conn (58 cases), William G. Arnett (20 cases), Dru Shope (9 cases), Kenneth Hicks (8 cases) and William L. Roberts (8 cases). From the records we reviewed, it appears that Mr. Conn and Mr. Hicks are associates.

- In 95% of the cases, decisions were decided at step 5 of the sequential evaluation. The residual functional capacity (RFC) was for less than a full range of sedentary work in 69% of the cases and based on nonexertional limitations only in 20%. In the other 11%, a full range of sedentary or light was found and a rule was used to direct a finding of disability. A number of these required a finding as to whether the claimant had acquired skills from past work that are transferable to other jobs within their RFC. However, this issue was not addressed in the decisions and should have been.

- In 126 of the cases, the claimant's representative submitted additional medical evidence. In 36 cases, the evidence included a treating source opinion. 82 included a one-time examining source opinion (in a number of these reports it is not clear that the claimant was actually seen but the reports seem to indicate that the findings were the result of an examination) and 7 had a non-examining source opinion. In 125 of the cases (99%), these opinions were relied on by the ALJ in finding the claimant disabled. In 68 cases (54%), no other evidence was addressed in the hearing decision. Despite the recent date of these examinations, the ALJ found the claimant disabled many months or years earlier based on the findings contained in these reports.

- In 58 cases (45%), the claimant was represented by Attorney Eric Conn. In another 8 cases, the claimant was represented by another member of that law practice, Attorney Kenneth Hicks. In the 58 cases involving Attorney Conn, the ALJ issued decisions on-the-record in 56 cases (97%).

    - From our review of CPMS, it appears that the ALJ pulled these 56 cases and assigned them to himself. As we will address later in our report, many of these appear to have been pulled at the time the hearing office received new medical reports from the representative. The ALJ is also shown as the decision writer in all of these 56 cases.

    - In 54 of these cases, the representative submitted medical evidence that included a functional assessment or opinion as to disability from a one-time examining source. In the other 2, the new evidence was from a non-examining source.

    - In all of these decisions, the ALJ based his finding of disability on this new evidence and did not address any of the other evidence in the record. The decisions typically consisted of the ALJ's findings and four paragraphs of ALJ drafted language which he cut and pasted from one decision to the next, with one that appears to have been copied and pasted into the decision (the font is different from the remainder of the decision) in which he states that he is satisfied that the information from the non-treating medical source most accurately reflects the claimant's impairments and limitations. While not stating so, in doing this the ALJ constructively gives the medical source assessment controlling weight. Under our regulations, controlling weight can only be given to a treating source (20 CFR 404.1527 and 416.927).

IV. Decisions Issued by Other ALJs in the Same Office in Cases in Which Eric Conn or an Associate Was the Representative of Record

For comparison purposes, we reviewed decisions issued by three other Judges who had high allowance rates. We looked at a sample of decisions issued between June 1, 2010 and May 27, 2011 in which Eric Conn or an associate was the representative of record.

A. ALJ Charlie Paul Andrus (1301)

ALJ Andrus issued final actions in 141 of the cases studied:

- Dismissals: 47
- Favorable: 73
- Unfavorable: 21
- **Judge Andrus' allowance rate (excluding dismissals): 78%** *(compared with a 65% allowance rate for all cases decided by Judge Andrus during this time period (418 decisions))*

We reviewed a random sample of 63 of the 141 cases with the following outcomes:

- Dismissals: 19
- Favorable: 34
- Unfavorable: 10

In cases where Mr. Herr was used and an actual decision was rendered, 10 cases were favorable, and 4 were unfavorable. In cases where Dr. Guberman was used and an actual decision was rendered, 10 were favorable, and 1 was unfavorable.

Trends: Guberman was used 6 times in the 20 most recent cases (5 of those were favorable); Herr was used only twice in the 20, most recent cases and both cases were unfavorable.

SUMMARY OF FINDINGS: ALJ ANDRUS

ALJ Andrus appears to issue favorable decisions in cases in which Attorney Conn is the representative at a higher rate than cases involving other attorneys. The two doctors' names that showed up with the most frequency were Dr. Herr and Dr. Guberman, as noted above. Judge Andrus did not automatically pay cases involving these doctors, although when using one of these doctors as an examining source, representative Conn had an 8:1 favorable/unfavorable rate (20 favorable out of 25 cases where either Guberman or Herr was used). Unlike Judge Daugherty, Judge Andrus appears more likely to cite other evidence in his decisions (as opposed to only citing the ES opinion and adopting it in its entirety). [2] Additionally, Judge Andrus did, on occasion reject the opinions of an examining source when it was inconsistent with other evidence. [3] The reports from Dr. Guberman do appear to be thorough, in-person examinations. Most of his opinions, however, consistently use very strong language when making conclusions regarding limitations. Several reports include very similar language indicating that the claimant has "severe limitations in ability to perform work-related activities," and a final statement indicating that the claimant is "permanently and totally disabled for all types of employment." [4]

[2] *See* [redacted].

[3] *See* [redacted] (of particular note in this case – Dr. Herr conducted a phone interview with the claimant in order to complete his report)

[4] *See* [redacted] (Judge Andrus does note in this decision that Guberman's opinion as to total and permanent disability is an issue reserved to commissioner; he adopts the opinion in full, however).

B. ALJ William H. Gitlow (1403)

ALJ Gitlow issued final actions in 129 of the cases studied:

- Dismissals: 44
- Favorable: 76
- Unfavorable: 9
- **Judge Gitlow' allowance rate (excluding dismissals): 89%** (compared with a 78% allowance rate for all *cases decided by Judge Gitlow during this time period (372 decisions)*)

We reviewed a random sample of 90 of the 129 cases. This included all cases with dispositions issued from February 1, 2011 through May 26, 2011. Of this sample set, there were 46 favorable reversals and 7 unfavorable affirmations.

- Of the 46 **favorable** cases:
  - Guberman appeared 5 times
  - Herr appeared 20 times
  - Carbary appeared 7 times
  - Ammisetty appeared 4 times
  - Pack appeared 2 times

Further Analysis of the Medical Opinions Used in ALJ Gitlow Dispositions

D. Herr, DO

Although Dr. Herr's opinion appears in 20 fully favorable cases before ALJ Gitlow, the allowance was based on Dr. Herr's consultative examination only 8 times. In one case [redacted] SSN [redacted], the ALJ found that "Dr. Herr's overall assessment is quite excessive in light of minimal documented findings" while finding the claimant disabled under other medical opinion and treatment records (Decision/5). In another fully favorable case [redacted] the ALJ found that because Dr. Herr altered his opinion from a previous evaluation to find more physical limitations, that Dr. Herr's opinion was "totally without support. I reject Dr. Herr's [later] opinion" (Decision/7). In one instance [redacted] SSN [redacted] Dr. Herr's opinion was not even addressed or given any weight in the ALJ decision.

T. Carbary, PhD

Review of Dr. Carbary's examination reports show that Dr. Carbary's opinion was never inconsistent with the MER. Dr. Carbary's psychological reports were evaluated with the proper amount of analysis and never wholly adopted without review. [redacted] a case where both Dr. Herr and Dr. Carbary showed up in the MER.)

B. Guberman, MD

Dr. Guberman appears as an examining source 5 times in the 90 Conn-represented cases before ALJ Gitlow. The most distinctive characteristic of Dr. Guberman's examination reports is that he would opine that the claimant "permanently and totally disabled for all types of employment" [redacted] SSN [redacted] Exhibit E22F/7). Dr. Guberman's opinion was given proper analysis in the ALJ decisions, but the ALJ gave great weight to Dr. Guberman's opinion in two cases [redacted] Decision/10 and [redacted] SSN [redacted] Decision/8). His opinion, however was not addressed in two instances [redacted] SSN [redacted] an [redacted]

[redacted] and addressed but not given any weight in one case [redacted]

S. Ammisetty, MD
The ALJ evaluated Dr. Ammisetty's examination reports and opinions in every instance. When the doctor's opinion was given more weight than another medical source, the ALJ explained his rationale in the decisio[redacted] SS[redacted]

P. Pack, MS
Mr. Pack appears only twice, and in one case, he is a consultative examiner requested by DDS [redacted] S[redacted] in the other case where he is an independent examining source [redacted] SSN[redacted] he ALJ gave Mr. Pack's opinion great weight with the rest of the decision relying upon claimant's symptoms and allegations. It should also be noted that Mr. Pack is not an acceptable medical source as an MS.

Unfavorable Cases
In the 7 UAFF cases that were reviewed, there was only one instance where there was a medical source opinion provided at the hearing level. This opinion came from a consultative examiner, [redacted] MD from the case o[redacted] SSN[redacted]

SUMMARY OF FINDINGS: ALJ GITLOW
There do not seem to be any deficiencies in the ALJ's analysis and weighing of medical source opinions. There are specific examples where the ALJ rejected or did not address those opinions of recurring medical sources who examined the claimant upon Conn's request.

C. ALJ JAMES S. QUINLIVAN

During this period, ALJ James S. Quinlivan issued final actions in 84 of these cases:

- Dismissals: 7
- Favorable: 77
- Unfavorable: 0
- **Judge Quinlivan's allowance rate (excluding dismissals): 100%** (compared with an 87% allowance rate for all cases *decided by Judge Quinlivan during this time period (321 decisions)*)

We reviewed a random sample of 42 of these dispositions. Of the 42 cases by Judge Quinlivan reviewed: 37 resulted in a favorable decision (88.10%), 4 were withdrawn by the claimant (9.52%), and 1 was dismissed because the claimant failed to appear (2.38%). There were no unfavorable decisions issued.

SUMMARY OF FINDINGS: ALJ QUINLIVAN
Out of 42 cases, Attorney Conn submitted new evidence in 39 cases (92.86%). An examining source opinion was included in 34 cases (80.95%). Expressed differently, of the 39 cases including new evidence, 87.18% included an examining source opinion. Of the 5 cases not including an examining source, 2 contained a treating source opinion. Finally, of the 34 cases including an examining source, 28 concerned a mental impairment (82.35%).

Mr. Conn submitted reports from one or more examining sources at the hearing level:

- 19 by Phil Pack, M.S.
- 7 by Frederic Huffnagle, M.D.
- 5 by Timothy Carbary, Ph.D.
- 3 by David Herr, D.O.
- 3 by Brad Adkins, Ph.D
- 1 by Srini Ammisetty, M.D.
- 1 by Russell Travis, M.D.
- 1 by Bruce Guberman
- 1 by Eric Johnson, Ph.D.
- 1 by Nadar, Anbu, M.D.

Of the 37 cases not resulting in a dismissal, in 32 cases the ALJ relied on the examining source opinion in finding the claimant disabled (86.49%). In 3 cases, Judge Quinlivan relied solely on an examining source report. However, in 7 additional cases Judge Quinlivan relied solely on 1-3 examining sources (combination of consultative examination(s) and examining source(s) requested by Mr. Conn); and in 3 cases Judge Quinlivan relied solely on one treating source (totaling less than 14 pages for each treating source exhibit) and one examining source. In all 13 cases (35.14%), it can be said that Judge Quinlivan did not rely on substantial evidence. Finally, in 1 case, Mr. Pack was both a consultative examiner and an examining source for Mr. Conn.

Out of 37 favorable decisions, Judge Quinlivan issued 16 step 3 decisions (43.24%). Of the 21 step 5 cases, Judge Quinlivan found that the claimant would be unable to maintain full time work in 13 cases (61.90%). In 5 cases, he found the claimant disabled based solely on non-exertional limitations (23.81%) and in the remaining 3 cases he found the claimant had a less than sedentary residual functional capacity (14.29%). The percentage of step 3 decisions is much higher than we have seen in our national sample (25%).

Of the 42 cases in the sample, a vocational expert was present at 40 hearings; however, the vocational expert only testified at 11 hearings (27.5%). Between step 5 decisions and step 3 decisions, a vocational expert testified at six step 5 decisions (54.55%) and four step 3 decisions (36.36%). A vocational expert also testified at one case that was later dismissed; his testimony was that there would be jobs available.

V. Review of medical sources frequently used by representatives

In our extensive review, we noted a number of medical sources that provided reports either after examining the claimant one time or without examining the claimant at all. From our original reviews, the conclusions reached in these reports about the claimant's functional capacity were often inconsistent with the other evidence in the record or even with the findings made in their own examination. Since the ALJ's often relied on these assessments in finding the claimant disabled, we did a more thorough review of a sample of these records.

A. David Herr, D.O.

We reviewed 10 cases in which Dr. David Herr served as the independent examiner for claimants' represent by attorney Eric Conn who also had their cases reviewed by Administrative Law Judge David Daugherty. This analysis includes a discussion of overall patterns, evaluates whether Dr. Herr's functional assessments are consistent with his examinations and other medical evidence in the record, evaluates whether the record supports the overall finding of "disabled."

Except for one medical file review, all of the examinations conducted by Dr. David Herr took place in the law offices of Eric Conn, Esq., on either January 6 or 7, 2011. The Administrative Law Judge self-assigned all ten cases to himself on January 7, 2011 and the decisions were either written on February 1 or 2, 2011 (See Appendix 1).

Overall Structure of the Evaluations:

- Contain a summary of the claimant's medical records.
- Cite to previous diagnostic studies (MRI's, CT's & X-Rays) but does not include the impression or result.
- Provide the results of the range of motion exam but not the diagram, which is generally provided examiners.
- Rely heavily on the claimant's subjective complaints.
- Except for the medical file review case, Dr. Herr conducts the same physical examination of all claimants.

Results of the Examinations

All claimants' were provided residual functional capacities that do not allow them to sustain an 8-hour workday on a regular, continuous basis. In one case (Adkins), the clamant alleged the ability to sit four hours, stand/walk four hours and lift/carry ten pounds occasionally and five pounds frequently. However, Dr. Herr determined that the claimant was limited to sitting four hours, standing/walking three hours and occasionally lifting/carrying 15 pounds and five pounds frequently (See Appendix 2).

SUMMARY OF RESIDUAL FUNCTIONAL CAPACITY ASSESSMENTS

SSN	Last Name	First Name	Doctor	Alleged Sit	Alleged Stand/Walk	Alleged Occ. Lift/Carry	Alleged Freq. Lift/Carry	Sit	Stand/Walk	Occ. Lift/Carry	Freq. Lift/Carry
[redacted]			Herr	4	3	10	5	4	3	15	5
			Herr	4	4	10	5	4	3	15	5
			Herr	1	0	5	5	3	3	10	5
			Herr*	N/A	N/A	N/A	N/A	4	3	25	10
			Herr	N/A	N/A	N/A	N/A	5	1	10	5
			Herr	4	3	10	6	3	3	10	8
			Herr	2	2	10	5	4	3	15	5
			Herr	3.5	4	100	20	3	3	10	8
			Herr*	N/A	N/A	N/A	N/A	2	5	10	5
			Herr	2	4	15	5	4	3	15	5

*Medical Record Review

SUMMARY OF EXAM DATE VS. DATE PULLED BY ALJ

SSN	Last Name	First Name	Doctor	Date of Exam	Date Case Pulled by ALJ	Date of Decision	Date of Most Recent Medical Record/Exam
[redacted]			Herr	1/6/2011	1/7/2011	2/1/2011	10/2010
			Herr	1/6/2011	1/7/2011	2/1/2011	7/2010
			Herr	1/6/2011	1/7/2011	2/1/2011	4/2010
			Herr	1/6/2011	1/7/2011	2/2/2011	9/2010
			Herr	1/7/2011	1/7/2011	2/2/2011	9/2010
			Herr	1/7/2011	1/7/2011	2/2/2011	8/2010
			Herr	1/7/2011	1/7/2011	2/2/2011	10/2010
			Herr	1/7/2011	1/7/2011	2/1/2011	3/2010
			Herr	1/7/2011*	1/7/2011	2/2/2011	8/2010
			Herr	2/2/2011*	1/7/2011	2/9/2011	9/2010

*Medical Record Review

USE OF BOILERPLATE LANGUAGE OR FINDINGS IN HIS EXAMINATIONS

Dr. Herr uses the same language to describe the purpose of the evaluation and, with some small variances, how the impairment(s) affect the claimant's life.

> For example:
> *[E]motional effects cause moodiness and irritability, concern about the loss of ability to engage in recreational activities and impairments an sexual desire, interest and ability, concerned about ability to earn income, poor sleep resulting in daytime fatigue and worries that the pain will last forever. Further, the pain has coused stress at home and in relationships.*
>
> Additionally, the concluding medical source statement for each claimant is the same:
> *[T]he claimant's impoirments are expected to be permanent. Treatment rendered to the claimant will be palliative in nature, with a goal of supporting the claimant's ability to independently conduct his personal affairs and manage his activities of daily living. In my opinion, it can be stated within a reasonable degree of medical certainty that the claimant will not regain capacities with treotment that would support a return to work.*

CONSISTENCY OF FUNCTIONAL ASSESSMENTS WITH OTHER MEDICAL EVIDENCE

As mentioned above, in describing medical history of the claimant Dr. Herr summarizes the medical evidence in the record, so he does not find additional impairments. Rather he uses the claimant's medical history, their subjective complaints and his physical examination to determine them to have greater limitations than may have been expressed by either a treating source or a State Agency medical consultant just four to six months prior.

- [redacted]. Herr found that one claimant was capable of performing sedentary work but was limited to standing/walking for 3 hours per day and sitting for 3 hour per day. However, there is a lack of objective medical evidence in the exam conducted by Dr. Herr and no treating source has provided a functional assessment. In fact, in January 2010, Disability Determination Services indicated that the claimant is capable of performing a reduced range of light work. In his examination, Dr. Herr notes decreased range of motion was observed in the spine but no test results are provided. Tenderness of the paraspinal muscles, stiffness in thoracic spin, tenderness and rigid and some atrophy were noted to the left leg but with the leg raise test was negative. Dr. Herr also added that the claimant is unable to sustain work because of stiffness and pain in the hands and lower back. However, the claimant alleges that the ability occasionally lift/carry 100 pounds and 20 pounds frequently. Dr. Herr also found that the claimant had full range of motion in the hands, 5/5 grip strength bilaterally, negative straight leg raises sitting and supine, and normal grasp, manipulation, pinch and fine coordination.

- [redacted]Dr. Herr determined the claimant to be limited to lifting/carrying 5-10 pounds occasionally, 5 pounds frequently, and could stand/walk between 1-2 hours and sit between 4-5 hours in an 8-hour workday. However, in a 2008 consultative

examination performed by Dr. W.R. Stauffer DDS showed the claimant limited to performing a reduced range of light work, while a July 2010 examination performed by Dr. Jules Barefoot did not reveal any physical limitations. Additionally, the psychological evaluations cited by Dr. Herr limit the claimant to performing simple, unskilled work. I also note that the decision does not evaluate the claimant's mental limitations. Furthermore, Dr. Herr's specialty is orthopedics not psychology.

- [redacted]ecords from April 2010 show the claimant to have disc degeneration and desiccation without focal disc abnormality-no spinal stenosis or neural foraminal narrowing. Minimal annular disc bulges noted at C2-C6, limited degenerative changes at L5-S1-not radicular, minimal degenerative changes bilaterally knees. In reviewing the claimant's medical file, Dr. Herr limited the claimant to carrying/lifting 25 pounds and limited him to sitting four hours and standing/walking for 3 hours. The claimant was also limited to occasional reaching, handling and feeling. However, in a September 2010, consultative examination the claimant was noted as being able to ambulate without a handheld device, to have a normal gait and was sitting comfortably. The exam also revealed intact 5/5 bilateral grip, the ability write with the dominant hand (right), fine and coarse motor skills were intact and the claimant was able to pick up coins. Prolonged sitting was never mentioned as a problem.

- [redacted] January 2010, Disability Determination Services opined that a claimant with degenerative disc and joint disease, as well as diabetes was limited to lifting 30 pounds but that bending, stooping, kneeling, squatting and crawling would be *very difficult*. However, Dr. Herr's report allows for frequent balancing, stooping, crouching and kneeling.

B. Srini Ammisetty, M.D.

Upon review of 12 cases where Dr. Ammisetty supplied medical evidence, Dr. Ammisetty conducted 11 of them between January 3, 2011 and January 8, 2011 and one on January 21, 2011. Judge Daugherty issued a decision on all 12 cases on either February 1, 2011 or February 2, 2011. Judge Daugherty relied on Dr. Ammisetty's reports exclusively in the each of these decisions. Judge Daugherty never cited any other evidence and only included the following language, which is always in a different font than the rest of the opinion: "Having considered all of the evidence, I am satisfied that the information provided by Dr. Ammisetty most accurately reflects the claimant's impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best."

Dr. Ammisetty's reports often exhibited the use of copy and paste techniques from other examining sources. Dr. Ammisetty copied portions of independent consultative examination reports that the Social Security Administration requested. Dr. Ammisetty never attributed the original source from which she copied, which gives the impression that the copied and pasted portions in her reports are original notes from Dr. Ammisetty. The independent consultative examination reports, from which Dr. Ammisetty copied, always found the claimant as less restricted than Dr. Ammisetty ultimately concluded. In other words, Dr. Ammisetty took the information from independent consultative examiners, but found the claimant less capable than the results of the independent examination report. The evident use of copy and paste suggests Dr. Ammisetty either performed an incomplete physical examination of the claimant or did not conduct a physical examination of the claimant at all. The other medical evidence of record in these cases, if any, did support finding a medically determinable physical impairment, but did not support the degree of limitation Dr. Ammisetty found. Since Judge Daugherty solely relied on Dr. Ammisetty's reports when finding the claimant disabled, substantial evidence does not support these decisions.

Summary of Residual Functional Capacity Assessments

SSN	Last Name	First Name	Doctor	Alleged Sit	Alleged Stand/Walk	Alleged Occ. Lift/Carry	Alleged Freq. Lift/Carry	Sit	Stand/Walk	Occ. Lift/Carry	Freq. Lift/Carry
[redacted]			Ammisetty	N/A	N/A	N/A	N/A	4	2	10	5
			Ammisetty	N/A	N/A	N/A	N/A	3	3	10	8
			Ammisetty	N/A	N/A	N/A	N/A	4	3	8	5
			Ammisetty	N/A	N/A	N/A	N/A	4	2	10	5
			Ammisetty	N/A	N/A	N/A	N/A	3	3	10	8
			Ammisetty	N/A	N/A	N/A	N/A	5	1	10	5
			Ammisetty	N/A	N/A	N/A	N/A	4	3	15	5
			Ammisetty	N/A	N/A	N/A	N/A	3	3	10	5
			Ammisetty	N/A	N/A	N/A	N/A	4	3	15	5
			Ammisetty	N/A	N/A	10	10	4	2	10	5

SUMMARY OF EXAM DATE VS. DATE PULLED BY ALJ

SSN	Last Name	First Name	Doctor	Date of Exam	Date Case Pulled by ALJ	Date of Decision	Date of Most Recent Medical Record/Exam
[redacted]			Ammisetty	1/3/2011	1/7/2011	2/1/2011	9/2010
			Ammisetty	1/3/2011	1/7/2011	2/1/2011	3/2010
			Ammisetty	1/4/2011	1/7/2011	2/1/2011	9/2010
			Ammisetty	1/4/2011	1/7/2011	2/2/2011	8/2010
			Ammisetty	1/4/2011	1/7/2011	2/2/2011	8/2010
			Ammisetty	1/6/2011	1/7/2011	2/1/2011	9/2010
			Ammisetty	1/6/2011	1/7/2011	2/1/2011	8/2010
			Ammisetty	1/6/2011	1/7/2011	2/2/2011	8/2010
			Ammisetty	1/6/2011	1/7/2011	2/2/2011	4/2010
			Ammisetty	1/8/2011	1/7/2011	2/1/2011	7/2010

This section provides five examples of the use of copy and paste from consultative examination reports on behalf of three claimants. Dr. Ammisetty frequently lifted entire passages verbatim from consultative examiner reports, but sometimes tried to mask the use of copy and paste by changing the first few words of each copied sentence. Sometimes Dr. Ammisetty copied and pasted passages, but changed the numerical results of the consultative examiner's physical examinations to show a more restrictive physical examination. On at least one occasion, Dr. Ammisetty copied from multiple independent consultative examination reports, which produced internally inconsistent notes, such as reporting in one sentence no previous surgery, then reporting in another sentence a recent surgery. The examples show a side-by-side comparison of the reports, illustrating Dr. Ammisetty's evident use of copy and paste.

Example 1 - Claimant A
Illustrates the use of copy and paste with some editing.

Dr. Ammisetty's Report

Srini Ammisetty, M.D.
[redacted]
Patient:
Date of Birth:
[redacted]

This is a medical file for the above-named patient [redacted] is a 30-year-old, single Caucasian man who is applying for Disability benefits for the second time. The patient reports problems with head injury, memory loss, trouble concentrating, headache, trouble dealing with people, nervousness, anxiety, and depression. The patient was never placed in foster care or group home and, he reported emotional and verbal abuse

[redacted] is a 30-year-old, single Caucasian man who is applying for Disability benefits for the second time.

REPORTED ALLEGATIONS: Head injury, memory loss, trouble concentrating, headache, trouble dealing with people, nervousness, anxiety, and depression.

State Agency's Consultative Examiner

CONSULTATIVE EXAMINATION REPORT

DEPARTMENT FOR DISABILITY DETERMINATION
P.O. BOX 1000
FRANKFORT, KENTUCKY 40601

CLAIMANT: [redacted]
CASE #:
DISABILITY EXAMINER:
CONSULTANT: [redacted] M.D.
SOMERSET, KY 42501

DATE OF EXAMINATION: 09/19/2013
PLACE OF EXAMINATION: OLIVE HILL, KENTUCKY
DATE OF BIRTH: [redacted]
CLAIMANT'S AGE: 30 YEARS

CONSULTATIVE EXAMINATION

REFERRAL: [redacted] is a 30-year-old, single Caucasian man who is applying for Disability benefits for the second time. His father accompanied him to the appointment and they traveled [redacted] miles. The claimant had a valid Kentucky driver's license [redacted] but he presented for personal identification.

CHIEF COMPLAINT: "Head injury."

REPORTED ALLEGATIONS: Head injury, memory loss, trouble concentrating, headache, trouble dealing with people, nervousness, anxiety, and depression.

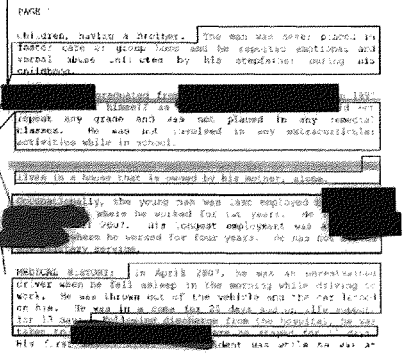
Dr. Ammisetty's Report

nervousness, anxiety, and depression. The patient was never placed in foster care or group home and, he reported emotional and verbal abuse inflicted by his stepfather during his childhood. The patient reported that he was an average student who did not repeat any grade and was not placed in any remedial-type classes. The patient reported that he was not involved in any extracurricular activities while in school. The patient lives in a house that is owned by his mother. The patient was last employed by a tree service where he worked for two years. The patient reported that he left that job in April 2007. His longest employment was at Webb's Erection where he worked for four years. He has not served in the military service. The patient reported that in April 2007 that he was an unrestrained when he fell asleep while driving to work. He was thrown out of the vehicle and the car landed on top of the patient. The patient reported that he was in a coma for 20 days and on life support for 13 days. The patient was then to [redacted] where he stayed for 17 days. The patient reports he is unable to remember the accident. The patient reported that he could not

The man was never placed in foster care or group home and he reported emotional and verbal abuse inflicted by his stepfather during his childhood. Described himself as an average student who did not repeat any grade and was not placed in any remedial classes. He was not involved in any extracurricular activities while in school. He lives in a house that is owned by his mother, alone. Occupationally, the young man was last employed by [redacted] where he worked for two years. He left that job in April 2007. His longest employment was at [redacted] where he worked for four years. He has not served any military service. In April 2007, he was an unrestrained driver when he fell asleep in the morning while driving to work. He was thrown out of the vehicle and the car landed on him. He was in a coma for 20 days and on life support for 13 days. Following discharge from the hospital, he was taken to [redacted] where he stayed for 17 days.

Example 2 - Claimant A
Illustrates the extensive use of copy and paste with minimal editing.

State Agency's Consultative Examiner



Example 3 - Claimant A
Illustrates the use of copy and paste from two different CE exams, creating internal inconsistencies because the claimant had knee surgery between the two CE exams.

Dr. Ammisetty's Report

physician is [redacted] M.D. at [redacted] in [redacted] Kentucky. The patient reports that he has no medical insurance. The patient has not any surgeries but needs one presently on his right knee. The patient is presently not taking any medications. The patient denied

Then Later Notes]

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thought for any length of time. The patient had arthroscopy of the knee on June [redacted] 2010. The patient reports that he has a history of having severe

State Agency's Consultative Examiners

SURGICAL HISTORY: He has had no surgeries, but needs surgery on his right knee.

MEDICATIONS: None.

CONTINUED ON PAGE 3

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and in fact he had one seizure while he was driving. The claimant seems to have difficulty with his memory. He gets distracted very easily and can not seem to hold a though for any length of time, so the history is sketchy and difficult. He does not know if he has had any diagnostic workup for his seizures.

The claimant also complains of pain in the right knee which was also injured in the motor vehicle accident in 2006. He had arthroscopy of the knee on June [redacted] 2010.

Example 4 - Claimant B
Illustrates the extensive use of copy and paste on a report submitted for another claimant, which suggests more than isolated instances of copy and paste.

Dr. Ammisetty's Report

SRINI M. AMMISETTY, MD., FCCP., ABSM.
Diplomate of American Board of Sleep Medicine
Diplomate of American Board of Pulmonary Medicine
Diplomate of American Board of Addiction Medicine
Fellow American College of Chest Physician

NAME: [redacted]
DOS: 01/04/2011
Page 3

PE:
[redacted]
general, the claimant ambulates with right knee brace with cut hand cane use. Patient is uncomfortable in supine position. No HEENT: Pupils are equal, round, and reactive to light. Extra Non-icterus.
NECK: Supple. No JVP. No thyromegaly.
CHEST: Decreased breath sounds. Scattered wheezing, movements.
CVS: S1 distant. No murmur. No shifting of the cardiac border
ABDOMEN: Benign. Bowel sounds positive. No sinus history.
EXTREMITIES: No cyanosis. No clubbing. No edema.
MUSCULOSKELETAL: Examination of the right hand reveals tenderness between the second and third MCP joints. Both hands also have tenderness of the third DIP joints. There is no swelling, erythema, or increased warmth, but hands have Heberden's nodes to the second, third, and fifth DIP joints and when claimant attempts to make a closed fist with each hand there is a decreased flexion of the thumb and finger joints. When the claimant attempts to extend the right hand there is extension lag of the second DIP joint at -5 degrees and the third DIP joint at -20 degrees. When the claimant attempts to extend the left hand there is extension lag of the left third DIP joint at -20 degrees and left fifth DIP joint at -5 degrees. The claimant is able to freely oppose the right thumb. The claimant has mild difficulty opposing the left thumb. It just reaches the tip of the fifth finger. Lower Extremity: The right knee has tenderness over the medial and lateral

State Agency's Consultative Examiner

HANDS: Examination of the right hand reveals tenderness between the second and third MCP joints. Both hands also have tenderness of the third DIP joints. There is no swelling, erythema or increased warmth over the hands, but both hands have Hebenden nodes over the second, third and fifth DIP joints. When the claimant attempts to make a closed fist with each hand, there is decreased flexion of thumb and finger joints as noted on range of motion sheet. When the claimant attempts to extend the right hand, there is an extension lag of the second DIP joint at -5 degrees and the third DIP joint at -20 degrees. When the claimant attempts to extend the left hand, there is extension lag of the left third DIP joint at -20 degrees and the left fifth DIP joint at -5 degrees. The claimant is able to fully oppose the right thumb; the claimant has mild difficulty opposing the left thumb which just reaches the tip of the fifth finger. Grip strength by dynamometer measurement was not measured because the dynamometer device was broken. Grip strength on manual motor testing appeared mildly weak at 4+/5 bilaterally. The claimant is able to write with the dominant right hand. Despite osteoarthritic changes of the hands, the claimant is still able to pick up a coin with each hand without problem.

Example 5 - Claimant C
Illustrates more extensive use of copy and paste on another report submitted for a third claimant, but changes the numerical findings in favor of a greater degree of limitation. The two excerpts are nearly identical, but the highlighted portions shows the changed numerical findings.

State Agency's Consultative Examiner

I was unable to assess spine curvature due to obesity. The patient had some difficulty forward bending at the waist to 65 degrees as well as difficulty standing on either leg. Extension of the spine is diminished to 10 degrees. Lateral flexion of the spine is diminished to 25 degrees on the left and 20 degrees on the right. On examination of the spine, straight leg raising is diminished to 60 degrees on the left and 70 degrees on the right. There is no leg length discrepancy. Range of motion of the hips with the knees flexed is slightly diminished to 90 degrees bilaterally. On neurological evaluation of the lower extremities, there is no evidence of muscle weakness. The left calf is ½ inch smaller (18 inches) than the right calf. All sensory modalities are well-preserved including light touch and pinprick.

Dr. Ammisetty's Report

MUSCULOSKELETAL: Pt. has some difficult forward bending at the waist to 65 degrees as well as difficulty standing on either leg. Extension of the spine is diminished for 10 degrees. Lateral flexion of the spine is diminished to 20 degrees on the left and 20 degrees on the right. On examination of spine straight leg raising diminished to 50 on the left and 60 on the right. There is no leg length discrepancy. Range of motion of the hips with knee flexed is slightly diminished to 90 degrees bilaterally. On neurological evaluation of the lower extremity, there is no evidence of muscle weakness. The sensory is slightly decreased including light touch and pinprick. Palpation is normal of the

C. PHIL PACK, M.S.

We sampled 30 cases in which the medical records included reports from Mr. Pack. In two cases, Mr. Pack conducted a consultative evaluation at the request of SSA. In most cases, he provided a report at the request of the claimant's representative; but in six cases, he submitted reports at the request of both SSA and the claimant's representative. Observations based on our review of these 30 cases follow:

USE OF BOILERPLATE LANGUAGE OR FINDINGS IN HIS EXAMINATIONS

Mr. Pack did not use boilerplate language in his reports; however, he did issue boilerplate findings. Out of 28 cases in which Mr. Pack was an examining source, he found the claimant had poor ability (markedly limited) in demonstrating reliability 28 times (100%). This finding was made many times without supporting rationale and sometimes in conflict with both the claimant's reported daily activities and routines and the other medical evidence of record. Similarly, in 16 cases, Mr. Pack found that the claimant had poor ability in dealing with the public (57.14%). In 25 cases he found the claimant had poor ability to deal with work stress and to relate predictably in social situations (89.29%). In addition, Mr. Pack opined that the claimant's ability to relate and communicate with others, including co-workers and supervisors, was poor in 13 cases (46.43%). He found the claimant's ability to adapt regarding mental and psychological capabilities was poor in 23 cases (82.14%). While these findings could be expected some of the time, the rate at which they were found, especially in relation to the examination by Mr. Pack and other medical evidence, were both inconsistent and atypical.

INCONSISTENCIES BETWEEN MR. PACK'S CONSULTATIVE EXAMINATIONS FOR DISABILITY DETERMINATION SERVICES AND HIS REPORTS FOR ERIC CONN, ESQ.

As noted, Mr. Pack conducted consultative evaluations for DDS in two cases and appeared as both a consultative examiner and an examining source for Mr. Conn in 6 cases. As a consultative examiner, Mr. Pack's findings were more conservative than when he was an examining source for Mr. Conn. Mr. Pack's consultative examinations, in fact, were the only reports that supported the DDS finding of "not disabled." Three cases in which Mr. Pack was both consultative examiner and examining source for Mr. Conn are of particular interest.

- [redacted] In his consultative examination conducted for DDS, Mr. Pack noted that both his observations and a Rey test suggested that the claimant gave less than optimal effort and that the results should be reviewed cautiously. He noted that the claimant endorses almost any type of complaint that was discussed, did not seem to exhibit acute anxiety, his general mood was incongruent when describing his complaints, and his demeanor was different during formal testing versus. the interview. The claimant stated that he had never been able to read (contrary to other evidence of record) and achieved a Verbal Comprehension score of 68. However, when Mr. Pack evaluated the claimant at the request of Mr. Conn), he found the claimant credible and failed to note the prior inconsistencies or observations made in his earlier evaluation. Significantly, the claimant tested 18 points higher in Verbal Comprehension (86). The ALJ relied on both Mr. Pack's consultative examination and his examining source report for Mr. Conn, but did not discucc or resolve the inconsistencies between the two reports.

- [redacted] Dr. Gitlow, noted in response to interrogatories that Mr. Pack's 2009 conclusions as an examining source for Mr. Conn differed considerably from his 2008 conclusions as a consultative examiner. "Mr. Pack's 2009 analysis does not reflect his 2008 knowledge regarding the claimant's substance use history. In 2009, he apparently accepts the claimant's denial of such history as true while in 2008 he had prior records at his disposal with which to refute the claimant's lack of forthcoming discussion." Dr. Gitlow's opinion concerning the claimant's mental ability to perform job activities was far more conservative. The ALJ did not rely on Mr. Pack's 2009 report and found the claimant not disabled. The case was remanded by the Appeals Council.

- [redacted] The ALJ issued an unfavorable decision that noted inconsistencies between Mr. Pack's examination as a consultative examiner and his report as an examining source for Mr. Conn. In his consultative examination report, Mr. Pack noted a lengthy history of substance abuse, found that the claimant made a very dramatic and unusual childlike presentation, that although testing suggested mental retardation it was not noted in past treatment records, and that the results on the Rey test suggested less than optimal effort was given. As a consultative examiner, Mr. Pack questioned the results of the test. However, in his report as an examining source for representative Conn, no concerns regarding the claimant's credibility were noted. For instance, in the report prepared for Mr. Conn, there was no mention of the previously described history of substance abuse. Similarly, in his report prepared for Mr. Conn, Mr. Pack reported that the claimant's mental ability to perform job activities was poor in several areas, an opinion not expressed in his report as a consultative examiner.

CONSISTENCY OF MR. PACK'S EXAMINATIONS CONDUCTED FOR MR. CONN WITH OTHER MEDICAL EVIDENCE OF RECORD

Mr. Pack's findings regarding the claimant's mental ability to perform job-related activities were typically inconsistent and more limiting than those found in the other medical evidence of record. Mr. Pack reported an average global assessment of functioning (GAF) score of 52.5 in 18 cases. On rare occasion, his mental examination noted less limitation than other evidence; but his medical opinion of functional ability consistently described greater limitation than that offered in the other evidence.

INTERNAL CONSISTENCY OF MR. PACK'S EXAMINATIONS FOR MR. CONN

Mr. Pack evaluated some claimants with significant mental impairments, and in those cases, his findings were consistent. However, in many examinations the results were more inconsistent. In particular, Mr. Pack seemed to favor the claimant's subjective statements regarding the history of their condition even in the face of favorable results on their more objective mental status examination and past knowledge as a consultative examiner. Moreover, Mr. Pack found all of the claimants in our sample had poor ability in the area of demonstrating reliability, dealing with work stress and relating predictably in social situations. These findings frequently had no direct link to his examination and were inconsistent with some of the claimants' stated work history or routines.

ORIGINALITY OF MR. PACK'S EXAMINATION RESULTS
Unlike the results found in Dr. Amnisetty's reports, Mr. Pack did not copy and paste the language used by other sources. His examinations appear to be original; however, the findings from those examinations are questionable. Mr. Pack's reports as an examining source for Mr. Conn always supported a finding of disability.

ADMINISTRATIVE LAW JUDGES' RELIANCE ON MR. PACK'S FINDINGS
In many cases, there was very little evidence other than Mr. Pack's reports. The claimants had typically not received treatment for their mental impairments and in a few cases did not allege a mental impairment until the hearing level. As a result, the finding of a severe medically determinable impairment would not be supported, as Mr. Pack's single examination is insufficient to establish both severity and duration for the alleged period of disability. Even in cases where a treating source and/or consultative examination were present in the medical record, the decisions typically erred in not discussing evidence contrary to Mr. Pack's findings.

Of the 28 cases in which Mr. Pack was an examining source for Mr. Conn, the ALJs relied on Mr. Pack's examining report in 24 cases (85.71%). In the four remaining cases, the ALJ issued an unfavorable decision in three cases (12.71%) and dismissed one (3.57%). The only cases in which the inconsistencies in Mr. Pack's report were noted were when Mr. Pack performed the role of both consultative examiner and examining source for Mr. Conn.

VI. REVIEW OF CASES INVOLVING WILLIAM ARNETT AS THE REPRESENTATIVE

We reviewed a random sample of 38 favorable decisions issued by 5 different ALJs (Andrus, Gitlow, Daugherty, Quinlivan, and Chwalibog). Our findings are as follows:

- Hearings were held in every case
- Representative Arnett submitted additional MER in every case
  - 37 of the 38 were decided at step 5, only 1 was decided at step 3
- Residual Functional Capacity
  - Less than a full range of medium – 1
  - Full range of light – 1
  - Less than a full range of light – 13
  - Full range of sedentary – 1
  - Less than a full range of sedentary – 17
  - Non-exertional – 3
  - Cannot sustain regular and continuous work – 1
- Representative Arnett submitted opinion evidence at the hearing level in 35 of the 37 cases
  - In the two cases that Rep. Arnett did not submit opinion evidence at the hearing level the claimant was paid by Judge Andrus for 1) GERD with urinary/fecal incontinence, but with no supporting medical opinions, and 2) RFC based n the claimant's "credible" complaints, with no supporting medical opinions

- Types of medical sources
  - Treating Source Opinions = 14
    - 4 from Ira Potter, M.D.
    - 1 from James Frederick, M.D.
    - 9 from other physicians who only appeared once as a TS
  - Examining Source Opinions = 26
    - 9 from Mr. Phil Pack
    - 4 from Bruce A. Guberman, M.D.
    - 2 from Jerry Brackett
    - 11 from others who only appear once as an ES
      - 1 of the examining sources was obtained by the ALJ
  - Non-examining source opinions = 9
    - 3 from Scott Arnett, M.D.
    - 2 from Ira Potter, M.D.
    - 1 from James Frederick, M.D. (ALJ 2024 did not use his opinion)
    - Note: There were 3 appearances from sources who only appeared once as a non-ES throughout the 38 cases, one of which was obtained by the ALJ
- The allowance was based on the medical source opinion submitted by Rep. Arnett in 27 cases.
  - 8 decisions did not address any other evidence
  - Note: In a majority of cases (at least over 50% of the time) where the decision addressed other evidence, the decision usually just cited a medical examination report or lab report without any detailed evaluation of the evidence.

VII. Review of Withdrawal Dismissals

In reviewing our sample of cases, we noted a high number of requests for hearing that were dismissed based on a withdrawal request. Upon further review, we found that a high percentage were issued by two ALJ's, Andrus and Gitlow, and that many of them were issued after the hearing was held. We previously submitted a report of our findings of this study. A summary of that review follows.

We were unable to identify any specific motivation for this representative's multiple requests for withdrawal, other than the opportunity a withdrawal provides to further develop the record and to potentially reopen a prior determination rather than decision. In total, 115 hearings were held that resulted in a dismissal. At approximately $1500 per hearing, this totals to an Agency cost of $172,500 for the 137 cases sampled alone. Vocational experts were present for 112 of the 115 hearings and were questioned in 73 of them. Of the 115 hearings held, 48 of them lasted less than 10 minutes.

We sampled cases involving the Conn firm at the Huntington, West Virginia office for which a withdrawal request was submitted and resulted in a dismissal order dated between July 2007 and June 2011. Administrative Law Judges Andrus and Gitlow had the highest number of dismissals with the Conn firm, and thus we sampled 137 withdrawal cases that began before Judges Andrus or Gitlow. Of the 137 cases sampled, 122 (89%) of them contained subsequent applications, and as of mid-July 2011, 32 (23% of the total withdrawals) of them resulted in favorable determinations or decisions. Of the 32 favorable determinations/decisions, only 6 (4% of the total withdrawals) reopened the prior determinations. On

average, these six claimants received 423 days of benefits which invaded the prior adjudicated period (actual values = 534 days, 653 days, 461 days, 272 days, 214 days, and 404 days), and all were concurrent ("SSDC" claims). It took an average of 180 days for each of the subsequent applications to clear DDS (app date to RC det date). For subsequent applications that received favorable hearing decisions, it took an average of 367 days from reconsideration to obtain a hearing decision.

We noted that the judges often held more than one "dismissal" hearing per day (up to as many as 5 in one day). From July 2007 through early 2010, the claimants were generally not present at the hearings, which generally lasted anywhere from 1 to 7 minutes. Later, the claimants were typically present for the hearings, which lasted approximately 15 to 30 minutes. Initially, representative Conn or his associates would submit a withdrawal request at the hearing, having obtained his client's prior approval. Later dismissal cases showed that representative Conn would request an extension of time to complete the record at the conclusion of the testimony and would submit a withdrawal request at some point after the hearing. For a period of time in mid-2008, representative Conn would submit the withdrawal request immediately following the first hypothetical posed by the Administrative Law Judge, prior to the vocational expert's response.

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 10-07-08

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: 22 SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale - 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding her treatment. She was informed that the standard rules of confidentiality apply to her evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is a [redacted]-year-old single, white female. She reported that she has a hernia. She currently takes Cymbalta, Lamatical, Carafate, Nexium, Xanax, Topomax, and Zantac as prescribed by her physician(s).

Homeland Security & Governmental Affairs
Committee
EXHIBIT #47

She has received mental health treatment in the past. She saw [redacted] of [redacted] Kentucky for about two to three months about seven years ago. She has been seeing [redacted] of Lexington, Kentucky for the last seven years. She has been diagnosed with bipolar and anxiety.

She does have a history of suicidal attempts. She has attempted suicide several times by cutting herself. Her last attempt was about two years ago. She has several scars on both arms but they are not from suicide attempts. She said that they helped her release anxiety. In her family of origin, there is not a history of substance abuse problems or mental health problems. She said that she does not currently have any suicidal or homicidal ideation.

She has had problems with depression since the age of thirteen. She cries frequently for no apparent reason. She sleeps poorly at night and tires easily during the day. Her appetite fluctuates. She has a loss of interest in activities that were once pleasurable for her. She said that she feels worthless.

She has problems with anxiety. Her family and friends have told him that she is more irritable than she used to be. She worries about her health, finances, etc. She is having problems with attention and concentration. She has attempted to stop worrying but has been unsuccessful in those attempts.

She has panic attacks daily since about the age of fourteen. The panic attacks are worse when she has to be in public.

She does not endorse any symptoms of bipolar disorder.

In regard to activities of daily living:

1) She is able to perform outside chores.
2) She is able to perform inside chores.
3) She has no problems when performing toileting, hygiene maintenance, and grooming.
4) She has no problems when dressing.
5) She does have a driver's license.

She was raised by her biological parents. She has a good relationship with her mother. She has a good father-daughter relationship but they argue a lot. She has a good relationship with her siblings. Corporal punishment was used as disciplinary measures in the home when she was growing up. She had no known problems with reaching developmental milestones.

She was [redacted] during her four years of high school due to anxiety and depression problems. [redacted] She did have behavioral problems in school as she fought often.

She has worked as a dietary aide and data entry. She has worked less than one year altogether. She was never terminated from any of her jobs. She was never reprimanded on any of her jobs.

She has never been married. She has no children.

She does not have a history of substance abuse.

She does not have a history of arrests.

[redacted]
Her [redacted] teacher was mentally abusive.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. Her appearance and dress were appropriate for the testing situation. She appeared to be of average height and average weight. She was alert and oriented to person, place, and time. Her affect was congruent with her stated level of anxiety. Her immediate, recent, and remote memories were intact. Rapport was established easily. She was friendly and polite. She gave information freely. Eye contact was good. She was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of her current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	10 – Average
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	9 – Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	7 – Below Average
Digit Span:	Immediate auditory memory requires concentration and attention.	8 – Average
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	8 - Average

Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	8 Average

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	9 - Average
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	9 – Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	10 – Average
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	7 – Below Average
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	8 – Average

	Score	Percentile	Confidence Interval
Verbal IQ Score:	93	32	88 98
Performance IQ Score:	89	23	83 96
Full Scale IQ Score:	91	27	87 – 95

INTERPRETATIONS:

On the WAIS-III, she obtained a Full Scale IQ score of 91, (27th percentile), which places her in the Average range of intellectual functioning overall, however her true IQ score could range from as low as 87 to 95. She obtained a Verbal IQ score of 93, (32nd percentile), which places her in the Average range of verbal intellectual functioning, however her true IQ score could range from as low as 88 to 98. She obtained a Performance IQ score of 89, (23rd percentile), which places her in the Low Average range of non-verbal intellectual functioning, however her true IQ score could range from as low as 83 to 96. There is not a significant difference between her Verbal and Performance IQ scores, which indicates that she performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY:

The patient, [redacted] is a [redacted]-year-old single, white female. She reported that she has a hernia. She currently takes Cymbalta, Lamatical, Catafate, Nexium, Xanax, Topomax, and Zantac as prescribed by her physician(s). She has received mental health treatment in the past. She saw [redacted] of [redacted] for about two to three months about seven years ago. She has been seeing [redacted] of Lexington, Kentucky for the last seven years. She has been diagnosed with bipolar and anxiety. She does have a history of suicidal attempts. She has attempted suicide several times by cutting herself. Her last attempt was [redacted] years ago. She has several scars on both arms but they are not from suicide attempts. She said that they helped her release anxiety. In her family of origin, there is not a history of substance abuse problems or mental health problems. She said that she does

not currently have any suicidal or homicidal ideation. She has had problems with depression since the age of thirteen. She has had problems with depression for about fifteen years. She cries frequently for no apparent reason. She sleeps poorly at night and tires easily during the day. Her appetite fluctuates. She has a loss of interest in activities that were once pleasurable for her. She said that she feels worthless. She has problems with anxiety. Her family and friends have told him that she is more irritable than she used to be. She worries about her health, finances, etc. She is having problems with attention and concentration. She has attempted to stop worrying but has been unsuccessful in those attempts. She has panic attacks daily since about the age of fourteen. The panic attacks are worse when she has to be in public. She does not endorse any symptoms of bipolar disorder.

On the WAIS-III, she obtained a Full Scale IQ score of 91, (27th percentile), which places her in the Average range of intellectual functioning overall, however her true IQ score could range from as low as 87 to 95. She obtained a Verbal IQ score of 93, (32nd percentile), which places her in the Average range of verbal intellectual functioning, however her true IQ score could range from as low as 88 to 98. She obtained a Performance IQ score of 89, (23rd percentile), which places her in the Low Average range of non-verbal intellectual functioning, however her true IQ score could range from as low as 83 to 96.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Major Depressive Disorder, Single Episode, Severe without Psychotic Features
	Panic Disorder with Agoraphobia
AXIS II:	R/O Borderline Personality Disorder
AXIS III:	General Medical Condition: hernia
AXIS IV:	Psychosocial and Environmental Problems: lack of financial income
AXIS V:	Current GAF: 49

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of her depression and anxiety symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

CONCLUSIONS:

This evaluator believes that [redacted] could manage funds without assistance or restriction, if they were awarded to her.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted] mental abilities.

[redacted]
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a. [redacted] appears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted] appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding her ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. MAKING OCCUPATIONAL ADJUSTMENTS

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.
SIGNATURE/TITLE/MEDICAL SPECIALITY

10/7/08
DATE

ERIC C. CONN, P.S.C.

12407 South U.S. 23, P.O. Box 308
Stanville, Kentucky 41659-0308
Telephone: (606) 478-5100 Fax: (606) 478-5109

Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

08/01/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY: BRADLEY ADKINS, PHD ON 07/20/07

Respectfully submitted,

4 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] **DATE OF EVALUATION:** 07-19-07

ADDRESS: [redacted] **DATE OF BIRTH:** [redacted]

CHRONOLOGICAL AGE: [redacted] years **SSN:** [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Clinical Interview

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is [redacted] year-old white male. He has no physical problems. He does have a slight speech impediment. He currently takes Strattera.

Collateral information for the interview was provided by his mother, [redacted]

The mother reports that she had no prenatal problems. There were no birth complications, by her report. She said he was cranky and fussy as a baby. He has a history of several ear infections.

Hyperactivity symptoms began at the age of two. She reports that he climbs, runs constantly, and fidgets. The teacher has told her that he talks frequently in class. He also has relationship problems with his peers. He talks out of turn in class, by the teacher's report. He seems to not be listening during class time. He has problems with task completion. He avoids tasks requiring focus and attention. He is frequently in trouble in school.

His academic problems began in kindergarten. [redacted] He has particular problems with reading and spelling.

He has been involved with [redacted] since 205. He has been diagnosed with Attention Deficit/Hyperactivity Disorder there.

His parents were divorced when he was four. His father is involved with him and sees him often.

The parents usually used time-outs for discipline.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was very fidgety. He played frequently with objects on the evaluator's desk. He interrupted the conversation frequently. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good

[redacted]
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SUMMARY:

The patient, [redacted], is a [redacted]ear-old white male. He has no physical problems. He does have a slight speech impediment. He currently takes Strattera. Collateral information for the interview was provided by his mother, [redacted]. The mother reports that she had no prenatal problems. There were no birth complications, by her report. She said he was cranky and fussy as a baby. He has a history of several ear infections. Hyperactivity symptoms began at the age of two. She reports that he climbs, runs constantly, and fidgets. The teacher has told her that he talks frequently in class. He also has relationship problems with his peers. He talks out of turn in class, by the teacher's report. He seems to not be listening during class time. He has problems with task completion. He avoids tasks requiring focus and attention. He is frequently in trouble in school. His academic problems began in kindergarten. He failed kindergarten. He has particular problems with reading and spelling. He has been involved with [redacted] since 205. He has been diagnosed with Attention Deficit/Hyperactivity Disorder there.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Attention Deficit Hyperactivity Disorder, Combined Type	
	Learning Disorder, Not Otherwise Specified	
AXIS II:	No Diagnosis	
AXIS III:	General Medical Condition: N/A	
AXIS IV:	Psychosocial and Environmental Problems:	lack of financial income
AXIS V:	Current GAF: 51	

[redacted]
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PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include behavior modification and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

CONCLUSIONS:

This evaluator believes that [redacted] could not manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted] mental abilities.

a. [redacted] appears to have a less than average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted] appears to have a less than average ability to relate to others, including fellow workers and supervisors.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment -- **BASED ON YOUR EXAMINATION** -- of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

Page 2

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

State any other work-related activities, which are affected by the impairment, and indicate how the activities are affected. What are the medical/clinical findings that support this assessment.

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (☒) NO (☐)

SIGNATURE/TITLE And DATE	Brad [illegible], Ph.D. 7/20/07
MEDICAL SPECIALITY	Psychology

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 07-17-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)
Personality Assessment Inventory (PAI)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is a [redacted]-year-old married, white male. He has a history of a motor vehicle accident and work related injury. He has pain in his jaw, neck, and back most of the time. He currently takes no medication.

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level of pain, on average, is an 8 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to exercise, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain.

He has been treated at [redacted] in [redacted], Kentucky sporadically beginning at the age of eight or nine. His last visit was about one year ago. He has a history of anger problems and poor attitude; this is why he began treatment at such a young age.

He does not have a history of suicidal or homicidal ideation. In his family of origin, there is a history of anxiety, and anger in his maternal uncles. He does not currently have any suicidal or homicidal ideation.

He said he is easily frustrated. He is usually anxious and upset. He said he worries about his mother and his wife. He has been involved in several fights. He was [redacted] due to learning problems and frequent fighting. He was [redacted]

He was raised by his biological parents. He said he has a good relationship with both his mother and his father. His brothers beat him up often. Corporal punishment was used as disciplinary measure in the home while he was growing up. He had no known problems with reaching developmental milestones.

He was [redacted] due to frequent fighting. His grades were very poor. He can not read or write, by his report.

He has worked at a [redacted] for about a week before being terminated after being injured.

He is married. He has been married for one year. He gets along well with his wife [redacted]

He has a history of frequent alcohol intoxication until about one year ago. He stopped drinking because he was diagnosed with liver problems.

He has been arrested three to four times for fighting, resisting arrest, and disturbing the peace.

He does not have a history of abuse either as a victim or as a perpetrator.

In regard to activities of daily living:

1) He is not able to perform outside chores.
2) His wife takes care of the inside chores.
3) He experiences pain and difficulty when performing toileting, hygiene maintenance and grooming.
4) He experiences pain and difficulty when dressing.
5) He does not have a driver's license.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He had multiple tattoos. He had a scar on his left cheek. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	2 – Extremely Low
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	2 – Extremely Low
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	4 – Borderline
Digit Span:	Immediate auditory memory requires concentration and attention.	5 – Borderline
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	2 – Extremely Low

Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	4 – Borderline

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	5 – Borderline
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	7 – Below Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	7 – Below Average
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	6 – Borderline

[redacted]
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Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	4 – Extremely Low

	Score	Percentile	Confidence Interval
Verbal IQ Score:	61	0.5	57 – 67
Performance IQ Score:	74	4	69 – 82
Full Scale IQ Score:	69	2	66 – 74

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 69, (2nd percentile), which places him in the Extremely Low range of intellectual functioning overall, however his true IQ score could range from as low as 66 to 74. He obtained a Verbal IQ score of 61, (0.5 percentile), which places him in the Extremely Low range of verbal intellectual functioning, however his true IQ score could range from as low as 57 to 67. He obtained a Performance IQ score of 74, (4th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 69 to 82. There is a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs better on tasks that emphasize visual-spatial abilities as on tasks that emphasize verbal abilities.

The Personality Assessment Inventory (PAI), a measure of psychological functioning, was not administered due to the patient's reported inability to read.

[redacted]
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SUMMARY AND CONCLUSIONS:

The patient, [redacted] is a [redacted]-year-old married, white male. He has a history of a motor vehicle accident and work related injury. He has pain in his jaw, neck, and back most of the time. He currently takes no medication. He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level of pain, on average, is an 8 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to exercise, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain. He has been treated at [redacted] in [redacted] Kentucky sporadically beginning at the age of eight or nine. His last visit was about one year ago. He has a history of anger problems and poor attitude; this is why he began treatment at such a young age. He does not have a history of suicidal or homicidal ideation. In his family of origin, there is a history of anxiety, and anger in his maternal uncles. He does not currently have any suicidal or homicidal ideation. He said he is easily frustrated. He is usually anxious and upset. He said he worries about his mother and his wife. He has been involved in several fights. He was [redacted]. He was [redacted]

On the WAIS-III, he obtained a Full Scale IQ score of 69, (2nd percentile), which places him in the Extremely Low range of intellectual functioning overall, however his true IQ score could range from as low as 66 to 74. He obtained a Verbal IQ score of 61, (0.5 percentile), which places him in the Extremely Low range of verbal intellectual functioning, however his true IQ score could range from as low as 57 to 67. He obtained a Performance IQ score of 74, (4th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 69 to 82.

The Personality Assessment Inventory (PAI), a measure of psychological functioning, was not administered due to the patient's reported inability to read.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Anxiety Disorder, Not Otherwise Specified
	Pain Disorder Associated with Both Psychological Factors and a General Medical Condition
AXIS II:	Antisocial Personality Disorder
	Borderline Intellectual functioning
AXIS III:	General Medical Condition: pain in jaw, neck and back
AXIS IV:	Psychosocial and Environmental Problems: lack of financial income
AXIS V:	Current GAF: 51

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his anxiety symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes th[redacted] could manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted] mental abilities.

a. [redacted] appears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted] appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

State any other work-related activities, which are affected by the impairment, and indicate how the activities are affected. What are the medical/clinical findings that support this assessment.

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (☒) NO (☐)

SIGNATURE/TITLE And DATE	[signature], Ph.D. 7/17/07
MEDICAL SPECIALITY	Psychology

ERIC C. CONN, P.S.C.

12407 South U.S. 23, P.O. Box 308
Stanville, Kentucky 41659-0308
Telephone: (606) 478-5100 Fax: (606) 478-5109

Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

08/01/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY: BRADLEY ADKINS, PHD ON 07/17/07 AND AMENDED ONSET DATE OF 03/03/05

Respectfully submitted,

15 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 07-17-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)
Personality Assessment Inventory (PAI)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient [redacted] is a [redacted]-year-old married, white male. He said he injured his left leg in a vehicle accident thirteen years ago. He had a steel rod placed in his leg that always hurts. His right arm and left side of his face frequently goes numb. He was knocked unconscious in the motor

vehicle accident. He currently takes Vicaprofen, Ultram, Zanaflex, and Effexor as prescribed by physicians.

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level of pain, on average, is a 7 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to walk long distances, ride ATV's, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain.

He is currently receiving treatment at [redacted] in Pikeville, Kentucky. He has been going for about three months. He has been diagnosed with depression there.

He does not have a history of suicidal or homicidal ideation. In his family of origin, he reported that his younger brother has a substance abuse problem. He does not currently have any suicidal or homicidal ideation.

He said he began having problems with depression around 1999. This episode has lasted about one and a half years. He cries frequently for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once enjoyable for him. He said he feels worthless and hopeless.

He reported that about one and a half years ago, he began to think that others were staring at him and thinking badly of him. He prefers not to go out.

He was raised by his biological parents. He has a good relationship with both his mother and his father. [redacted] He has a good relationship with his siblings. Corporal punishment and groundings were used as disciplinary measures in the home while he was growing up. He had no known problems in reaching developmental milestones.

He graduated from high school [redacted] His grades were usually "C's". He did not fail any grades. He was not in any remedial classes. He does not have a history of significant behavioral problems while in school.

He worked as a [redacted] for about four and a half years. He was never terminated from any of his jobs. He was never reprimanded on any of his jobs.

He is currently married and has been for [redacted] They are currently separated, but working on the marriage. [redacted]

He does not have a history of arrests.

He does not have a history of substance abuse.

He does not have a history of abuse either as a victim or as a perpetrator.

In regard to activities of daily living:

1) He is not able to perform outside chores.
2) He is only able to perform light inside chores.
3) He experiences pain and difficulty when performing toileting, hygiene maintenance and grooming.
4) He experiences pain and difficulty when dressing.
5) He does have a driver's license.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and was quite obese. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	9 – Average
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	11 – Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	9 – Average
Digit Span:	Immediate auditory memory requires concentration and attention.	8 – Average

Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	8 - Average
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	9 – Average

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	10 – Average
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	9 – Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	9 – Average

Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	7 – Below Average
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	8 – Average

	Score	Percentile	Confidence Interval
Verbal IQ Score:	93	32	88 – 98
Performance IQ Score:	90	25	84 – 97
Full Scale IQ Score:	91	27	87 – 95

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 91, (27th percentile), which places him in the Average range of intellectual functioning overall, however his true IQ score could range from as low as 88 to 98. He obtained a Verbal IQ score of 93, (32nd percentile), which places him in the Average range of verbal intellectual functioning, however his true IQ score could range from as low as 88 to 98. He obtained a Performance IQ score of 90, (25th percentile), which places him in the Average range of non-verbal intellectual functioning, however his true IQ score could range from as low as 84 to 97. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

The Personality Assessment Inventory (PAI) was administered as a measure of psychological functioning. His overall profile was judged to be valid. The results of the PAI were as follows:

He may be experiencing thoughts of worthlessness, hopelessness, and personal failure. He may experience indecisiveness and difficulties in concentration. He may report sadness, a loss of interest in normal activities, and a loss of pleasure in things that were previously enjoyed. He may be experiencing a disturbance in his sleep pattern, a decrease in his level of sexual interest, and a loss of appetite and/or weight.

SUMMARY AND CONCLUSIONS:

The patient, [redacted] is a [redacted]-year-old married, white male. He said he injured his left leg in a vehicle accident thirteen years ago. He had a steel rod placed in his leg that always hurts. His right arm and left side of his face frequently goes numb. He was knocked unconscious in the motor vehicle accident. He currently takes Vicaprofen, Ultram, Zanaflex, and Effexor as prescribed by physicians. He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level of pain, on average, is a 7 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to walk long distances, ride ATV's, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain. He is currently receiving treatment at [redacted] in Pikeville, Kentucky. He has been going for about three months. He has been diagnosed with depression there. He does not have a history of suicidal or homicidal ideation. In his family of origin, he reported that his younger brother has a substance abuse problem. He does not currently have any suicidal or homicidal ideation. He said he began having problems with depression around 1999. This episode has lasted about one and a half years. He cries frequently for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once enjoyable for him. He said he feels worthless and hopeless. He reported that about one and a half years ago, he

began to think that others were staring at him and thinking badly of him. He prefers not to go out.

On the WAIS-III, he obtained a Full Scale IQ score of 91, (27th percentile), which places him in the Average range of intellectual functioning overall, however his true IQ score could range from as low as 88 to 98. He obtained a Verbal IQ score of 93, (32nd percentile), which places him in the Average range of verbal intellectual functioning, however his true IQ score could range from as low as 88 to 98. He obtained a Performance IQ score of 90, (25th percentile), which places him in the Average range of non-verbal intellectual functioning, however his true IQ score could range from as low as 84 to 97.

The Personality Assessment Inventory (PAI) was administered as a measure of psychological functioning. The results of the PAI were as follows: He may be experiencing thoughts of worthlessness, hopelessness, and personal failure. He may experience indecisiveness and difficulties in concentration. He may report sadness, a loss of interest in normal activities, and a loss of pleasure in things that were previously enjoyed. He may be experiencing a disturbance in his sleep pattern, a decrease in his level of sexual interest, and a loss of appetite and/or weight.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Moderate

Social Phobia

Pain Disorder Associated with Both Psychological Factors and a General Medical Condition

AXIS II: No Diagnosis

AXIS III: General Medical Condition: pain in left leg; right arm and left side of body goes numb

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 54

PROGNOSIS:

[redacted]rognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression anxiety symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes tha[redacted]uld manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding Tommy's mental abilities.

a. [redacted]ppears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted]ppears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]ppears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted]ppears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

- **Unlimited** - **Ability to function in this area is not limited by a mental impairment.**
- **Good** - **Ability to function in this area is more than satisfactory.**
- **Fair** - **Ability to function in this area is limited but satisfactory.**
- **Poor** - **Ability to function in this area is seriously limited but not precluded.**
- **None** - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

State any other work-related activities, which are affected by the impairment, and indicate how the activities are affected. What are the medical/clinical findings that support this assessment.

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (☒) NO (☐)

SIGNATURE/TITLE And DATE	Brad [illegible] Ph.D. 7/17/07
MEDICAL SPECIALITY	Psychology

ERIC C. CONN, P.S.C.

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Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

08/01/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY:
BRADLEY ADKINS, PHD ON 07/17/07
AND AMENDED ONSET DATE OF 02/28/06

Respectfully submitted,

14 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 07-17-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)
Personality Assessment Inventory (PAI)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted]-year-old single, white male. He reported unspecified back problems. He has back pain in his lower and middle back. He currently takes Effexor XR.

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain three to four days per week. He said his level of pain, on average, is a 7 on a scale of 0 to 10. He is not able to go swimming, running, etc. due to the pain.

He has been receiving treatment at [redacted] Kentucky for over a year. He has been diagnosed with bipolar disorder and anger problems there.

He has attempted suicide on two occasions. His first attempt was at the age of fourteen. He put a[redacted] This attempt resulted in treatment at [redacted] WV. The second attempt was at the age of sixteen [redacted] In his family of origin, there are no mental health problems or substance problems. He does not currently have any suicidal or homicidal ideation, by his report.

He described his usual mood as depressed and has been since the age of twelve. He has no known antecedents. His sleep is good. He cries sometimes.

His anger problems began at fourteen [redacted] He has broken things and thrown things in his home, but has never hurt anyone else.

He has no symptoms consistent with manic or hypo manic episodes.

He said he was [redacted] He was also mentally abused by teachers and students, by his report.

He was raised by his biological parents. He has a good relationship with both his mother and his father. [redacted] Groundings were used mostly in the home as disciplinary measures while he was growing up. Occasional corporal punishment was used as well. He had no known problems in reaching developmental milestones.

He graduated from high school [redacted] His grades were "A's" and "B's". He was in mainstream classes. He got along well with his teachers and his peers.

He has no vocational history.

He has never been married and has [redacted] children.

He does not have a history of arrests.

He does not have a history of substance abuse.

In regard to activities of daily living:

1) He has never done any outside chores.
2) He lives with his parents and his mom does the inside chores.
3) He has no problems when performing toileting, hygiene maintenance and grooming.
4) He has no problems dressing.
5) He does have a driver's license.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. [redacted] He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	7 – Below Average
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	9 – Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	6 – Borderline
Digit Span:	Immediate auditory memory requires concentration and attention.	8 – Average
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	7 – Below Average

Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	6 – Borderline

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	5 – Borderline
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	8 – Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	7 – Below Average
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	7 – Below Average

Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	6 – Borderline

	Score	Percentile	Confidence Interval
Verbal IQ Score:	83	13	79 – 88
Performance IQ Score:	78	7	73 – 86
Full Scale IQ Score:	79	8	75 – 83

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 79, (8th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 75 to 83. He obtained a Verbal IQ score of 83, (13th percentile), which places him in the Low Average range of verbal intellectual functioning, however his true IQ score could range from as low as 79 to 88. He obtained a Performance IQ score of 78, (7th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 73 to 86. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

The Personality Assessment Inventory (PAI) was administered as a measure of psychological functioning. His overall profile was judged to be valid. The results of the PAI were as follows:

He may be experiencing thoughts of worthlessness, hopelessness, and personal failure. He may experience indecisiveness and difficulties in concentration. He may report sadness, a loss of interest in normal activities,

and a loss of pleasure in things that were previously enjoyed. He may be experiencing a disturbance in his sleep pattern, a decrease in his level of sexual interest, and a loss of appetite and/or weight.

SUMMARY AND CONCLUSIONS:

The patient, [redacted]-year-old single, white male. He reported unspecified back problems. He has back pain in his lower and middle back. He currently takes Effexor XR. He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain three to four days per week. He said his level of pain, on average, is a 7 on a scale of 0 to 10. He is not able to go swimming, running, etc. due to the pain. He has been receiving treatment a[redacted] Kentucky for over a year. He has been diagnosed with bipolar disorder and anger problems there. He has attempted suicide on two occasions. His first attempt was at the age of fourteen. He[redacted] This attempt resulted in treatment at[redacted] The second attempt was at the age of sixteen by[redacted] In his family of origin, there are no mental health problems or substance problems. He does not currently have any suicidal or homicidal ideation, by his report. He described his usual mood as depressed and has been since the age of twelve. He has no known antecedents. His sleep is good. He cries sometimes. His anger problems began at fourteen[redacted] He has broken things and thrown things in his home, but has never hurt anyone else. He has no symptoms consistent with manic or hypo manic episodes. He said[redacted] He was also mentally abused by teachers and students, by his report.

On the WAIS-III, he obtained a Full Scale IQ score of 79, (8th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 75 to 83. He obtained a Verbal IQ score of 83, (13th percentile), which places him in the Low Average range of verbal intellectual functioning, however his true IQ score could range from as low as 79 to 88. He obtained a Performance IQ score of 78, (7th percentile), which places him in the Borderline range of non-verbal

intellectual functioning, however his true IQ score could range from as low as 73 to 86.

The Personality Assessment Inventory (PAI) was administered as a measure of psychological functioning. The results of the PAI were as follows: He may be experiencing thoughts of worthlessness, hopelessness, and personal failure. He may experience indecisiveness and difficulties in concentration. He may report sadness, a loss of interest in normal activities, and a loss of pleasure in things that were previously enjoyed. He may be experiencing a disturbance in his sleep pattern, a decrease in his level of sexual interest, and a loss of appetite and/or weight.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Major Depressive Disorder, Single Episode, Severe without Psychotic Features
	Pain Disorder Associated with Both Psychological Factors and a General Medical Condition
AXIS II:	Borderline Personality Disorder
AXIS III:	General Medical Condition: unspecified back pain
AXIS IV:	Psychosocial and Environmental Problems: lack of financial income
AXIS V:	Current GAF: 54

PROGNOSIS:

[redacted]rognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression symptoms.

However, without treatment, this evaluator would not expect to see any significant amount of improvement.

CONCLUSIONS:

This evaluator believes that [redacted]ld manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding Adam's mental abilities

a. [redacted]ppears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted]ppears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]ppears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted]ppears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

State any other work-related activities, which are affected by the impairment, and indicate how the activities are affected. What are the medical/clinical findings that support this assessment.

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (☒) NO (☐)

SIGNATURE/TITLE And DATE	Brad D. Ph.D 7/17/07
MEDICAL SPECIALITY	Psychology

ERIC C. CONN, P.S.C.

12407 South U.S. 23, P.O. Box 308
Stanville, Kentucky 41659-0308
Telephone: (606) 478-5100 Fax: (606) 478-5109

Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

08/01/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY:
BRADLEY ADKINS, PHD ON 07/17/07

Respectfully submitted,

13 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 07-17-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: 54 years SSN: [redacted]

EXAMINER: **Brad Adkins, Ph.D.**

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)
Personality Assessment Inventory (PAI)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient [redacted] is a [redacted]-year-old single, white male. [redacted] said he has been having grand mal seizures for twenty years. He has a history of surgery for ulcers three years ago. He had his last seizure about [redacted] years ago. He currently takes Dilantin.

He does not have a history of receiving any type of mental health treatment.

He does not have a history of suicidal or homicidal ideation. In his family of origin, his father was an alcoholic, by his report. He does not currently have any suicidal or homicidal ideation.

He said that he has been experiencing sadness for years. He experiences boredom. He has no excitement in anything. He sleeps poorly at night and tires easily during the day. He said he feels worthless.

He said that he was raised by his mother. He has a good relationship with his mother. His father was never around. He has [redacted] with whom he has a good relationship. Corporal punishment and groundings were used as disciplinary measure in the home while he was growing up. He had no known problems with reaching developmental milestones.

He said he [redacted] because his family moved and he did not want to make new friends. His grades were a "C" average. He had no significant behavioral problems in school. He failed the first and fourth grades.

He has worked mostly [redacted] He has worked around twenty years. He said he was fired from jobs because of time and attendance problems related to alcohol abuse.

He has never been married. He has [redacted] children.

He refers to himself as "alcoholic. He has had no alcohol intake in about three years.

He has been arrested at least ten times. His arrests were for one DUI (Driving under the Influence), resisting arrest, public intoxication, etc.

He does not have a history of abuse either as a victim or as a perpetrator.

In regard to activities of daily living:

1) He is able to perform outside chores.
2) He lives by himself and is able to perform inside chores.
3) He has no problems when performing toileting, hygiene maintenance, and grooming.
4) He has no problems with dressing.
5) He does have a driver's license.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	9 – Average
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	11 – Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	9 – Average
Digit Span:	Immediate auditory memory requires concentration and attention.	8 – Average
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	10 – Average

Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	11 – Average

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	8 – Average
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	9 – Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	9 – Average
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	7 – Below Average

Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	8 – Average

	Score	Percentile	Confidence Interval
Verbal IQ Score:	97	42	92 – 102
Performance IQ Score:	87	19	81 – 95
Full Scale IQ Score:	93	32	89 – 97

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 93, (32nd percentile), which places him in the Average range of intellectual functioning overall, however his true IQ score could range from as low as 89 to 97. He obtained a Verbal IQ score of 97 (42nd percentile), which places him in the Average range of verbal intellectual functioning, however his true IQ score could range from as low as 92 to 102. He obtained a Performance IQ score of 87, (19th percentile), which places him in the Low Average range of non-verbal intellectual functioning, however his true IQ score could range from as low as 81 to 95. There is a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs better on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

The Personality Assessment Inventory (PAI) was administered as a measure of psychological functioning. His overall profile was judged to be valid. The results of the PAI were as follows:

He may be experiencing thoughts of worthlessness, hopelessness, and personal failure. He may experience indecisiveness and difficulties in concentration. He may report sadness, a loss of interest in normal activities,

and a loss of pleasure in things that were previously enjoyed. He may be experiencing a disturbance in his sleep pattern, a decrease in his level of sexual interest, and a loss of appetite and/or weight.

SUMMARY:

The patient, [redacted]-year-old single, white male, [redacted] said he has been having grand mal seizures for twenty years. He has a history of surgery for ulcers three years ago. He had his last seizure about three years ago. He currently takes Dilantin. He does not have a history of receiving any type of mental health treatment. He does not have a history of suicidal or homicidal ideation. In his family of origin, his father was an alcoholic, by his report. He does not currently have any suicidal or homicidal ideation. He said that he has been experiencing sadness for years. He experiences boredom. He has no excitement in anything. He sleeps poorly at night and tires easily during the day. He said he feels worthless.

On the WAIS-III, he obtained a Full Scale IQ score of 93, (32nd percentile), which places him in the Average range of intellectual functioning overall, however his true IQ score could range from as low as 89 to 97. He obtained a Verbal IQ score of 97 (42nd percentile), which places him in the Average range of verbal intellectual functioning, however his true IQ score could range from as low as 92 to 102. He obtained a Performance IQ score of 87, (19th percentile), which places him in the Low Average range of non-verbal intellectual functioning, however his true IQ score could range from as low as 81 to 95.

The Personality Assessment Inventory (PAI) was administered as a measure of psychological functioning. The results of the PAI were as follows: He may be experiencing thoughts of worthlessness, hopelessness, and personal failure. He may experience indecisiveness and difficulties in concentration. He may report sadness, a loss of interest in normal activities, and a loss of pleasure in things that were previously enjoyed. He may be experiencing a disturbance in his sleep pattern, a decrease in his level of sexual interest, and a loss of appetite and/or weight.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Moderate

Alcohol Abuse

AXIS II: No Diagnosis

AXIS III: General Medical Condition: grand mal seizures; ulcers

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 48

PROGNOSIS:

[redacted]gnosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

CONCLUSIONS:

This evaluator believes tha[redacted]ld manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding Jackie's mental abilities:

a. [redacted]ppears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted]pears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]ppears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted]pears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1. Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2. Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5:

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

State any other work-related activities, which are affected by the impairment, and indicate how the activities are affected. What are the medical/clinical findings that support this assessment.

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (☒) NO (☐)

SIGNATURE/TITLE And DATE	Brad Cal, Ph.D. 7/17/07
MEDICAL SPECIALITY	Psychology

ERIC C. CONN, P.S.C.

12407 South U.S. 23, P.O. Box 308
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Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

12/14/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY:
BRAD ADKINS, Ph.D. ON 11/29/07

Respectfully submitted,

13 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 11-29-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] year-old married, white male. He has degenerative disc disease, bulging discs, and twisting in his back. His legs and feet hurt almost constantly. He currently takes Lortab, and Xanax as prescribed by physician(s).

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is an 8 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to exercise, hunt, fish, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain.

He has been going to [redacted] since January of 2007. He has been diagnosed with depression and anxiety.

He has been sent to the [redacted] Kentucky on three occasions this year due to anxiety and depression. In his family of origin, there is not a history of substance abuse problems or mental health problems. He said that he does not currently have any suicidal or homicidal ideation.

He has been experiencing symptoms of depression since he was hurt in 2005 in a work-related injury. He cries frequently for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once enjoyable for him. He said he feels worthless and hopeless.

He has been experiencing symptoms of anxiety. His family and friends have told him that he is more irritable than he used to be. He worries about finances, his health, etc. He is having problems with attention and concentration. He has attempted to stop worrying but has been unsuccessful in those attempts.

In regard to activities of daily living:

1) He is not able to perform outside chores.
2) He is not able to perform inside chores. His wife performs these.
3) He experiences pain and difficulty when performing toileting, hygiene maintenance, and grooming.
4) He experiences pain and difficulty when dressing.
5) He does have a driver's license.

He was raised by his biological parents. He had a good relationship with his mother. [redacted] He has a good relationship with his father. He has [redacted] Corporal punishment was used as disciplinary measures in the home when he was growing up. He had no known problems with reaching developmental milestones.

He graduated from high school in [redacted] His grades were usually "C's" and "D's". He had no significant behavioral problems while in school. He was in mainstream classes.

He has worked mostly in [redacted] He has worked fifteen years. He was never terminated from any of his jobs.

He has been married one time. He has been married [redacted] He said that the marriage is a little troubled currently. He has [redacted]

He does not have a history of substance abuse.

He does not have a history of arrests.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He walked with the assistance of a cane. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	5 – Borderline
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	7 – Below Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	7 – Below Average
Digit Span:	Immediate auditory memory requires concentration and attention.	6 – Borderline

Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	6 - Borderline
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	7 – Below Average

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	4 – Extremely Low
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	7 – Below Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	5 – Borderline

Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	5 - Borderline
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	6 – Borderline

	Score	Percentile	Confidence Interval
Verbal IQ Score:	78	7	74 – 84
Performance IQ Score:	72	3	67 – 80
Full Scale IQ Score:	73	4	69 – 78

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 73, (4th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 69 to 78. He obtained a Verbal IQ score of 78, (7th percentile), which places him in the Borderline range of verbal intellectual functioning, however his true IQ score could range from as low as 74 to 84. He obtained a Performance IQ score of 72, (3rd percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 67 to 80. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY AND CONCLUSIONS:

The patient, [redacted]-year-old married, white male. He has degenerative disc disease, bulging discs, and twisting in his back. His legs and feet hurt almost constantly. He currently takes Lortab, and Xanax as prescribed by physician(s). He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is an 8 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to exercise, hunt, fish, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain. He has been going [redacted] anuary of 2007. He has been diagnosed with depression and anxiety. He has been sent to the [redacted] Kentucky on three occasions this year due to anxiety and depression. In his family of origin, there is not a history of substance abuse problems or mental health problems. He said that he does not currently have any suicidal or homicidal ideation. He has been experiencing symptoms of depression since he was hurt in 2005 in a work-related injury. He cries frequently for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once enjoyable for him. He said he feels worthless and hopeless. He has been experiencing symptoms of anxiety. His family and friends have told him that he is more irritable than he used to be. He worries about finances, his health, etc. He is having problems with attention and concentration. He has attempted to stop worrying but has been unsuccessful in those attempts.

On the WAIS-III, he obtained a Full Scale IQ score of 73, (4th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 69 to 78. He obtained a Verbal IQ score of 78, (7th percentile), which places him in the Borderline range of verbal intellectual functioning, however his true IQ score could range from as low as 74 to 84. He obtained a Performance IQ score of 72, (3rd percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 67 to 80.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Severe without Psychotic Features

Generalized Anxiety Disorder

Pain Disorder Associated with Both Psychological Factors and a General Medical Condition

AXIS II: Borderline Intellectual Functioning

AXIS III: General Medical Condition: degenerative disc disease, bulging discs and twisting in back; legs and feet hurt almost constantly

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 50

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his anxiety and depression symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes tha[redacted] could manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted]'s mental abilities.

a. [redacted] appears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted] appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses					X
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.					X
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.				X	

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

SIGNATURE/TITLE/MEDICAL SPECIALITY

11-29-07

DATE

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 11-29-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is a [redacted]-year-old married times two, white male. He has arthritis in both of his knees. He walks with the assistance of a cane. He hurts often in his legs. He has received physical

therapy in the past, but significant pain persists. He currently takes Celexa, Naproxen, and Remeron as prescribed by physician(s).

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is an 8 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to play sports, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain.

He has been receiving mental health treatment at [redacted] since the summer of 2007. He has been diagnosed with anxiety and depression there.

He does not have a history of suicidal or homicidal ideation. In his family of origin, there is not a history of substance abuse or mental health problems. He said he does not currently have any suicidal or homicidal ideation.

His panic attacks began in the 1980's, but were rare. His severe panic attacks began about two months ago. He said that being in public triggers panic attacks. He has two to three panic attacks a week.

He is experiencing symptoms of depression. He cries occasionally for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said he feels worthless and hopeless.

In regard to activities of daily living:

1) He is not able to perform outside chores.
2) He lives by himself and performs inside chores when able.
3) He experiences pain and difficulty when performing toileting, hygiene maintenance, and grooming.
4) He experiences pain and difficulty when dressing.
5) He does have a driver's license.

He was raised by his biological parents. He has a good relationship with both his mother and his father. He has [redacted] Corporal punishment was used as disciplinary measures in the home when he was growing up. He had no known problems with reaching developmental milestones.

He has worked mostly as [redacted] He has worked about sixteen year's altogether. He was terminated from one job for time and attendance problems.

He has been married two times. He is currently separated and has been for several months. He has [redacted]

He has been arrested three to four times. One was for a DUI (Driving under the Influence) and two to three for alcohol intoxication. He has not been arrested in twelve to thirteen years. He has had no alcohol intake in at least one year.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He walked with the assistance of a cane. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	6 – Borderline
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	9 – Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	7 – Below Average
Digit Span:	Immediate auditory memory requires concentration and attention.	7 – Below Average

Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	8 - Average
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	6 – Borderline

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	5 – Borderline
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	8 – Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	5 – Borderline

Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	4 – Extremely Low
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	5 – Borderline

	Score	Percentile	Confidence Interval
Verbal IQ Score:	83	13	79 – 88
Performance IQ Score:	72	3	67 – 80
Full Scale IQ Score:	76	5	72 – 81

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 76, (5th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 72 to 81. He obtained a Verbal IQ score of 83, (13th percentile), which places him in the Low Average range of verbal intellectual functioning, however his true IQ score could range from as low as 79 to 88. He obtained a Performance IQ score of 72, (3rd percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 67 to 80. There is a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs better on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY AND CONCLUSIONS:

The patient [redacted] is a [redacted]-year-old married times two, white male. He has arthritis in both of his knees. He walks with the assistance of a cane. He hurts often in his legs. He has received physical therapy in the past, but significant pain persists. He currently takes Celexa, Naproxen, and Remeron as prescribed by physician(s). He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is an 8 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to play sports, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain. He has been receiving mental health treatment at [redacted] Kentucky since the summer of 2007. He has been diagnosed with anxiety and depression there. He does not have a history of suicidal or homicidal ideation. In his family of origin, there is not a history of substance abuse or mental health problems. He said he does not currently have any suicidal or homicidal ideation. His panic attacks began in the 1980's, but were rare. His severe panic attacks began about two months ago. He said that being in public triggers panic attacks. He has two to three panic attacks a week. He is experiencing symptoms of depression. He cries occasionally for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said he feels worthless and hopeless.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Moderate

Panic Disorder with Agoraphobia

Pain Disorder Associated with Both Psychological Factors and a General Medical Condition

AXIS II: Borderline Intellectual Functioning

AXIS III: General Medical Condition: arthritis in knees; legs hurt often

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 52

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his anxiety symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes that [redacted] could manage funds without assistance or restriction, if they were awarded to him.

[redacted]
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MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted] mental abilities.

a. [redacted] appears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted] appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

11-29-07

DATE

ERIC C. CONN, P.S.C.

12407 South U.S. 23, P.O. Box 308
Stanville, Kentucky 41659-0308
Telephone: (606) 478-5100 Fax: (606) 478-5109

Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

12/14/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY: BRAD ADKINS, Ph.D. ON 11/29/07

Respectfully submitted,

18 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 11-29-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is a [redacted]-year-old married [redacted], white male. He said that he had no physical problems. He currently takes Hydroxyzine as prescribed by a physician.

He has been receiving treatment at the [redacted] Kentucky for the last two months. He went there briefly about two years ago also. He has been diagnosed with panic disorder and depression.

He does not have a history of suicidal or homicidal ideation. In his family of origin, his grandmother, his aunt, and mother have anxiety problems. He said he does not currently have any suicidal or homicidal ideation.

He began having panic attacks around the age of twenty-two. He has about two attacks per day on average. He said that being in public triggers his attacks.

He has been having problems with depression since his early 20's. He cries occasionally for no apparent reason. He sleeps poorly at night and tires easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once enjoyable for him. He said that he feels worthless and hopeless.

In regard to activities of daily living:

1) He is able to perform outside chores.
2) He is able to perform inside chores.
3) He has no problems when performing toileting, hygiene maintenance, and grooming.
4) He has no problems when dressing.
5) He does have a driver's license.

He was raised by his biological mother and step-father. [redacted] He said that he argues often with his mother. He does not have a good relationship with [redacted] Corporal punishment was used as disciplinary measures in the home when he was growing up. He had no known problems with reaching developmental milestones.

He quit school [redacted] due to anxiety. His grades were usually a "C" average. [redacted] He had no significant behavioral problems while in school.

He has worked mostly in [redacted] He has worked less than one year. He was never terminated from any of his jobs.

He has been married [redacted] He is currently married and has been for two years. He said that the marriage is good. [redacted]

He does not have a history of substance abuse.

He does not have a history of arrests.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	7 – Below Average
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	6 – Borderline
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	8 – Average
Digit Span:	Immediate auditory memory requires concentration and attention.	6 – Borderline
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	7 – Below Average
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	5 - Borderline

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	8 – Average
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	6 – Borderline
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	6 – Borderline
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	7 – Below Average
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	6 – Borderline

	Score	Percentile	Confidence Interval
Verbal IQ Score:	79	8	75 – 85
Performance IQ Score:	78	7	73 – 86
Full Scale IQ Score:	77	6	73 – 82

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 77, (6th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 73 to 82. He obtained a Verbal IQ score of 79, (8th percentile), which places him in the Borderline range of verbal intellectual functioning, however his true IQ score could range from as low as 75 to 85. He obtained a Performance IQ score of 78, (7th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 73 to 86. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY AND CONCLUSIONS:

The patient [redacted] is a [redacted] year-old married [redacted] white male. He said that he had no physical problems. He currently takes Hydroxyzine as prescribed by a physician.
He has been receiving treatment at the [redacted] Kentucky for the last two months. He went there briefly about two years ago also. He has been diagnosed with panic disorder and depression. He does not have a history of suicidal or homicidal ideation. In his family of origin, his grandmother, his aunt, and mother have anxiety problems. He said he does not currently have any suicidal or homicidal ideation. He began having panic attacks around the age of twenty-two. He has about two attacks per day on average. He said that being in public triggers his attacks. He has been having problems with depression since his

early 20's. He cries occasionally for no apparent reason. He sleeps poorly at night and tires easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once enjoyable for him. He said that he feels worthless and hopeless.

On the WAIS-III, he obtained a Full Scale IQ score of 77, (6th percentile), which places him in the Borderline range of intellectual functioning overall, however his true IQ score could range from as low as 73 to 82. He obtained a Verbal IQ score of 79, (8th percentile), which places him in the Borderline range of verbal intellectual functioning, however his true IQ score could range from as low as 75 to 85. He obtained a Performance IQ score of 78, (7th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 73 to 86.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Major Depressive Disorder, Single Episode, Moderate	
	Panic Disorder with Agoraphobia	
AXIS II:	Borderline Intellectual Functioning	
AXIS III:	General Medical Condition: N/A	
AXIS IV:	Psychosocial and Environmental Problems:	lack of financial income
AXIS V:	Current GAF: 53	

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his anxiety symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes that [redacted] could manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding Christopher's mental abilities.

a. [redacted] appears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted] appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules				X	
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment			X		
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration					X

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.				X	
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

11-29-07

DATE

ERIC C. CONN, P.S.C.

12407 South U.S. 23, P.O. Box 308
Stanville, Kentucky 41659-0308
Telephone: (606) 478-5100 Fax: (606) 478-5109

Eric C. Conn
Attorney at Law

John E. Hunt
Attorney at Law

12/14/07
DATE

Hon D. B. Daugherty
Administrative Law Judge
Office of Hearings and Appeals
301 Ninth Street, 2nd Floor Annex
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Judge Daugherty:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant:

CONSULTATIVE EVALUATION DONE BY:
BRAD ADKINS, Ph.D. ON 11/29/07

Respectfully submitted,

13 PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 11-29-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] a [redacted] year-old single, white male. He reports chronic pain in his back, but does not know what specifically is wrong with it. He currently takes Thorazine, Neurontin, and Ultram as prescribed by physician(s).

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is 7 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to [redacted] etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain.

He has been receiving mental health treatment from [redacted] Kentucky since 1988. He has been diagnosed with depression and anxiety.

He has attempted suicide on numerous occasions by cutting his wrists and overdosing. He has been psychiatrically hospitalized on several occasions. In him family of origin, his mother and father have depression. He said that he does not currently have a plan to commit suicide, but thinks of it often.

He described his usual mood as sad and anxious. His family and friends have told him that he is more irritable than he used to be. He worries about his health, finances, etc. He is having problems with attention and concentration. He has attempted to stop worrying but has not been successful. He becomes very nervous and upset when around others and in public.

In regard to activities of daily living:

1) He is not able to perform outside chores.
2) He is able to perform inside chores.
3) He has no problems when performing toileting, hygiene maintenance, and grooming.
4) He has no problems when dressing.
5) He never obtained a driver's license as he was "too nervous to drive".

He quit school [redacted] He said his grades were "D's" and "F's". He failed [redacted] grades. He was in remedial classes. He had some minor behavioral problems while in school.

He has worked [redacted] He has worked about two year's altogether.

He has never been married and he has [redacted] children.

He said he has been arrested about twenty times on alcohol charges. He has not had any alcohol in six years, by his report.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	4 – Extremely Low
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	2 – Extremely Low
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	5 – Borderline
Digit Span:	Immediate auditory memory requires concentration and attention.	5 – Borderline
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	4 – Extremely Low
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	6 – Borderline

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	6 – Borderline
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	8 – Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	5 – Borderline
Matrix Reasoning:	Nonverbal abstract reasoning skills; requires visual information processing.	5 – Borderline
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	4 – Extremely Low

	Score	Percentile	Confidence Interval
Verbal IQ Score:	66	1	62 – 72
Performance IQ Score:	73	4	68 – 81
Full Scale IQ Score:	66	1	63 – 71

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 66, (1st percentile), which places him in the Extremely Low range of intellectual functioning overall, however his true IQ score could range from as low as 63 to 71. He obtained a Verbal IQ score of 66, (1st percentile), which places him in the Extremely Low range of verbal intellectual functioning, however his true IQ score could range from as low as 62 to 72. He obtained a Performance IQ score of 73, (4th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 68 to 81. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY AND CONCLUSIONS:

The patient, [redacted] is a [redacted]year-old single, white male. He reports chronic pain in his back, but does not know what specifically is wrong with it. He currently takes Thorazine, Neurontin, and Ultram as prescribed by physician(s). He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is 7 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able [redacted] etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain. He has been receiving mental health treatment from [redacted] Kentucky since 1988. He has been diagnosed with depression and anxiety.

He has attempted suicide on numerous occasions by cutting his wrists and overdosing. He has been psychiatrically hospitalized on several occasions. In him family of origin, his mother and father have depression. He said that he does not currently have a plan to commit suicide, but thinks of it often. He described his usual mood as sad and anxious. His family and friends have told him that he is more irritable than he used to be. He worries about his health, finances, etc. He is having problems with attention and concentration. He has attempted to stop worrying but has not been successful. He becomes very nervous and upset when around others and in public.

On the WAIS-III, he obtained a Full Scale IQ score of 66, (1st percentile), which places him in the Extremely Low range of intellectual functioning overall, however his true IQ score could range from as low as 63 to 71. He obtained a Verbal IQ score of 66, (1st percentile), which places him in the Extremely Low range of verbal intellectual functioning, however his true IQ score could range from as low as 62 to 72. He obtained a Performance IQ score of 73, (4th percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 68 to 81.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Major Depressive Disorder, Single Episode, Severe without Psychotic Features
	Social Phobia
	Pain Disorder Associated with Both Psychological Factors and a General Medical Condition
AXIS II:	Borderline Intellectual Functioning
AXIS III:	General Medical Condition: chronic back pain
AXIS IV:	Psychosocial and Environmental Problems: lack of financial income
AXIS V:	Current GAF: 53

PROGNOSIS:

[redacted]gnosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression and anxiety symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes that [redacted]uld manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted]al abilities.

a. [redacted]ppears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted]rs to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]pears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted]pears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

Ph.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

11-29-07

DATE

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF VALUATION: 12-06-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding her treatment. She was informed that the standard rules of confidentiality apply to her evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient [redacted] a [redacted] year-old single, white female. She has anorexia. She has scoliosis. She has mitral valve prolapse. She has exercise induced asthma. She was diagnosed with fetal alcohol syndrome at birth. She said, "my heart didn't beat for five months when she was carrying

me." She currently takes Ketoproten, Tramadol, and Flexeril as prescribed by a physician(s).

She experiences a level and frequency of pain that interferes with her ability to function. She experiences this level of significant pain on a daily basis. Her level of pain, on average, is a 10 on a scale of 0 to 10. She is not able to work due to the pain, by her reports. She is not able to walk far, run, and sit for long periods, etc. due to the pain. Both her sexual ability and level of sexual desire have decreased due to her heart problems.

She has a history of treatment at [redacted] in [redacted] Kentucky for about a year, ending about one year ago. She was diagnosed with anxiety and depression there.

She reports that she was diagnosed with anorexia at the age of five by a pediatrician and that it was caused by the use of Ritalin.

She does not have a history of suicidal or homicidal ideation. In her family of origin, she reports that her father has schizophrenia and bipolar disorder. Her mother has anxiety and depression problems. Her maternal grandmother has moderate retardation. Her brother has bipolar disorder, he is autistic, and has schizophrenia. She said that she does not currently have any suicidal or homicidal ideation.

She reported that she has been experiencing depression since the age of twelve. She cries frequently for no apparent reason. She sleeps poorly at night and tires easily during the day. Her appetite fluctuates. She has a loss of interest in activities that were once enjoyable for her. She said she feels worthless and hopeless.

In regard to activities of daily living:

1) Her ability to perform outside chores is impaired.
2) She lives with her mother. She helps her mother some with the inside chores.
3) She has no problems when performing toileting, hygiene maintenance, and grooming.
4) She has no difficulty when dressing.

[redacted]

5) She does not have a driver's license.

She was raised by her mother [redacted] She has a good relationship with her mother. Her father was rarely around and frequently drunk. She has [redacted] Groundings were used as disciplinary measures in the home when she was growing up. She had delays in reaching all developmental milestones.

She graduated from high school in [redacted] She graduated from [redacted] Kentucky. She was in [redacted] She said she [redacted] twice. She said she is not able to read well now. She said, "I can't say big words". She had no significant behavioral problems while in school.

She has worked four days at [redacted] She had to quit due to her heart problems.

She has never been married but she does have a boyfriend.

She does not have a history of substance abuse.

She does not have a history of arrests.

She does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. Her appearance and dress were appropriate for the testing situation. She appeared to be of average height but she had a very small frame. She was alert and oriented to person, place, and time. Her affect was congruent with her stated level of anxiety. Her immediate, recent, and remote memories were intact. Rapport was established easily. She was friendly and polite. She gave information freely. Eye contact was good. She was cooperative with testing and followed directions well.

[redacted]

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of her current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	4 – Extremely Low
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	4 – Extremely Low
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	5 – Borderline
Digit Span:	Immediate auditory memory requires concentration and attention.	7 – Below Average
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	4 – Extremely Low

Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	3 – Extremely Low

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	2 – Extremely Low
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	5 – Borderline
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	3 – Extremely Low
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	2 – Extremely Low
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	4 – Extremely Low

	Score	Percentile	Confidence Interval
Verbal IQ Score:	67	1	63 – 73
Performance IQ Score:	58	0.3	54 – 67
Full Scale IQ Score:	61	0.5	58 – 66

INTERPRETATIONS:

On the WAIS-III, she obtained a Full Scale IQ score of 61, (0.5 percentile), which places her in the Extremely Low range of intellectual functioning overall, however her true IQ score could range from as low as 58 to 66. She obtained a Verbal IQ score of 67, (1st percentile), which places her in the Extremely Low range of verbal intellectual functioning, however her true IQ score could range from as low as 63 to 73. She obtained a Performance IQ score of 58, (0.3 percentile), which places her in the Extremely Low range of non-verbal intellectual functioning, however her true IQ score could range from as low as 54 to 67. There is not a significant difference between her Verbal and Performance IQ scores, which indicates that she performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY:

The patient, [redacted] is a [redacted]-year-old single, white female. She has anorexia. She has scoliosis. She has mitral valve prolapse. She has exercise induced asthma. She was diagnosed with fetal alcohol syndrome at birth. She said, "my heart didn't beat for five months when she was carrying me." She currently takes Ketoproten, Tramadol, and Flexeril as prescribed by a physician(s). She experiences a level and frequency of pain that interferes with her ability to function. She experiences this level of significant pain on a daily basis. Her level of pain, on average, is a 10 on a scale of 0 to 10. She is not able to work due to the pain, by her reports. She is not able to walk far, run, and sit for long periods, etc. due to the pain. Both her sexual ability and level of sexual desire have decreased due to her heart problems. She has a history of treatment at Mountain Comprehensive Care Center in

Prestonsburg, Kentucky for about a year, ending about one year ago. She was diagnosed with anxiety and depression there. She reports that she was diagnosed with anorexia at the age of five by a pediatrician and that it was caused by the use of Ritalin. She does not have a history of suicidal or homicidal ideation. In her family of origin, she reports that her father has schizophrenia and bipolar disorder. Her mother has anxiety and depression problems. Her maternal grandmother has moderate retardation. Her brother has bipolar disorder, he is autistic, and has schizophrenia. She said that she does not currently have any suicidal or homicidal ideation. She reported that she has been experiencing depression since the age of twelve. She cries frequently for no apparent reason. She sleeps poorly at night and tires easily during the day. Her appetite fluctuates. She has a loss of interest in activities that were once enjoyable for her. She said she feels worthless and hopeless.

On the WAIS-III, she obtained a Full Scale IQ score of 61, (0.5 percentile), which places her in the Extremely Low range of intellectual functioning overall, however her true IQ score could range from as low as 58 to 66. She obtained a Verbal IQ score of 67, (1st percentile), which places her in the Extremely Low range of verbal intellectual functioning, however her true IQ score could range from as low as 63 to 73. She obtained a Performance IQ score of 58, (0.3 percentile), which places her in the Extremely Low range of non-verbal intellectual functioning, however her true IQ score could range from as low as 54 to 67.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Mild

Pain Disorder Associated with Both Psychological Factors and a General Medical Condition

AXIS II: R/O Mild Mental Retardation

AXIS III: General Medical Condition: anorexia; scoliosis; mitral valve prolapse; alcohol syndrome

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 49

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of her depression symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

CONCLUSIONS:

This evaluator believes that [redacted] could manage funds without assistance or restriction, if they were awarded to her.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted] mental abilities.

[redacted]

a. [redacted]ppears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted]ppears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted]ppears to have an impaired ability to adapt to the workplace, regarding her ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. MAKING OCCUPATIONAL ADJUSTMENTS

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

Ph.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

12-6-07

DATE

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 12-06-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

SOURCES OF INFORMATION:

Clinical Interview

[redacted] brought him to the interview.

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is a [redacted]-year-old single, white male. He reports that he has hypertension and poor vision. He currently takes Lisinopril, Desmospressin, and Celexa as prescribed by a physician(s).

[redacted]

He has been going to [redacted] Kentucky for about two years. He has been diagnosed with depression there.

He reports that he gestured suicide in February of 2006. He obtained a gun, but decided not to do it. He gestured the suicide attempt due to harassment by his peers and being told he should commit suicide by other children. In his family of origin, his mother had mood problems. He said that he does not currently have any suicidal or homicidal ideation.

He said he can remember being sad since his mother dies when he was five. His symptoms worsened when his grandmother died. He sleeps poorly at night and tires easily during the day. He cries occasionally for no apparent reason. His appetite fluctuates. He has a loss of interest in things that were once pleasurable for him. He said that he feels hopeless.

In regard to activities of daily living:

(1) He has no problems in performing outside chores.
(2) He has no problems in performing inside chores.
(3) He has no problems when performing toileting, hygiene maintenance, and grooming.
(4) He has no problems with dressing.
(5) He does not have a driver's license.

He is being raised by his maternal [redacted] His mother passed away when he was five. His father has not had anything to do with him. He has one brother. Corporal punishment is used occasionally as disciplinary measures in the home. He had no known problems in reaching developmental milestones.

He is currently in the [redacted] He has not failed any grades. He does not have a history of remedial classes. He reports his grades were usually "B's" and "C's", but have dropped somewhat lately. He attributes this to being harassed frequently by his peers due to his size and his clothing.

He does not have a history of substance abuse.

[redacted]

He does not have a history of arrests.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He was quite tall and brawny for his age.. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

SUMMARY AND CONCLUSIONS:

The patient, [redacted], is a 14-year-old single, white male. He reports that he has hypertension and poor vision. He currently takes Lisinopril, Desmospressin, and Celexa as prescribed by a physician(s). He has been going to [redacted] Kentucky for about two years. He has been diagnosed with depression there. He reports that he gestured suicide in February of 2006. He obtained a gun, but decided not to do it. He gestured the suicide attempt due to harassment by his peers and being told he should commit suicide by other children. In his family of origin, his mother had mood problems. He said that he does not currently have any suicidal or homicidal ideation. He said he can remember being sad since his mother dies when he was five. His symptoms worsened when his grandmother died. He sleeps poorly at night and tires easily during the day. He cries occasionally for no apparent reason. His appetite fluctuates. He has a loss of interest in things that were once pleasurable for him. He said that he feels hopeless.

[redacted]

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Severe without Psychotic Features

AXIS II: No Diagnosis

AXIS III: General Medical Condition: hypertension; poor vision

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 52

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

CONCLUSIONS:

This evaluator believes that, due to his age, [redacted] could not manage funds without assistance or restriction, if they were awarded to him.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: **THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY**

1 Describe the individual's ability to perform the activity according to the following terms.

- **Unlimited** - **Ability to function in this area is not limited by a mental impairment.**
- **Good** - **Ability to function in this area is more than satisfactory.**
- **Fair** - **Ability to function in this area is limited but satisfactory.**
- **Poor** - **Ability to function in this area is seriously limited but not precluded.**
- **None** - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

Ph.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

12-6-07

DATE

Eric C. Conn, P.S.C.

Attorney at Law
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ERIC C. CONN

ATTORNEY AT LAW

[redacted]

ATTORNEY AT LAW

12/14/07

Hon. Judge Daugherty
Office of Disability Adjudication and Review
Second Floor Annex
301 Ninth Street
Huntington, WV 25701

RE: [redacted]

SSN: [redacted]

Dear Sir/Madam:

Enclosed please find the following which I am respectfully submitting on behalf of the above-named claimant.:

CONSULTATIVE EVALUATION DONE BY:
BRAD ADKINS, Ph.D. ON 12/06/07

Respectfully submitted,

_____PAGES TOTAL
SENT BY FAX / EMAIL

ERIC C. CONN
Attorney at Law

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 12-06-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: 35 years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] is a [redacted] year-old single, white male. He reports that he has no known physical problems. He currently takes Tegretol, and Vistaril as prescribed by [redacted], Kentucky.

[redacted]

He has had mental health treatment all of his life. Re reported that he was [redacted] He was psychiatrically hospitalized one time due to suicidal gestures and attempts. He was diagnosed with depression and anxiety at [redacted]

He said that he does not currently have any suicidal or homicidal ideation.

He has been experiencing depression symptoms since his childhood rape. He cries frequently for no apparent reason. He sleeps poorly at night and fatigues easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said that he feels worthless and hopeless.

He does not like being around people. He is easily offended by references to homosexuals because he believes they are all perpetrators. He has nightmares and recurrent thoughts [redacted] He is hyper vigilant [redacted] He has dread when he sees [redacted]

In regard to activities of daily living:

1) He has no problems performing outside chores.
2) He has no problems performing inside chores.
3) He has no problems when performing toileting, hygiene maintenance, and grooming.
4) He has no problems when dressing.
5) He does have a driver's license.

His father was physically abusive to him. His mother was verbally abusive to him. He lived in several foster homes while he was growing up. He has six siblings. He had no known problems with reaching developmental milestones.

He was [redacted] throughout school. He was expelled [redacted] grade due to fighting. His grades in remedial classes were about a "C" average.

[redacted]

He worked as a [redacted] for about five years.

He has never been married. He currently has a fiancé. He has [redacted]

He does not have a history of substance abuse.

He has a history for child support non-payment. He was arrested one time for assault and battery after being provoked, by his report.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was quiet spoken. He appeared to be apprehensive at first. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

[redacted]

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	5 – Borderline
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	7 – Below Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	4 – Extremely Low
Digit Span:	Immediate auditory memory requires concentration and attention.	6 – Borderline
Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	4 – Extremely Low
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	4 – Extremely Low

[redacted]

PERFORMANCE MEASURES:

Picture Completion:	Visual-conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	7 – Below Average
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	7 – Below Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	5 – Borderline
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	4 – Extremely Low
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	4 – Extremely Low

[redacted]

	Score	Percentile	Confidence Interval
Verbal IQ Score:	70	2	66 – 76
Performance IQ Score:	72	3	67 – 80
Full Scale IQ Score:	68	2	65 – 73

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 68, (2nd percentile), which places him in the Extremely Low range of intellectual functioning overall, however his true IQ score could range from as low as 65 to 73. He obtained a Verbal IQ score of 70, (2nd percentile), which places him in the Borderline range of verbal intellectual functioning, however his true IQ score could range from as low as 66 to 76. He obtained a Performance IQ score of 72, (3rd percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 67 to 80. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

SUMMARY AND CONCLUSIONS:

The patient [redacted] is a [redacted]-year-old single, white male. He reports that he has no known physical problems. He currently takes Tegretol and Vistaril as prescribed by [redacted] Kentucky. He has had mental health treatment all of his life. He reported that he was [redacted] He threatened his life if he told anyone. He was psychiatrically hospitalized one time due to suicidal gestures and attempts. He was diagnosed with depression and anxiety at [redacted] He said that he does not currently have any suicidal or homicidal ideation. He has been experiencing depression symptoms since his [redacted] He cries frequently for no apparent reason. He sleeps poorly at night and fatigues

[redacted]

easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said that he feels worthless and hopeless. He does not like being around people. He is easily offended by references to [redacted] He has nightmares and recurrent thoughts [redacted] He is hyper vigilant to [redacted] He has dread when [redacted]

On the WAIS-III, he obtained a Full Scale IQ score of 68, (2nd percentile), which places him in the Extremely Low range of intellectual functioning overall, however his true IQ score could range from as low as 65 to 73. He obtained a Verbal IQ score of 70, (2nd percentile), which places him in the Borderline range of verbal intellectual functioning, however his true IQ score could range from as low as 66 to 76. He obtained a Performance IQ score of 72, (3rd percentile), which places him in the Borderline range of non-verbal intellectual functioning, however his true IQ score could range from as low as 67 to 80.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Major Depressive Disorder, Single Episode, Severe without Psychotic Features
	Post-Traumatic Stress Disorder
AXIS II:	Borderline Intellectual Functioning
	Borderline Personality Disorder
AXIS III:	General Medical Condition: N/A
AXIS IV:	Psychosocial and Environmental Problems: lack of financial income
AXIS V:	Current GAF: 48

[redacted]

PROGNOSIS:

[redacted] prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes that [redacted]s could manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding [redacted] mental abilities.

a. [redacted] appears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted] appears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]s appears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

- **Unlimited** - **Ability to function in this area is not limited by a mental impairment.**
- **Good** - **Ability to function in this area is more than satisfactory.**
- **Fair** - **Ability to function in this area is limited but satisfactory.**
- **Poor** - **Ability to function in this area is seriously limited but not precluded.**
- **None** - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

Page 2

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

12-6-07

DATE

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 12-06-07

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted] years SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 3rd Edition (WAIS-III)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient [redacted] a [redacted]-year-old married [redacted] white male. He reported that he has no known physical problems. He currently takes Effexor, Ambien, Neurontin, and Remeron as prescribed by [redacted] psychiatrist in [redacted] West Virginia.

[redacted]
Page 2

He is currently seeing [redacted] psychologist in Huntington, West Virginia, for therapy, and [redacted] for medication. He has been seeing them for over five years. He has been diagnosed with depression and social problems.

He does not have a history of suicide attempts. However, he has considered it to the point that he had himself admitted to [redacted] in [redacted] West Virginia. In his family or origin, there are no known substance abuse problems or mental health problems. He said that he does not currently have any suicidal or homicidal ideation.

He reports that his problems with depression began about five years ago. He thinks that the depression symptoms may be related to his two divorces. [redacted] first wife [redacted] and moved to [redacted] He cries frequently for no apparent reason. He sleeps poorly at night and tires easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said that he feels worthless and hopeless.

He reports that he prefers not to socialize. He does not like to leave home. He buys essentials at hours when others are not about. He worries what others will think/say about him. His family and friends have told him that he is more irritable than he used to be. He is having problems with attention and concentration. He has attempted to stop worrying but has not been successful.

In regard to activities of daily living:

1) He has no problems performing outside chores.
2) He has no problems with performing inside chores.
3) He has no problems when performing toileting, hygiene maintenance, and grooming.
4) He has no problems when dressing.
5) He does have a driver's license.

[redacted]

He was raised by his maternal grandparents. His mother died [redacted] Corporal punishment was used as disciplinary measures in the home when he was growing up. He had no known problems with reaching developmental milestones.

He graduated from high school [redacted]. He reports that his grades were quite good. He obtained an Associate's Degree in [redacted] He had no significant behavioral problems while in school.

He worked for [redacted] for twenty-six years. He reports that his final position was as a [redacted] He was never terminated from any of his jobs.

He has been married [redacted] He is currently divorced and has been for about fifteen years. He has no current romantic interests. He has four children.

He does not have a history of substance abuse.

He does not have a history of arrests.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was tearful during the interview. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

[redacted]

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-III. They appear to be a valid representation of his current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – THIRD EDITION

	VERBAL MEASURES	SCALED SCORE
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	11 – Average
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	9 – Average
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	9 – Average
Digit Span:	Immediate auditory memory requires concentration and attention.	10 – Average

[redacted]

Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long-term memory and alertness to the environment.	12 - Average
Comprehension:	Practical knowledge and judgment in social situation; requires common sense.	9 – Average

PERFORMANCE MEASURES:

Picture Completion:	Visual conceptual ability; perception of the whole in relation to its parts; requires visual acuity, concentration, and attention to detail.	9 – Average
Digit Symbol-Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	7 – Below Average
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	11 – Average

[redacted]

Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	8 - Average
Picture Arrangement:	Ability to plan, interpret, and anticipate social events; related to cultural backgrounds; requires visual organization and perception.	10 – Average

	Score	Percentile	Confidence Interval
Verbal IQ Score:	99	47	94 – 104
Performance IQ Score:	92	30	86 – 99
Full Scale IQ Score:	97	42	93 – 101

INTERPRETATIONS:

On the WAIS-III, he obtained a Full Scale IQ score of 97, (42nd percentile), which places him in the Average range of intellectual functioning overall, however his true IQ score could range from as low as 93 to 101. He obtained a Verbal IQ score of 99, (47th percentile), which places him in the Average range of verbal intellectual functioning, however his true IQ score could range from as low as 94 to 104. He obtained a Performance IQ score of 92, (30th percentile), which places him in the Average range of non-verbal intellectual functioning, however his true IQ score could range from as low as 86 to 99. There is not a significant difference between the his Verbal and Performance IQ scores, which indicates that he performs as well on tasks that emphasize verbal abilities as on tasks that emphasize visual-spatial abilities.

[redacted]

SUMMARY AND CONCLUSIONS:

The patient, [redacted], is a [redacted]-year-old married times two, white male. He reported that he has no known physical problems. He currently takes [redacted] Effexor, Ambien, Neurontin, and Remeron as prescribed by [redacted] a psychiatrist in Huntington, West Virginia. He is currently seeing [redacted] a psychologist in Huntington, West Virginia, for therapy, and [redacted] for medication. He has been seeing them for over five years. He has been diagnosed with depression and social problems. He does not have a history of suicide attempts. However, he has considered it to the point that he had himself admitted to [redacted] in Huntington, West Virginia. In his family or origin, there are no known substance abuse problems or mental health problems. He said that he does not currently have any suicidal or homicidal ideation. He reports that his problems with depression began about five years ago. He thinks that the depression symptoms may be related to his two divorces. [redacted] He cries frequently for no apparent reason. He sleeps poorly at night and tires easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said that he feels worthless and hopeless. He reports that he prefers not to socialize. He does not like to leave home. He buys essentials at hours when others are not about. He worries what others will think/say about him. His family and friends have told him that he is more irritable than he used to be. He is having problems with attention and concentration. He has attempted to stop worrying but has not been successful.

On the WAIS-III, he obtained a Full Scale IQ score of 97, (42nd percentile), which places him in the Average range of intellectual functioning overall, however his true IQ score could range from as low as 93 to 101. He obtained a Verbal IQ score of 99, (47th percentile), which places him in the Average range of verbal intellectual functioning, however his true IQ score could range from as low as 94 to 104. He obtained a Performance IQ score of 92, (30th percentile), which places him in the Average range of non-verbal intellectual functioning, however his true IQ score could range from as low as 86 to 99.

[redacted]
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DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I:	Major Depressive Disorder, Single Episode, Moderate
	Social Phobia
AXIS II:	No Diagnosis
AXIS III:	General Medical Condition: N/A
AXIS IV:	Psychosocial and Environmental Problems: lack of financial income
AXIS V:	Current GAF: 53

PROGNOSIS:

[redacted]prognosis for the next year is fair. With treatment that should include psychotherapy and psychiatric intervention, it would not be unreasonable to expect to see a fair amount of remediation of his depression symptoms. However, without treatment, this evaluator would not expect to see any significant amount of improvement.

SUMMARY AND CONCLUSIONS:

This evaluator believes tha[redacted]uld manage funds without assistance or restriction, if they were awarded to him.

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding[redacted]ental abilities.

[redacted]

a. [redacted]ears to have at least an average ability to understand, retain, and follow instructions.
b. [redacted]ppears to have at least an average ability to perform simple, repetitive tasks.
c. [redacted]ppears to have at least an average ability to relate to others, including fellow workers and supervisors.
d. [redacted]ppears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: **THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY**

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses					X
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

Page 2

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.					X
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.				X	

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

12-6-07

DATE

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

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Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

[redacted]
SIGNATURE/TITLE/MEDICAL SPECIALITY

10/26/08
DATE

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

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I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules				X	
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment			X		
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration					X

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.				X	
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

SIGNATURE/TITLE/MEDICAL SPECIALITY

9/28/07
DATE

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - Ability to function in this area is not limited by a mental impairment.

Good - Ability to function in this area is more than satisfactory.

Fair - Ability to function in this area is limited but satisfactory.

Poor - Ability to function in this area is seriously limited but not precluded.

None - No useful ability to function in this area.

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules				X	
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment			X		
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration					X

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.				X	
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

Brad Adams, Ph.D.
SIGNATURE/TITLE/MEDICAL SPECIALITY

9-28-07
DATE

RFC Version #1

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name [redacted]	Social Security Number: [redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

- **Unlimited** - **Ability to function in this area is not limited by a mental impairment.**
- **Good** - **Ability to function in this area is more than satisfactory.**
- **Fair** - **Ability to function in this area is limited but satisfactory.**
- **Poor** - **Ability to function in this area is seriously limited but not precluded.**
- **None** - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.
SIGNATURE/TITLE/MEDICAL SPECIALITY

7/15/08
DATE

RFC Version #2

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules		X			
2. Relate to Co-Workers		X			
3. Deal with the Public				X	
4. Use Judgment			X		
5. Interact With Supervisor(s)		X			
6. Deal With Work Stresses				X	
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. OTHER WORK-RELATED ACTIVITIES

State any other work-related activities, which are affected by the impairment, and indicate how the activities are affected. What are the medical/clinical findings that support this assessment.

V. CAPABILITY TO MANAGE BENEFITS

Can the individual manage benefits in his or her own best interest?

YES (☒) NO (☐)

SIGNATURE/TITLE And DATE	Brad C, Ph.D. 7/13/07
MEDICAL SPECIALITY	Psychology

RFC Version #3

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules				X	
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment			X		
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration					X

9. Describe any limitations and include the medical/clinical findings that support this assessment.

Page 2

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.				X	
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

11-29-07

DATE

RFC Version #4

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses					X
7. Function Independently				X	
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.					X
2. Understand, remember and carry out detailed, but not complex job instructions.				X	
3. Understand, remember and carry out simple job instructions.				X	

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.			X		
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

SIGNATURE/TITLE/MEDICAL SPECIALITY

10/6/2010
DATE

RFC Version #5

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

Ph.D.
SIGNATURE/TITLE/MEDICAL SPECIALITY

6/4/09
DATE

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] DATE OF EVALUATION: 09-01-10

ADDRESS: [redacted] DATE OF BIRTH: [redacted]

CHRONOLOGICAL AGE: [redacted]ars SSN: [redacted]

EXAMINER: Brad Adkins, Ph.D.

TESTS ADMINISTERED:

Wechsler Adult Intelligence Scale – 4th Edition (WAIS-IV)

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted] a [redacted]ear-old married, white male. He has disk deterioration in his back and neck. He has numbness in his right leg. He has had knee surgery. He has pain and weakness in his shoulder. He has carpel tunnel in his wrist. He has high blood pressure. He has high cholesterol. He has headaches from muscle cramps in his neck. He has tendonitis in his

elbow. He currently takes Flomax, Nexium, Niaspan, Zoloft, Kadian, Effexor and Aspirin as prescribed by his physician(s).

He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is a 6 or 7 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to play sports with is kids, work in the garden, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain.

He has been in mental health treatment since 2007 at [redacted] He has been diagnosed with anxiety and depression. He went to a pain management counselor for an evaluation. He has been treated for pain management for three years.

He does not have a history of suicidal or homicidal ideation. In his family of origin, there are no known substance abuse problems or mental health problems. He said that he does not currently have any suicidal or homicidal ideation.

His mood is generally nervous, sad, and anxious. He has had symptoms of depression for three years. He feels that they were bought on by his being out of work due to injuries he experienced on the job. He cries frequently for no apparent reason. He sleeps poorly at night and tires easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said that he feels worthless.

He has problems with anxiety. His family and friends have told him that he is more irritable than he used to be. He worries about his health, finances, etc. He is having problems with attention and concentration. He has attempted to stop worrying but has been unsuccessful in those attempts.

[redacted]

In regard to activities of daily living:

1) He is not able to perform outside chores.
2) He is not able to perform inside chores.
3) He experiences pain and difficulty most of the time when performing toileting, hygiene maintenance, and grooming and needs help on occasion.
4) He experiences pain and difficulty when dressing.
5) He does have a driver's license.

He was raised by his biological parents. He has a good relationship with both his mother and father. He has [redacted] siblings with whom he has a good but distant relationship. Corporal punishment was used as the disciplinary measure in the home when he was growing up. He had no known problems with reaching developmental milestones.

He graduated from high school. He was in [redacted] and was a "D" student. He was in some trouble in school for fighting and skipping classes.

He has worked [redacted]. He has worked about sixteen year's altogether. He has never been terminated from any of his jobs. He has never been reprimanded on any of his jobs.

He has been married one time. He is currently married. He has two children ages [redacted] and [redacted]

He does not have a history of substance abuse.

He does not have a history of arrests.

He does not have a history of abuse either as a victim or as a perpetrator.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He was alert and oriented to person, place, and time. His affect was congruent with his stated level of anxiety. His immediate, recent, and remote memories were intact. Rapport was established easily. He was friendly and polite. He gave information freely. Eye contact was good. He was cooperative with testing and followed directions well.

ESTIMATION OF TEST VALIDITY:

The following test results were obtained from the patient during the administration of the WAIS-IV. They appear to be a valid representation of her current level of intellectual functioning.

TEST RESULTS:

WECHSLER ADULT INTELLIGENCE SCALE – FOURTH EDITION

VERBAL COMPREHENSION INDEX MEASURES		SCALED SCORE
Similarities:	Verbal concept formation; requires logical abstract reasoning skills.	4 – Extremely Low
Vocabulary:	Language usage and accumulated verbal learning ability; related to educational experiences, range of ideas and acquired interests.	3 – Extremely Low

Information:	General fund of cultural knowledge related to habitual, over-learned material; requires long term memory and alertness to the environment.	4 – Extremely Low

PERCEPTUAL REASONING INDEX MEASURES:		SCALED SCORE
Block Design:	Nonverbal concept formation; requires perceptual organization, abstract conceptualization, and spatial analysis.	5 – Borderline
Matrix Reasoning:	Nonverbal abstract reasoning skills, requires visual information processing.	6 – Borderline
Visual Puzzles	Attention and concentration skills, Executive functioning, Ability to understand how parts of a whole interrelate.	4 – Extremely Low

WORKING MEMORY INDEX MEASURES:		SCALED SCORE
Digit Span:	Immediate auditory memory requires concentration and attention.	5 – Borderline
Arithmetic:	Numerical reasoning; speed of mental computation; requires attention and concentration.	3 – Extremely Low

[redacted]
Page 6

PROCESSING SPEED INDEX MEASURES:		SCALED SCORE
Symbol Search:	Attention and concentration skills, speed of identifying similar objects, immediate working memory.	3 - Extremely Low
Coding:	Visual-motor speed and coordination when learning an unfamiliar task; requires attention, concentration, dexterity, speed, and short-term memory.	4 - Extremely Low

	Score	Percentile	Confidence Interval
Verbal Comprehension Index Score:	63	1	59 – 70
Perceptual Reasoning Index Score:	71	3	66 – 79
Working Memory Index Score:	66	1	61 – 75
Processing Speed Index Score:	65	1	60 – 77
Full Scale IQ Score:	61	0.5	56 – 66

[redacted] obtained a Verbal Comprehension Index Scale score of 63, (1st percentile), indicating that his ability to perform and comprehend verbally is in the Extremely Low range compared to the normative population. He obtained a Perceptual Reasoning Index Scale score of 71, (3rd percentile), indicating that his ability perceive and manipulate non-verbally within his environment is in the Borderline range compared to the normative population. He obtained a Working Memory Index Scale score of 66, (1st

percentile), indicating that his ability to retain and manipulate information is in the Extremely Low range compared to the normative population. He obtained a Processing Speed Index Scale score of 65, (1st percentile), indicating that his ability to quickly and accurately process information and perform tasks is in the Extremely Low range compared to the normative population. He obtained a Full Scale IQ Scale score of 61, (0.5 percentile), indicating that his overall intellectual abilities are in the Extremely Low range compared to the normative population.

SUMMARY AND CONCLUSIONS:

The patient, [redacted], is a [redacted] year-old married, white male. He has disk deterioration in his back and neck. He has numbness in his right leg. He has had knee surgery. He has pain and weakness in his shoulder. He has carpel tunnel in his wrist. He has high blood pressure. He has high cholesterol. He has headaches from muscle cramps in his neck. He has tendonitis in his elbow. He currently takes Flomax, Nexium, Niaspan, Zoloft, Kadian, Effexor and Aspirin as prescribed by his physician(s). He experiences a level and frequency of pain that interferes with his ability to function. He experiences this level of significant pain on a daily basis. His level on pain, on average, is a 6 or 7 on a scale of 0 to 10. He is not able to work due to the pain, by his report. He is not able to play sports with is kids, work in the garden, etc. due to the pain. Both his sexual ability and level of sexual desire have decreased due to the pain. He has been in mental health treatment since 2007 at [redacted]. He has been diagnosed with anxiety and depression. He went to a pain management counselor for an evaluation. He has been treated for pain management for three years. He does not have a history of suicidal or homicidal ideation. In his family of origin, there are no known substance abuse problems or mental health problems. He said that he does not currently have any suicidal or homicidal ideation. His mood is generally nervous, sad, and anxious. He has had symptoms of depression for three years. He feels that they were bought on by his being out of work due to injuries he experienced on the job. He cries frequently for no apparent reason. He sleeps poorly at night and tires easily during the day. His appetite fluctuates. He has a loss of interest in activities that were once pleasurable for him. He said that he feels worthless. He has problems with anxiety. His family and friends have told him that he is more irritable than he used to be.

He worries about his health, finances, etc. He is having problems with attention and concentration. He has attempted to stop worrying but has been unsuccessful in those attempts.

[redacted] obtained a Verbal Comprehension Index Scale score of 63, (1st percentile), indicating that his ability to perform and comprehend verbally is in the Extremely Low range compared to the normative population. He obtained a Perceptual Reasoning Index Scale score of 71, (3rd percentile), indicating that his ability perceive and manipulate non-verbally within his environment is in the Borderline range compared to the normative population. He obtained a Working Memory Index Scale score of 66, (1st percentile), indicating that his ability to retain and manipulate information is in the Extremely Low range compared to the normative population. He obtained a Processing Speed Index Scale score of 65, (1st percentile), indicating that his ability to quickly and accurately process information and perform tasks is in the Extremely Low range compared to the normative population. He obtained a Full Scale IQ Scale score of 61, (0.5 percentile), indicating that his overall intellectual abilities are in the Extremely Low range compared to the normative population.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: Major Depressive Disorder, Single Episode, Moderate

Generalized Anxiety Disorder

Pain Disorder Associated with Both Psychological Factors and a General Medical Condition

AXIS II: Borderline Intellectual Functioning

Learning Disorder, Not Otherwise Specified

AXIS III: General Medical Condition: deteriorating disk in back and neck; weakness in shoulder, carpel tunnel; tendonitis in elbow; numbness in right leg

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 45

PROGNOSIS:

[redacted] prognosis for the next year is fair.

SUMMARY AND CONCLUSIONS:

This evaluator believes that [redacted] could manage funds without assistance or restriction, if they were awarded to him.

[redacted]
Page 10

MEDICAL SOURCE STATEMENT:

Based upon the observations and findings of this evaluation, the evaluator has the following opinions regarding Kelvin's mental abilities.

a. [redacted] appears to have an impaired ability to understand, retain, and follow instructions.
b. [redacted] appears to have an impaired ability to perform simple, repetitive tasks.
c. [redacted] appears to have an impaired ability to relate to others, including fellow workers and supervisors.
d. [redacted] appears to have an impaired ability to adapt to the workplace, regarding his ability to tolerate the stress and pressures associated with day to day work activity.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

BRAD ADKINS, Ph.D.
Licensed Clinical Psychologist

SEPTEMBER 1, 2010

Re: [redacted]

To Whom It May Concern:

It is my medical opinion that [redacted] medical conditions and limitations would not be significantly different as of February 15, 2005.

Sincerely,

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules			X		
2. Relate to Co-Workers			X		
3. Deal with the Public				X	
4. Use Judgment				X	
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses		X			
7. Function Independently			X		
8. Maintain Attention/Concentration				X	

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.			X		
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

M.D.

SIGNATURE/TITLE/MEDICAL SPECIALITY

9/01/2010

DATE

PSYCHOLOGICAL EVALUATION

For Professional Use Only

NAME: [redacted] **DATE OF EVALUATION:** 09-28-07

ADDRESS: [redacted] **DATE OF BIRTH:** [redacted]

CHRONOLOGICAL AGE: 8 years **SSN:** [redacted]

EXAMINER: Brad Adkins, Ph.D.

SOURCES OF INFORMATION:

Clinical Interview

Collateral Information provided by: [redacted] Maternal Grandmother

REASON FOR REFERRAL:

The patient was referred for this evaluation by the law offices of Eric C. Conn in order to determine the presence and nature of psychopathology and to make recommendations regarding his treatment. The patient was informed that the standard rules of confidentiality apply to his evaluation, with the exception that this evaluation will be made available to the aforementioned law office. The amount of time consumed by this evaluation was 3.5 hours.

BACKGROUND INFORMATION:

The patient, [redacted], is an 8-year-old [redacted] male. He currently takes Astelin, Albuterol, Zantac, Aderol XR, Allegra, Singulair, Respi-Tann; and Foradil as prescribed by physicians.

He has been receiving treatment at [redacted] in Prestonsburg, Kentucky for thirteen to fourteen months following an episode at school in which he fought his teachers and scratched his face following being placed in time-out.

[redacted] due to [redacted] There is no known history of abuse.

Prior to his starting kindergarten his family noticed Attention Deficit-Hyperactivity Disorder (ADHD). He talks all the time. He could not sit still for very long. He was continually running around. He had temper tantrums when he did not get his way. He hit the walls and scratched himself when her was having a tantrum.

He is in remedial classes at school due to reading, math, and language problems. His grades are much better now than they were before entrance into this setting.

He is somewhat behind regarding walking, talking, toileting, etc.

[redacted] He plays well with others until he doesn't get his way. He then throws "tantrums" in which he scratches himself and hits the wall and other children.

BEHAVIORAL OBSERVATIONS:

The patient presented for the evaluation on time. His appearance and dress were appropriate for the testing situation. He appeared to be of average height and average weight. He interrupted his grandmother when she was attempting to give background information. He did not sit still but was up walking around the room. He had to touch everything on the evaluator's desk.

SUMMARY AND CONCLUSIONS:

The patient, [redacted], is an 8-year-old [redacted] male. He currently takes Astelin, Albuterol, Zantac, Aderol XR, Allegra, Singulair, Respi-Tann; and Foradil as prescribed by physicians. He has been receiving treatment at [redacted] in Prestonsburg, Kentucky for thirteen to fourteen months following an episode at school in which he fought his teachers and scratched his face following being placed in time-out. His [redacted] due to [redacted]. There is no known history of abuse. Prior to his starting kindergarten his family noticed Attention Deficit-Hyperactivity Disorder (ADHD). He talks all the time. He could not sit still for very long. He was continually running around. He had temper tantrums when he did not get his way. He hit the walls and scratched himself when he was having a tantrum. He is in remedial classes at school due to reading, math, and language problems. His grades are much better now than they were before entrance into this setting. He is somewhat behind regarding walking, talking, toileting, etc. He has [redacted] He plays well with others until he doesn't get his way. He then throws "tantrums" in which he scratches himself and hits the wall and other children.

DIAGNOSTIC IMPRESSIONS FROM DSM-IV:

AXIS I: ADHD, Combined Type

R/O Oppositional Deficit Disorder

AXIS II: No Diagnosis

AXIS III: General Medical Condition: N/A

AXIS IV: Psychosocial and Environmental Problems: lack of financial income

AXIS V: Current GAF: 52

PROGNOSIS:

His prognosis is poor. It is not likely that he will improve due to the ADHD and the possible oppositional deficit disorder.

Brad Adkins, Ph.D.
Licensed Clinical Psychologist

MEDICAL ASSESSMENT OF ABILITY TO DO WORK-RELATED ACTIVITIES (MENTAL)

Name	[redacted]	Social Security Number:	[redacted]

To determine this individual's ability to do work-related activities on a day-to-day basis in a regular work setting, please give us an assessment – **BASED ON YOUR EXAMINATION** – of how the individual's mental/emotional capabilities are affected by the impairment(s). Consider the medical history, the chronicity of findings (or lack thereof), and the expected duration of any work-related limitations, but not the individual's age, sex or work experience.

NOTE: THE FOLLOWING DEFINITIONS ARE DIFFERENT THAN THOSE USED PREVIOUSLY

1 Describe the individual's ability to perform the activity according to the following terms.

Unlimited - **Ability to function in this area is not limited by a mental impairment.**

Good - **Ability to function in this area is more than satisfactory.**

Fair - **Ability to function in this area is limited but satisfactory.**

Poor - **Ability to function in this area is seriously limited but not precluded.**

None - **No useful ability to function in this area.**

2 Identify the particular medical or clinical findings (i.e., mental status examination, behavior intelligence test results, and symptoms) which support your assessment of any limitations.

IT IS IMPORTANT THAT YOUR ASSESSMENT BE BASED UPON THE OBJECTIVE MEDICAL EVIDENCE.

I. **MAKING OCCUPATIONAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job and complete item #9.

	Unlimited	Good	Fair	Poor	None
1. Follow Work Rules				X	
2. Relate to Co-Workers			X		
3. Deal with the Public			X		
4. Use Judgment			X		
5. Interact With Supervisor(s)			X		
6. Deal With Work Stresses				X	
7. Function Independently			X		
8. Maintain Attention/Concentration					X

9. Describe any limitations and include the medical/clinical findings that support this assessment.

II. **MAKING PERFORMANCE ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust to a job, and complete item #4.

	Unlimited	Good	Fair	Poor	None
1. Understand, remember and carry out complex job instructions.				X	
2. Understand, remember and carry out detailed, but not complex job instructions.			X		
3. Understand, remember and carry out simple job instructions.			X		

4. Describe any limitations and include the medical/clinical findings that support this assessment; e.g., intellectual ability, thought or organization, memory, comprehension, etc.

III. **MAKING PERSONAL/SOCIAL ADJUSTMENTS**

Check the blocks representing the individual's ability to adjust personally and socially and complete item #5.

	Unlimited	Good	Fair	Poor	None
1. Maintain personal appearance.		X			
2. Behave in an emotionally stable manner.				X	
3. Related predictably in social situations.			X		
4. Demonstrate Reliability.				X	

5. Describe any limitations and include the medical/clinical findings that support this assessment.

IV. **OTHER WORK-RELATED ACTIVITIES**

V. **CAPABILITY TO MANAGE BENEFITS**

Can the individual manage benefits in his or her own best interest?

YES (X) NO ( )

Brad Albin, Ph.D.
SIGNATURE/TITLE/MEDICAL SPECIALITY

9-28-07
DATE

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. 10 pounds

Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. 5 pounds

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: 1 hours

Without interruption: 20 minutes

CLF023050

Homeland Security & Governmental Affairs Committee
EXHIBIT #48

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **5 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping			X	
Crouching		X		
Kneeling		X		
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
Handling		X		
Feeling			X	
Pushing/Pulling		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes				X
Chemicals				X
Dust				X
Noise			X	
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
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"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

10/11

Date

Srini M. Ammisetty, MD., FCCP., ABSM.

ph # 606-478-1005
F # 606-478-8687

Sleep Medicine
Pulmonary Medicine
Occupational Medicine

SRINI M. AMMISETTY, MD., FCCP., ABSM.
Diplomate of American Board of Sleep Medicine
Diplomate of American Board of Pulmonary Medicine
Diplomate of American Board of Addiction Medicine
Fellow American College of Chest Physician

NAME: [redacted]
DOB: [redacted]
DOS: 01/03/2011
SS#: [redacted]

CC: Medical disability evaluation.

History of Present Illness:
1 Back pain. [redacted] report that he was hit coal truck and thrown against the side of the road. There was immediate onset of pain, but after evaluation in the ER he was treated and released. Although back pain improved somewhat, it never resolved. Pain is exacerbated by all activities, particularly bending, lifting, and standing. He was seen by [redacted] and told of arthritis and also questionable nerve compression.

PMH:
1 PT was seen by psychologist mental retardation.

Meds: Lortab by [redacted]

Allergies: NKDA.

SH: PT was born in [redacted]. He was raised by both his parents. He has [redacted]. He reported no hx of abuse. He completed [redacted] grade and enrolled in [redacted]. Never been married. No children. Occupation, he worked for [redacted]. PT was **laid off** two months. He worked as a [redacted] in the [redacted]. No cigarette. No alcohol abuse. No I.V. drugs. Last drink was one year ago. No substance abuse. PT enjoying watching TV. He lives in [redacted] and education was limited.

PT is c/o back pain. He is seeing with physician and is on the Lorcet and ibuprofen.

PT had a mental health problems. He was in the [redacted] as a child. Never been in the hospital.

FH: Glaucoma.

Ph # 606-478-1005
F # 606-478-8687

Sleep Medicine
Pulmonary Medicine
Occupational Medicine

SRINI M. AMMISETTY, MD., FCCP., ABSM.

Diplomate of American Board of Sleep Medicine
Diplomate of American Board of Pulmonary Medicine
Diplomate of American Board of Addiction Medicine
Fellow American College of Chest Physician

NAME: [redacted]
DOB:
Page 2

PE:
General Examination: PT is simple appearing gentleman. He does require extra explanation to perform activities of the physical exam.
Vital signs: BP 123/90, heart rate 87, saturation 98%, weight 226 and height 68". Uncorrected visual activity 20/20.
HEENT: WNL.
Neck: Supple.
Chest: Decreased breath sounds. No wheezing. No rhonchi.
Abdomen: Benign. Bowel sounds positive. No hepatosplenomegaly.
Extremities: No cyanosis. No clubbing. No edema.

A:
1. Back pain, DJD.
2. Inadequate/intellectual education.
3. Mental health problems

D:
1. This PT has limited mental status ability. He has limitations of hip flexion 70 degrees, lumbar flexion 70 degrees, right and left 20 ~~30~~. Straight leg raise test positive with 50 degrees. So he has some limitations in my examination and he does not walk normal gait. Repetitive bending, squatting, kneeling and lifting overhead would likely increase the pain of DJD. Any weightbearing activity could be expected to increase the symptoms of back pain these would include standing, walking, lifting, carrying, pushing and pulling.
2. His work activity is limited. His range of motion is limited as documented in the four pages of physical assessment.

Srini M. Ammisetty, MD., FCCP., ABSM.

File: [redacted]

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

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If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **10 pounds**

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II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **1 hours**

Without interruption: **20 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (X)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **5 hours**

Without interruption: **30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping			X	
Crouching		X		
Kneeling		X		
Crawling	X			

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"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching			X	
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COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

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Please indicate your responses with a checkmark in the appropriate spaces below:

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Heights		X		
Moving Machinery		X		
Temperature Extremes				X
Chemicals				X
Dust				X
Noise			X	
Fumes				X
Humidity			X	
Vibration		X		

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VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

10/11

Date

Srini M. Ammisetty, MD., FCCP., ABSM.

Pat's Copy

Dr. Frederic T. Huffnagle Date 10/24/07 1 of 2

File #	Client Name	Hearing Date	Doctor	Appt. Date	Appt. Time	Med. Rec. Sent / How	Pat's Card	Affi-davit	RFC	Clt Know	Refer ferred	Trans-port	CE Rec'ed
20933	[redacted]	11/01			9:00			✓		✓			
18162		11/01			9:20			✓		✓			
19011		unwk			9:40			✓		✓			
18603		unwk			10:00			✓		✓			
17244		11/01			10:20			✓		✓			
19417		10/31			10:40			✓		✓			
20549		unwk			11:00			✓		✓			
19282		OTR			11:20			✓		✓			
19501		OTR			11:40			✓		✓			
20668		OTR			12:00			✓		✓			
20521		OTR			12:20			✓		✓			
20157		OTR			12:40			✓		✓			
20607		OTR			1:00			✓		✓			

CLF033403

Homeland Security & Governmental Affairs Committee
EXHIBIT #49

Dr. Frederic T. Huffnagle Date 10/24/07 2of2

File #	Client Name	Hearing Date	Doctor	Appt. Date	Appt. Time	Med. Rec. Sent / How	Pat's Card	Affi-davit	RFC	Clt Know	Refer faxed	Trans-port	CE Rec'ed
21460	[redacted]	OTR			1:20			✓		✓			
20701		↓			1:40			✓		✓			
19262		↓			2:00			✓		✓			
19967		UNWK			2:20			✓		✓			
2050		OTR			2:40		●	✓		✓			
20650		↓			3:00			✓		✓			
19633		UNWK	Add	ON	12:20			✓		✓			

Addr
re-op
9-22

1098

CLF033404

This Team Award nomination is submitted to recognize the staff of the Huntington, West Virginia Office of Disability Adjudication and Review (ODAR) for providing sustained superior performance in the delivery of quality service to the American public in numerous ways.

The Huntington Hearing Office staff truly excels in the quick processing of its cases, reducing the Agency backlog in order to comply with ODAR's vision and the Strategic Plan of the Agency. Most notably, it was the teamwork of the staff that resulted in the Huntington Hearing Office exceeding all national and regional Agency goals for fifty-three consecutive months at the end of FY 2010 and continuing this trend through month fifty-eight! The Huntington Hearing Office provides it claimants with the one-two punch of 2.93 dispositions daily per ALJ along with an extremely fast average processing time of 180 days. ***We strive to provide the public we serve with the best service that the Agency can offer.***

Beginning in 2006, the Huntington Hearing Office has met or exceeded every Agency goal for fifty-eight consecutive months. This commitment to excellence in public service has resulted in the Huntington Hearing office in becoming a **FY 2010 national leader** in many categories. The Huntington Hearing Office is dedicated to processing each case with expediency, reducing the Agency's backlog, and serving our claimants efficiently and effectively.

Next, the Huntington Hearing Office was ranked 2nd Place Nationally FY 2010, with the lowest case processing time, averaging 263 days per case. At the close of the year we processed some aged cases from another office, which resulted in our office missing the number one ranking by only one day! Regardless, our staff remains dedicated to the Agency Strategic Plan, working tirelessly to furnish speedy accurate decisions to the awaiting public.

The Huntington Hearing Office was ranked 2nd Place Nationally in the processing of dispositional decisions within 180 days. The Huntington Office owes our high

dispositional decision ranking to our judges, senior attorneys, and hard-working staff. By carefully screening the docket for possible On The Record grants, they learn which cases may require the acquisition of new or additional medical information. This extra effort translates well for claimants: cases are processed more quickly, resulting in earlier decisions, since the claimant does not have to wait for a scheduled hearing. Additionally, hearing slots are created for the claimants that require a full hearing, meaning that the most difficult cases are heard promptly.

Third, the Huntington Hearing Office made top priority of the need to eliminate the backlog of aged cases. In June, only 14% of our cases pending exceeded 270 days, compared to the national average of 38%, and a regional average of 33%, which afforded our office the ranking of 3rd Place Nationally in this category. This was an outstanding accomplishment that took several years to accomplish. In an effort to handle a pressing workload, Regional Office transferred 1000 cases to Huntington in July 2010, stating that 'Huntington is the only office within the region with a chance to process these aged cases by the end of FY 2011.' Eight hundred sixty-four of the one thousand cases were destined to be over 700 days old, which resulted in an artificial inflation the age of our pending cases, translating to 34% pending cases at the end of the fiscal year. Undaunted, the Huntington Hearing Office worked to play a big part in the Philadelphia Region clearing out its old cases for the year.

In an effort to meet and support the Commissioner's goal of reducing the agency's backlog of cases, the Huntington Hearing Office worked steadily over several years to reduce and eliminate its backlog. Our determination was rewarded with an 8th Place National ranking in the lowest percentage of cases pending over 365 days—and only 7% of our cases were pending after 365 days! Once again, the receipt of another office's 1000 cases artificially inflated our cases pending over 365 days by the end of FY 2010 to 20%. Even so, our staff was not deterred from continuing to work to help reduce the Agency's backlog, always remembering the claimants that we serve.

The number one objective of the Huntington Hearing Office was the processing of our aged cases. Each member of our staff took the Commissioner's directive to reduce and eliminate aged cases to heart. Our judges and senior attorneys scrutinized each case to prevent future cases from becoming aged. The management staff monitored current aged cases daily to identify which should and could be advanced to the next status category; this led to pinpoint accuracy of movable cases, resulting in continual case movement. Developmental date expirations were identified and routed to the employee responsible for immediate processing. The many hours dedicated to this objective had a positive outcome—***all*** our aged cases were disposed of **and** our claimants received speedier decisions!

Nationally, the Huntington Hearing Office has made contributions in many different areas. Our Chief Administrative Law Judge, Charlie Paul Andrus, was selected to serve as an instructor to the national Electronic Business Process training cadre, training in seven different offices across the country. Recognized nationally, Judge Andrus is an outstanding instructor whose knowledge and skill within the e-DIB process will greatly benefit those trained by him. Judge Andrus' many years of experience in training at the national level has had a major impact on the operations of those offices, both in the present and in the years to come. Additionally, in November 2010, Judge Andrus served as a panel member to interview and recommend new judges to be hired by the Agency. The interview and selection process is of national importance since judges are responsible for the decisions that will affect thousands of individuals. Following the selection of the newly hired judges, Judge Andrus served as instructor for a two separate classes designed to teach the new hires how to become an ALJ for the Agency. His years of experience as an ALJ provided invaluable lessons to the new ALJ hires. Judge Andrus' contribution to the process of conducting hearings and making proper decisions supports the Agency's goal of 'right decisions, timely delivered to claimants'.

The Huntington Hearing Office has also had an impact on the national training for new Hearing Office Directors. In 2007, Greg Hall, Huntington Hearing Office Director, had the opportunity to serve on the Hearing Office Director's National Training Cadre; he

helped to establish and organize the original national training packet for new Hearing Office Directors. This national training packet was used in Hearing Office Directors' Classes for all new HODs in 2007 through 2009. The Cadre met once again in 2010 to revise and update the course materials. Presently, all new Directors must complete the two-week national training course designed by the Cadre. The Directors receive the training and materials that contain complete information as to procedures, policy, and every day operational needs necessary to the success of all new Directors. The newly trained Directors return to their offices, resulting in a nation-wide dissemination of the information. Notably, since the Cadre began the new training program, the Agency's processing times have dropped and productivity has increased.

Regionally, the Huntington Hearing Office has made significant contributions as well. In July 2010, Regional Office requested our help with 1000 cases from a hearing office whose ability to service their claimants had been negatively impacted by the loss of several of their judges. The Huntington Hearing Office reviewed the cases as soon as they arrived and recognized that these claimants needed a decision as quickly as possible. The judges, senior attorneys, and decision writers worked furiously, screening the cases upon receipt. After coordinating the availability of hearing space between our office and the 'adopted' office for these additional cases, we began scheduling face-to-face hearings, arranged Rocked Dockets, and scheduled IVT hearings/Rocket Dockets to be held. We quickly realized that to meet the goal of closing all these old cases by FY 2011, hard work and perseverance in 2010 would be required. The on-going teamwork of our hard-working staff will make this goal a reality.

At the request of the Chicago Region, the Huntington Hearing Office was given another opportunity to provide regional assistance in January and February 2010. Huntington Hearing Office Senior Attorney Melinda Wells was asked to screen forty-seven cases for the Milwaukee Hearing Office. Within a matter of weeks, Ms. Wells successfully completed the reviews, and several On The Record grants were obtained, allowing the claimants to receive their decisions more quickly.

During FY 2010, the Huntington Hearing Office provided case writing assistance for three in-region offices. Our staff received the cases, wrote the cases, and then returned them back to the appropriate office for closing. Our staff's effort in writing those cases aided those offices in closing cases, but most importantly, thanks to the Huntington Hearing Office, the claimants were the beneficiaries of faster processing time.

The Huntington Hearing Office is proud of the mentoring contributions its staff has made to the professional growth and development of individuals in other offices. John Patterson, Huntington Hearing Office Group Supervisor and Greg Hall, Huntington Hearing Office Director both served as mentors to individuals in other ODAR offices. Additionally, Huntington Hearing Office ALJ Charlie Paul Andrus, who serves as an Assistant Regional Chief Judge, provided mentoring services to another judge in a regional hearing office. Effective mentoring is vital to the development of newly selected Group Supervisors and judges alike, directly impacting the office as well as the one being mentored. Mentors serve both as instructors and reference points for the mentee, helping him/her to increase job knowledge and skills based on the mentor's own insight and personal experience.

At the local level, the Huntington Hearing Office provided, as well as received, assistance and training to the Social Security Field Office in Huntington, West Virginia. An 'Office Exchange Program' was developed to allow Field Office employees to spend the day in the ODAR Office, observing the routine and functions of our employees. A return visit was arranged for ODAR employees to visit the Field Office for similar reasons. The purpose behind the Exchange was to provide our staff with a better understanding of the workings of the Field Office. A Field Office representative led follow-up training sessions for our staff; likewise, ODAR paralegal writer, Matt Day mentored a Claims Representative from the Field Office. This liaison training with the Field Office proved to be very beneficial to both offices. By establishing a better working relationship and understanding of our counterparts in the Agency, we are better able to extract and process SSA information, better meeting the needs of our claimants.

Within our own office, Huntington provides extensive training to our decision writers and senior Case Technicians. Training efforts with these employees is on going, but benefits not only the personnel and our office, but most importantly it is our claimants that are the beneficiaries of a highly and skillfully trained individual who is processing his case.

It is with great pleasure and pride that the Huntington Office of Disability Adjudication and Review is nominated for and is extremely deserving of the highest award for Team Achievement for Sustained Superior Performance in FY 2010. The office has directly contributed to the Agency mission and strategic plan by significantly reducing the disability case backlog, enhancing employee productivity and efficiency, improving the business process, and assisting ODAR offices in the providing of timely writing, hearings and decisions for the claimants in the other ODAR hearing offices, and ultimately the delivery of quality service to the American public.

State of West Virginia
TREASURER DESIGNATION
For Candidate's Committee

I, Amy Dougherty, a candidate in the election year 2008 for the office of Magistrate in the _____ district (if applicable), hereby designate the following person who has agreed to serve as treasurer to be responsible for the campaign financial activity in relation to my candidacy for the above office:

Campaign Committee Name: Committee to Elect Amy Dougherty

Treasurer Name: Teresa L Burns

Mailing Address: [redacted]

Huntington WV 25701

Treasurer County of Residence: Cabell

Daytime Phone Number: [redacted]

Email Address: [redacted]@yahoo.com

☐ Check here to enroll your committee in the Campaign Finance Reporting System which will allow you to file the committee's finances via an internet service provided by the Secretary of State. This service is only available for committees that file with the Secretary of State.

It is the responsibility of the treasurer to read and comply with all campaign finance laws, regulations, and other related materials. I understand that every financial transaction related to my precandidacy or candidacy is subject to the requirements of the WV Code and the Rules & Regulations promulgated by the Secretary of State, including all reporting requirements. This document will serve as the oath for all electronically filed reports associated with the above listed campaign, if applicable.

Amy M. Dougherty
Candidate's signature

Teresa L Burns
Treasurer's Signature

Published by:
The Office of the Secretary of State
Bldg. 1, Suite 157-K
1900 Kanawha Blvd. East
Charleston, WV 25305
1-866-SOS-VOTE
E-mail : elections@wvsos.com
Internet: www.WVvotes.com

File this form with Secretary of State if a candidate for statewide, legislative, or multi-county judicial office.

File this form with County Clerk if a candidate for county office or single-county judicial office.

File this form with Municipal Clerk/Recorder if a candidate for municipal (city or town) office.

OFFICIAL FORM F-3
REVISED 4/07

Homeland Security & Governmental Affairs Committee
EXHIBIT #51

State of West Virginia Campaign Financial Statement
(Long Form) In Relation to the 2008 Election Year

Candidate or Committee Name	Candidate or Committee's Treasurer
Amy Daugherty	Tresha Buens
Political Party (for candidates)	**Treasurer's Mailing Address (Street, Route or P.O. Box)**
Democrat	[redacted]
Office Sought (for candidates) / **District/Division**	**City, State, Zip Code** / **Daytime Phone #**
Magistrate / Cabell	Huntington, WV 25701 / [redacted]

Election Cycle Reporting Period (check one):

- ☐ Primary - First Report — Due March 29 - April 4, 2008
- ☒ Pre-primary Report — Due April 28 - May 2, 2008
- ☐ Post-primary Report — Due May 26 - 30, 2008
- ☐ General - First Report — Due Sept. 22- 26, 2008
- ☐ Pre-general Report — Due Oct. 20- 24, 2008
- ☐ Post-general Report — Due Nov. 17 - 21, 2008
- Non-Election Cycle Reporting Period: ☐ Annual Report due in ____ Calendar Year — Due last Saturday in March or within 6 days thereafter

Check if Applicable:

- ☐ Amended Report — You must also check box of appropriate reporting period
- ☐ Final Report — Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:	Totals for this Period
Contributions (Page 3)	$ 500.00
Monetary Contributions from all Fund-Raising Events (Page 4)	+ Ø
Receipt of a Transfer of Excess Funds (Page 8)	+ Ø
Total Monetary Contributions:	= $ 500.00
In-Kind Contributions (Page 5)	+ Ø
Total Contributions:	= $ 500.00

Other Income (Page 5)	Ø
Loans Received (Page 8)	+ $ 8000.00
Total Other Income:	= $ 8000.00

OUTSTANDING LOANS & DEBTS:	
Unpaid Bills (Page 9)	Ø
Outstanding Loans (Page 6)	+ $ 17,700.00
Total Debts:	= $ 17,700.00

CASH BALANCE SUMMARY	
Beginning Balance (ending balance from previous report)	$ 2,050.52
Total Monetary Contributions	+ $ 500.00
Total Other Income	+ $ 8000.00
Subtotal: a.	= 10,550.52

Total Expenditures (Page 7)	$ 9434.93
Total Disbursements of Excess Funds (Page 8)	+ Ø
Repayment of Loans (Page 6)	+ Ø
Subtotal: b.	= $ 9434.93

Ending Balance: (*Subtotal a. - Subtotal b.*) **Cannot be negative balance*	= $ 1115.62

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE
(Add total contributions from all reports)
$ 10,240.00

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE
(Add total expenditures from all reports)
$ 26824.41

Page 2.	Contributors of $250 or Less	☐ Check if additional pages have been attached.

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
4/11/08	Dirk Harrison AKA St. Mares	100.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of contributors of $250.00 or less: $100.00

Page 3.

Contributors of More than $250

☐ *Check if additional pages have been attached.*

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE'S NAME	AMOUNT
4/14/08	Full Name: William L. Redd Address: (residential and mailing if they are different) 530 5th AVE Hghts. WV 25701 Contributor's job: (individual contributor only) Widow Where contributor works: (individual contributor only) Affiliation: (political committee only)	$400.00
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of all contributors of more than $250:	400.00
Subtotal of all contributors of $250 or less (From page 2):	+ 100.00
Total Contributions:	= 500.00

Page 4. **FUND-RAISING EVENTS** ☐ *Check if additional pages have been attached.*

All monetary contributions received at a fundraiser must be reported in the Event Summary below.
If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund.
The only exception to this rule may apply to political party executive committees. (W V Code §3-8-5a)

EVENT SUMMARY

Date of Event ______	Total Monetary Contributions:
Type of Event ______	Total Expenditures: (Itemized on page 7) -
Name of Place Held ______	NET RECEIPTS: =
Address of Place Held ______	Total In-Kind Contributions Related to the Fund-raiser (Itemized on page 5.)

Contributors of $250 or less

Date	Full Name	Amount

Subtotal of contributors of $250.00 or less:

Contributors of more than $250

Date		Amount
	Full Name Address (residential and mailing if they are different) Contributor's job. (individual only) Where contributor works. (individual only) Affiliation (Political committee only)	
	Full Name. Address. (residential and mailing if they are different) Contributor's job (individual only) Where contributor works. (individual only) Affiliation (Political committee only)	
	Full Name: Address (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works (individual only) Affiliation. (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job. (individual only) Where contributor works: (individual only) Affiliation. (Political committee only)	

Subtotal of contributors of more than $250:
Subtotal of contributors of $250 or less: +
Total Contributions:

MAKE COPIES OF THIS PAGE TO LIST ADDITIONAL CONTRIBUTIONS. ATTACH ADDITIONAL PAGES TO REPORT.

Page 5.

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount

Total Other Income:

☐ *Check if additional pages have been attached.*

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Market Value

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total In-Kind Contributions:

Page 6. **LOANS** ☐ *Check if additional pages have been attached.*

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable.

Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case.

Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.

How to report loans

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below:
   a loan(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. Any loan that was repaid in previous reporting periods does not need to be listed.
   b new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)
2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS

(A copy of the loan agreement for each loan secured during this filing period must accompany this report)

Bank Loans: List name & address of financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period Amount	Column B Amount of new loan received during period Date	 Amount	Column C Repayments during period Date	 Amount	Column D Balance outstanding at end of period Amount
Amy Daugherty [redacted] Hghts WV 25701	$ 9700.00			Ø		$ 9700.00
Amy Daugherty [redacted] Hghts WV 25701		4/14	3000.00			$ 3000.00
Amy Daugherty [redacted] Hghts WV 25701		4/17	3000.00			$ 3000.00
Amy Daugherty [redacted] Hghts WV 25701		4/22	2000.00			$ 2000.00
5						
		Loans Received		**Repayment of Loans**		**Outstanding Loans**
Totals:		$ 8,000.00		Ø		$ 17,700.00

Page 5.

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount

Total Other Income:

☐ *Check if additional pages have been attached.*

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Market Value

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total In-Kind Contributions:

MARK S. COLE
CALDWELL COUNTY
CLERK
2005 MAY -1 P 12:50

PROMISSORY NOTE

$3,000.00 Date: ~~March~~ April 14, 2008

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted]untington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), a[redacted]huntington, wv 25701, (or at such other place as the Lender may designate in writing) the sum of $3,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 14 day of APRIL, 2008, at _____, _____.

Borrower:
Committee to elect Amy Daugherty

By: _____
Committee to elect Amy Daugherty

PROMISSORY NOTE

$3,000.00 Date: ~~March~~ April 17, 2008

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted] huntington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), at [redacted] huntington, wv 25701, (or at such other place as the Lender may designate in writing) the sum of $3,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower.

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 17 day of McApril 2008, at _____.

Borrower:
Committee to elect Amy Daugherty

By: Sasha S. Burns
Committee to elect Amy Daugherty

PROMISSORY NOTE

$2,000.00 Date: April 23, 2008

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted], Huntington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), at [redacted] Huntington, wv 25701, or at such other place as the Lender may designate in writing) the sum of $2,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first to payment of accrued interest and any remainder to payment of principal.

If any payment obligation under this Note is not paid when due, the outstanding unpaid principal balance and any accrued interest shall become due immediately, at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full, on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

A misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively, at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 22 day of April, 2008 at _____.

Borrower:
Committee to elect Andy Daugherty

By: Tresha S. Burns
Committee to elect Andy Daugherty

Page 7.

ITEMIZED EXPENDITURES
(Itemize 3rd party expendures/ reimbursements)

☐ *Check if additional pages have been attached.*

Date	Name of Person or Vendor and Address	Purpose	Amount
4/8/08	Big Eagle 400 W 9th st. Huntington WV 25704	Advertising	$1400.00
4/11/08	Vicky's Party Shop 290 E. Main St. Hilton, WV 25541	Candy making Supplies	$ 16.91
4/14/08	Connisseur Media LLC 136 Main St. Suite202 Westport, CT 06880	Radio	$840.00
4/17/08	Big Eagle 408 W. 9th st. Huntington, WV 25704	Postcards	$583.00
4/17/08	Clear Channel Radio 134 4th ave Huntington, WV 25701	Radio	$882.30
4/17/08	Kindred Communications P.O. Box 1150 Huntington, WV 25713	Radio	$825.00
4/17/08	WEMM FM Radio 703 3rd Ave. Hntn. WV 25701	Radio	$300.00
4/17/08	M and M Mailing Company P.O. Box 66605 Huntington, WV 25772	Postage	$1192.95
4/17/08	M and Mailing Company P.O. Box 66605 Huntington, WV 25772	Inkjet Address - Mailings	$ 2106.25
4/17/08	Herald Dispatch P.O. Box 2017 Huntington, WV 25720	Advertising	$2054.82
4/22/08	Clear channel Radio 134 4th ave Huntington WV 25701	Radio	$501.50
4/22/08	Clear Channel Radio 134 4th ave Huntington, WV 25701	Radio	$122.40
4/22/08	Herald Dispatch P.O. Box 2017 Huntington, WV 25720	Advertising	$449.82

MAKE AS MANY COPIES
OF THIS PAGE AS YOU NEED.

Total Expenditures: $9434.93

Page 8. **Receipt of a Transfer of Excess Funds**

☐ *Check if additional pages have been attached.*

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfers of Excess Funds:	

Disbursements of Excess Funds

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
	Total Disbursements of Excess Funds:		

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Page 9. **UNPAID BILLS** ☐ *Check if additional pages have been attached.*

Date	Owed to Whom	Affiliated with what Company or Group	Purpose	Amount

Total Unpaid Bills:

OATH OR AFFIRMATION

I, Linda Burnside, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

Linda Burnside
Signature of Candidate, Financial Agent or Treasurer

Date May 1, 2008

KAREN S. COLE
CABELL COUNTY
CLERK
2008 MAY -8 P 12:47

Office Use Only

Received by:

State of West Virginia Campaign Financial Statement
(Long Form) in Relation to the 2008 Election Year

Candidate or Committee Name	Candidate or Committee's Treasurer
Amy Daugherty	Teesha Burns
Political Party (for candidates)	**Treasurer's Mailing Address (Street, Route or P.O. Box)**
Democrat	[redacted]
Office Sought (for candidates) / **District/Division**	**City, State, Zip Code** / **Daytime Phone #**
Magistrate / Cabell	Huntington, WV 25701 / [redacted]

Election Cycle Reporting Period (check one):

- [x] **Primary - First Report** Due March 29 - April 4, 2008
- [ ] **Pre-primary Report** Due April 26 - May 2, 2008
- [ ] **Post-primary Report** Due May 26 - 30, 2008
- [ ] **General - First Report** Due Sept. 22- 26, 2008
- [ ] **Pre-general Report** Due Oct. 20- 24, 2008
- [ ] **Post-general Report** Due Nov. 17 - 21, 2008
- [ ] **Non-Election Cycle Reporting Period:** Annual Report due in ____Calendar Year Due last Saturday in March or within 6 days thereafter

Check if Applicable:

- [ ] **Amended Report** You must also check box of appropriate reporting period
- [ ] **Final Report** Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS: — **Totals for this Period**

Contributions (Page 3)	$7365.00
Monetary Contributions from all Fund-Raising Events (Page 4)	+$2375.00
Receipt of a Transfer of Excess Funds (Page 6)	+
Total Monetary Contributions:	= $9,740.00
In-Kind Contributions (Page 5)	+ Ø
Total Contributions:	= $9,740.00

Other Income (Page 5)	Ø
Loans Received (Page 6)	+$9700.00
Total Other Income:	= $9700.00

OUTSTANDING LOANS & DEBTS:

Unpaid Bills (Page 9)	Ø
Outstanding Loans (Page 6)	+$9,700.00
Total Debts:	= $9,700.00

CASH BALANCE SUMMARY

Beginning Balance (ending balance from previous report)	$ -
Total Monetary Contributions	+$9740.00
Total Other Income	+$9700.00
Subtotal a.	=$19,440.00

Total Expenditures (Page 7)	$17389.48
Total Disbursements of Excess Funds (Page 8)	+ Ø
Repayment of Loans (Page 6)	+ Ø
Subtotal b.	=$17,389.48

Ending Balance: (Subtotal a. - Subtotal b.) **Cannot be negative balance*	=$ 2050.52

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE
(Add total contributions from all reports)
$ 9,740.00

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE
(Add total expenditures from all reports)
$ 17,389.48

Page 2. **Contributors of $250 or Less** ☑ *Check if additional pages have been attached.*

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
10/24/07	Leah Sayers	100.00
10/30/07	Occupational Disability	200.00
11/6/07	Paul Hall	50.00
11/6/07	Donald and Mary Watts	25.00
11/6/07	Dr. McKoon Jr.	100.00
11/6/07	Richard and Sydney Wilding	25.00
11/6/07	Jeanette C. Basham	50.00
11/13/07	Gene Baldwin	100.00
11/13/07	Arthur and Judith Sorrell	25.00
11/13/07	Harry and Linda Hager	100.00
11/13/07	Sandra Stepp	50.00
12/5/07	J. Grant McGuire	100.00
12/7/07	Phillip and Beverly Carter	50.00
12/8/07	Ronnie Farrell	40.00
12/9/07	John and Ann Speer	50.00
12/9/07	Lewis and Diane Wright	100.00
12/19/07	Tom and Sally Pettit	50.00

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Subtotal of contributors of $250.00 or less: $ 1215.00

Page 2.

Contributors of $250 or Less

☐ *Check if additional pages have been attached.*

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
2/9/08	Neil Bourlillon	50.00
2/9/08	Cyrus and Adkins	100.00
2/14/08	R.R. Fredekings II	250.00
3/11/08	Rose Cyrus	50.00
3/11/08	Cathy Greiner	50.00
3/11/08	Damron Law	100.00
3/18/08	William Redd	100.00
3/26/08	Linda S Rice	150.00

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Subtotal of contributors of $250.00 or less: $ 850.00

State of West Virginia Campaign Financial Statement
(Long Form) in Relation to the 2008 Election Year

Candidate or Committee Name	Candidate or Committee's Treasurer
Political Party (for candidates)	Treasurer's Mailing Address (Street, Route or P.O. Box)
Office Sought (for candidates) District/Division	City, State, Zip Code Daytime Phone #

Election Cycle Reporting Period (check one):

- ☐ Primary - First Report Due March 29 - April 4, 2008
- ☐ Pre-primary Report Due April 28 - May 2, 2008
- ☐ Post-primary Report Due May 26 - 30, 2008
- ☐ General - First Report Due Sept. 22- 26, 2008
- ☐ Pre-general Report Due Oct. 20- 24, 2008
- ☐ Post-general Report Due Nov. 17 - 21, 2008

Non-Election Cycle Reporting Period:

- ☐ Annual Report due in ____ Calendar Year Due last Saturday in March or within 6 days thereafter

Check if Applicable:

- ☐ Amended Report You must also check box of appropriate reporting period
- ☐ Final Report Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:

	Totals for this Period
Contributions (Page 3)	
Monetary Contributions from all Fund-Raising Events (Page 4)	+
Receipt of a Transfer of Excess Funds (Page 8)	+
Total Monetary Contributions:	=
In-Kind Contributions (Page 5)	+
Total Contributions:	=

Other Income (Page 5)	
Loans Received (Page 6)	+
Total Other Income:	=

OUTSTANDING LOANS & DEBTS:

Unpaid Bills (Page 9)	
Outstanding Loans (Page 6)	+
Total Debts:	=

CASH BALANCE SUMMARY

Beginning Balance (ending balance from previous report)	
Total Monetary Contributions	+
Total Other Income	+
Subtotal a	=

Total Expenditures (Page 7)	
Total Disbursements of Excess Funds (Page 8)	+
Repayment of Loans (Page 6)	+
Subtotal b	=

Ending Balance: (Subtotal a. - Subtotal b.) **Cannot be negative balance*	=

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE
(Add total contributions from all reports)

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE
(Add total expenditures from all reports)

Page 3.

Contributors of More than $250

☑ *Check if additional pages have been attached.*

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE'S NAME	AMOUNT
3/26/08	Full Name: Barrett, Chafin, Lowry & Ames Address: (residential and mailing if they are different) PO Box 402 Huntington, WV 25708 Contributor's job: (individual contributor only) Lawyer Where contributor works: (individual contributor only) Barrett, Chafin, Lowry & Ames Affiliation: (political committee only)	$500.00
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	

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Subtotal of all contributors of more than $250:	
Subtotal of all contributors of $250 or less (From page 2):	+
Total Contributions:	=

Page 3.

Contributors of More than $250

☒ *Check if additional pages have been attached.*

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE'S NAME	AMOUNT
7/30/07	Full Name: William L. Roberts Address: (residential and mailing if they are different) 237 2nd St. Suite 4 Pikeville KY 41501 Contributor's job: (individual contributor only) Lawyer Where contributor works: (individual contributor only) Affiliation: (political committee only)	1,000
8/4/07	Full Name: William Arnett Address: (residential and mailing if they are different) P.O. Box 489 Slaterville, KY 41465 Contributor's job: (individual contributor only) Lawyer Where contributor works: (individual contributor only) Affiliation: (political committee only)	1,000
8/4/07	Full Name: Sabrina Arnett Address: (residential and mailing if they are different) P.O. Box 489 Slaterville, KY 41465 Contributor's job: (individual contributor only) Secretary Where contributor works: (individual contributor only) Affiliation: (political committee only)	1,000
10/11/07	Full Name: Ethel Chafin Address: (residential and mailing if they are different) 110 Camelot Dr. Huntington, WV 25701 Contributor's job: (individual contributor only) None Where contributor works: (individual contributor only) Affiliation: (political committee only)	2000
10/11/07	Full Name: Ken and Tajna Hicks Address: (residential and mailing if they are different) 742 4th Ave Huntington, WV 25701 Contributor's job: (individual contributor only) Lawyer Where contributor works: (individual contributor only) Affiliation: (political committee only)	1,000
10/19/07	Full Name: Edward J.T. Meisel Address: (residential and mailing if they are different) 640 5th Ave Huntington, WV 25701 Contributor's job: (individual contributor only) Lawyer Where contributor works: (individual contributor only) Affiliation: (political committee only)	500.00

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Subtotal of *all* contributors of more than $250:	$5300.00
Subtotal of all contributors of $250 or less (From page 2):	+ 2065.00
Total Contributions:	= 7365.00

Page 4. **FUND-RAISING EVENTS** ☐ *Check if additional pages have been attached.*

All monetary contributions received at a fundraiser must be reported in the Event Summary below. If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund.
The only exception to this rule may apply to political party executive committees. (W V Code §3-8-5a)

EVENT SUMMARY

Date of Event: November 6 2001
Type of Event: Fundraiser
Name of Place Held: Ramada Inn
Address of Place Held: 3044 16th St. Rd. Huntington, WV 25701

Total Monetary Contributions:	2375.00
Total Expenditures: (Itemized on page 7)	- 2022.00
NET RECEIPTS:	= 353.00
Total In-Kind Contributions Related to the Fund-raiser (Itemized on page 6.)	

Contributors of $250 or less

Date	Full Name	Amount
11/6	Carrie & Patricia Justice	100.00
11/6	Charles & Teresa Abraham	25.00
11/6	Sandra Caltabs	25.00
11/6	Barbara Wooten	50.00
11/6	Mike George	50.00
11/6	Frank & Jewell Matthews	25.00
11/6	Martha Peck Trustee	25.00
11/6	Mandi Hazelett	25.00
11/6	Frances Jackson	50.00
11/6	~~Don Eggert~~	
11/6	Dale Stephens	50.00
11/6	Rev. Melissa Plymale	25.00
11/6	Carl Eastham	25.00
11/6	Ray & Barbara Everett	100.00

Subtotal of contributors of $250.00 or less: 575.00

Contributors of more than $250

Date		Amount
11/6/01	Full Name: Don & Pam Shope Address: (residential and mailing if they are different) 54 Pine Hill dr. Eskdale Kenova, WV 25530 Contributor's job: (individual only) Lawyer Where contributor works: (individual only) Affiliation: (Political committee only)	300.00
11/6/01	Full Name: Don Eggert Address: (residential and mailing if they are different) P O Box 25151 Huntington, WV 25121 Contributor's job: (individual only) Lawyer Where contributor works: (individual only) Affiliation: (Political committee only)	500.00
11/6/01	Full Name: Joe Stevens Address: (residential and mailing if they are different) 8137 Court Av. Huntington, WV 25563 Contributor's job: (individual only) Lawyer Where contributor works: (individual only) Affiliation: (Political committee only)	1,000.00
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	

Subtotal of contributors of more than $250:	1,800.00
Subtotal of contributors of $250 or less:	+ 575.00
Total Contributions:	2375.00

MAKE COPIES OF THIS PAGE TO LIST ADDITIONAL CONTRIBUTIONS. ATTACH ADDITIONAL PAGES TO REPORT.

Page 5.

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount

Total Other Income:

☐ *Check if additional pages have been attached.*

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Market Value

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Total In-Kind Contributions:

Page 6. **LOANS** ☐ *Check if additional pages have been attached.*

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable.

Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case.

Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.

How to report loans

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below:
   a. loan(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. Any loan that was repaid in previous reporting periods does not need to be listed.
   b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)
2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS

(A copy of the loan agreement for each loan secured during this filing period must accompany this report)

Bank Loans: List name & address of financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period Amount	Column B Amount of new loan received during period Date	 Amount	Column C Repayments during period Date	 Amount	Column D Balance outstanding at end of period Amount
[redacted]		7/9/07	4,000			$ 4,000
[redacted]		10/15/07	1,000			$ 5,000
[redacted]		10/30/07	2,000			$ 7,000
[redacted]		3/11/08	2,700			$ 9,700
5.						
		Loans Received		**Repayment of Loans**		**Outstanding Loans**
Totals:		$ 9,700.00		$ 0		$ 9,700.00

PROMISSORY NOTE

$4,000.00 Date: July 24, 2007

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted]untington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), a[redacted]untington, wv 25701, (or at such other place as the Lender may designate in writing) the sum of $4,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 24 day of July, 2007, at _____.

Borrower:
Committee to elect Amy Daugherty

By: _____
Committee to elect Amy Daugherty

PROMISSORY NOTE

$1,000.00 Date: October 15, 2007

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted] huntington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), [redacted] untington, wv 25701, (or at such other place as the Lender may designate in writing) the sum of $1,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 12 day of February, 2007 at _____.

Borrower:
Committee to elect Amy Daugherty

By: _____
Committee to elect Amy Daugherty

PROMISSORY NOTE

$2,000.00 Date: October 30, 2007

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted] huntington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), at [redacted] huntington, wv 25701, (or at such other place as the Lender may designate in writing) the sum of $2,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 30 day of October 2007 at _____.

Borrower:
Committee to elect Amy Daugherty

By: _____
Committee to elect Amy Daugherty

PROMISSORY NOTE

$2,700.00 Date: March 11, 2008

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted]untington, West Virginia 25701, promises to pay to the order of Amy Daugherty, (the "Lender"), a[redacted]untington, wv 25701, (or at such other place as the Lender may designate in writing) the sum of $2,700.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 11 day of March, 2008 at _____.

Borrower:
Committee to elect Amy Daugherty

By: _____
Committee to elect Amy Daugherty

Page 7.

ITEMIZED EXPENDITURES
(Itemize 3rd party expendures/ reimbursements)

☑ *Check if additional pages have been attached.*

Date	Name of Person or Vendor and Address	Purpose	Amount
7/24/07	Cordell Printing 11th 20th St Huntington, WV 25701	Banneres and Cards	$ 481.24
7/30/07	First Sentry 525 3rd St. Huntington, WV 25701	Checks for account	$ 94.34
8/13/07	Dans Sporting Goods 1155 4th Ave Huntington, WV 25701	Shirts	$ 190.60
8/16/07	Dale Stephens 2277/2 5th Ave Hgtn. WV 25701	Signs	$ 2000.00
8/16/07	Ronald Webb "Donald"	Signs	$ 636.00
10/3/07	Carter Custom Graphics River Plaza Barboursville, WV 25504	Frisbees Parades	$ 600.00
10/9/07	Lewis Promotional Marketing P.O. Box 511 Grandview, KS 66030	Pens	$ 1,435.00
10/28/07	USPS Downtown Station Huntington, WV 25701	Stamps	$ 164.00
12/6/07	Dale Stephens 2277/2 5th Ave Huntington, WV 25701	Signs	$ 2595.00
12/19/07	Camelot Photography 720 14th St. W Huntington, WV 25704	Photos	$ 159.00
1/6/08	WV Democratic Ex. Committee 217 Lee St. East Ste. 214 Charleston, WV 25301	Voters Reg. List For Mailings	$ 300.00
1/13/08	Cabell County Clerk Karen Cole - Court House Huntington, WV 25701	Filing Fee For Magistrate	$ 500.00
2/19/08	Dale Stevens 2277/2 5th Ave Hgtn WV 25701	Delivery of Signs	$ 98.20
3/11/08	Lamar Advertising PO Box 458 Kenova, WV 25530	Billboards	$ 5,370.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total Expenditures:

Page 7. **ITEMIZED EXPENDITURES**
(Itemize 3rd party expendures/ reimbursements)

☑ *Check if additional pages have been attached.*

Date	Name of Person or Vendor and Address	Purpose	Amount
11/6/07	Ken Arnold Caterers Huntington, WV 25703	Fundraiser Food	1,272.00
11/6/07	Ramada Inn 3044 16th St. Rd Huntington WV	Fundraiser Room Rental	250.00
11/6/07	1937 Flood Band 200 12th Ave Huntington, WV 25701	Fundraiser Entertainment	300.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total Expenditures:

Page 8. **Receipt of a Transfer of Excess Funds**

☐ *Check if additional pages have been attached.*

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfers of Excess Funds:	

Disbursements of Excess Funds

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
	Total Disbursements of Excess Funds:		

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Page 7.

ITEMIZED EXPENDITURES
(Itemize 3rd party expendures/ reimbursements)

☐ *Check if additional pages have been attached.*

Date	Name of Person or Vendor and Address	Purpose	Amount
3/05/12	Lamar Advertising P.O. Box 496 Lenoir NC 28645	Billboards	$ 744.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total Expenditures: 17,238.48

Page 8. Receipt of a Transfer of Excess Funds

☐ *Check if additional pages have been attached.*

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfers of Excess Funds:	

Disbursements of Excess Funds

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
	Total Disbursements of Excess Funds:		

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Page 9. **UNPAID BILLS** ☐ *Check if additional pages have been attached.*

Date	Owed to Whom	Affiliated with what Company or Group	Purpose	Amount
			Total Unpaid Bills:	

OATH OR AFFIRMATION

I, Trasha L. Pelfrey, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

Signature of Candidate, Financial Agent or Treasurer

Date April 1, 20 08

STATE OF WEST VIRGINIA
COUNTY OF CABELL
The forgoing instrument was acknowledged
before me this 1 day of April 2008
My commission expires November 10, 2016
Notary Public/Deputy

OFFICIAL SEAL
STATE OF WEST VIRGINIA
NOTARY PUBLIC
MARSHA L. CHASTAIN
145 Woodland Drive
Milton, WV 25541
My Commission Expires Nov. 10, 2016

Office Use Only

Received by:

State of West Virginia Campaign Financial Statement
(Long Form) in Relation to the 2008 Election Year

Candidate or Committee Name	Candidate or Committee's Treasurer
Amy Daugherty	Tresha L. Burns
Political Party (for candidates)	**Treasurer's Mailing Address (Street, Route or P.O. Box)**
Democrat	[redacted]
Office Sought (for candidates) / **District/Division**	**City, State, Zip Code** / **Daytime Phone #**
Magistrate / Cabell	Huntington, WV 25701 / 617-0880

Election Cycle Reporting Period (check one):

- ☐ Primary - First Report — Due March 29 - April 4, 2008
- ☐ Pre-primary Report — Due April 28 - May 2, 2008
- ☒ Post-primary Report — Due May 26 - 30, 2008
- ☐ General - First Report — Due Sept. 22- 26, 2008
- ☐ Pre-general Report — Due Oct. 20- 24, 2008
- ☐ Post-general Report — Due Nov. 17 - 21, 2008

Non-Election Cycle Reporting Period:

- ☐ Annual Report due in ____Calendar Year — Due last Saturday in March or within 6 days thereafter

Check If Applicable:

- ☐ Amended Report — You must also check box of appropriate reporting period
- ☐ Final Report — Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:

	Totals for this Period
Contributions (Page 3)	Ø
+ Monetary Contributions from all Fund-Raising Events (Page 4)	+ Ø
+ Receipt of a Transfer of Excess Funds (Page 8)	+ Ø
Total Monetary Contributions:	= Ø
+ In-Kind Contributions (Page 5)	+ Ø
Total Contributions:	= Ø

Other Income (Page 5)	Ø
+ Loans Received (Page 6)	+ Ø
Total Other Income:	= Ø

OUTSTANDING LOANS & DEBTS:

Unpaid Bills (Page 9)	Ø
+ Outstanding Loans (Page 6)	+ 17,700.00
Total Debts:	= 17,700.00

CASH BALANCE SUMMARY

Beginning Balance (ending balance from previous report)	$1,115.62
+ Total Monetary Contributions	+ Ø
+ Total Other Income	+ Ø
Subtotal: a.	= $1115.62

Total Expenditures (Page 7)	616.95
+ Total Disbursements of Excess Funds (Page 8)	+ Ø
+ Repayment of Loans (Page 6)	+ Ø
Subtotal: b.	= 616.95

Ending Balance: (Subtotal a. - Subtotal b.) **Cannot be negative balance*	= $498.67

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE
(Add total contributions from all reports)
10,240.00

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE
(Add total expenditures from all reports)
27,441.36

Page 2

CONTRIBUTORS OF:

$250 or less			More than $250		
Date	Full Name	Amount	Date		Amount
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	

☐ *Check if additional pages have been attached.*

Total Contributions: (add both columns) Ø

ITEMIZED EXPENDITURES (Itemize 3rd party expenditures/ reimbursements)

Date	Full name, residence address (if person); business address (if firm)	Purpose	Amount
5/16/08	Mand M Mailing Co. P.O. Box 4605 Huntington WV 25778	Postage	78.41
9/4/08	Mand M Mailing Co. " "	Mailings	15.42
5/10/08	Dale Stephens AAA Signs P.O. Box 9006 Huntington WV 25704	Wickets For Signs	373.12
9/4/08	Herald Dispatch P.O. Box 2017 Huntington WV 25720	Advertising	150.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total Expenditures: 616.95

OATH OR AFFIRMATION

I, Tresha L. Burns, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

Tresha L. Burns
Signature of Candidate, Agent, or Treasurer

Date May 28, 2008.

Office Use Only

Received By:_____

State of West Virginia Campaign Financial Statement
(Long Form) In Relation to the 2008 Election Year

Candidate or Committee Name	Candidate or Committee's Treasurer
Amy Daugherty	Trisha L. Burns
Political Party (for candidates)	Treasurer's Mailing Address (Street, Route or P.O. Box)
Democrat	[redacted]
Office Sought (for candidates) / District/Division	City, State, Zip Code / Daytime Phone #
Magistrate / Cabell	Huntington WV 25701 / 617-0880

Election Cycle Reporting Period (check one):

- ☐ Primary - First Report — Due March 29 - April 4, 2008
- ☐ Pre-primary Report — Due April 28 - May 2, 2008
- ☐ Post-primary Report — Due May 26 - 30, 2008
- ☒ General - First Report — Due Sept. 22- 26, 2008
- ☐ Pre-general Report — Due Oct. 20- 24, 2008
- ☐ Post-general Report — Due Nov. 17 - 21, 2008

Non-Election Cycle Reporting Period:

- ☐ Annual Report due in ____ Calendar Year — Due last Saturday in March or within 8 days thereafter

Check If Applicable:

- ☐ Amended Report — You must also check box of appropriate reporting period
- ☐ Final Report — Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS: Totals for this Period

Contributions (Page 3)	$ 7,225.00
Monetary Contributions from all Fund-Raising Events (Page 4)	+ Ø
Receipt of a Transfer of Excess Funds (Page 8)	+ Ø
Total Monetary Contributions:	= 7,225.00
In-Kind Contributions (Page 5)	+ Ø
Total Contributions:	= 7,225.00

Other Income (Page 5)	
Loans Received (Page 8)	+ $ 1000.00
Total Other Income:	= $ 1000.00

OUTSTANDING LOANS & DEBTS:

Unpaid Bills (Page 9)	
Outstanding Loans (Page 6)	+ 17,700.00
Total Debts:	= 18,700.00

CASH BALANCE SUMMARY

Beginning Balance (ending balance from previous report)	498.67
Total Monetary Contributions	+ 7225.00
Total Other Income	+ 1,000.00
Subtotal: a.	= 8723.67

Total Expenditures (Page 7)	3995.30
Total Disbursements of Excess Funds (Page 8)	+ Ø
Repayment of Loans (Page 6)	+ Ø
Subtotal: b.	= 3995.30

Ending Balance: (*Subtotal a. - Subtotal b.*) **Cannot be negative balance*	= 4,728.37

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE
(Add total contributions from all reports)
$ 17465.00

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE
(Add total expenditures from all reports)
$ 31,436.66

Page 2.

Contributors of $250 or Less

☐ *Check if additional pages have been attached.*

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
6/13/08	Dwight & Sharon McMillion	$150.00
7/21/08	Occupational Disability	$200.00
7/21/08	Jeanette Basham	$50.00
7/21/08	Dan Egnor	$100.00
7/23/08	Arthur and Judith Sortett	$25.00
7/23/08	Sandra Stepp	$50.00
8/13/08	Sandra Callebs	$25.00
8/13/08	Phil and Connie Pappas	$25.00
8/13/08	Ray and Barbara Everett	$100.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of contributors of $250.00 or less: $725.00

Page 3.

Contributors of More than $250

Check if additional pages have been attached.

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE'S NAME	AMOUNT
6/19/08	Full Name: Washington Ave Pre Owned Address: (residential and mailing if they are different) 245 Washington Ave. Contributor's job: (individual contributor only) Car Dealership Where contributor works: (individual contributor only) same Affiliation: (political committee only)	~~$1000.00~~ $500.00
6/20/08	Full Name: William Roberts Address: (residential and mailing if they are different) P.O. Box 241 Pikeville Ky 41502 Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Lawyer Affiliation: (political committee only)	$1,000.00
7/03/08	Full Name: William L. Redd Address: (residential and mailing if they are different) 530 5th AVE 25701 Contributor's job: (individual contributor only) Lawyer Where contributor works: (individual contributor only) Affiliation: (political committee only)	$1,000.00
7/23/08	Full Name: Ken Hicks Address: (residential and mailing if they are different) 742 4th AVE 25701 Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Lawyer Affiliation: (political committee only)	$1,000.00
7/23/08	Full Name: Sabrina Arnett Address: (residential and mailing if they are different) P.O. Box 489 Salyersville Ky 41465 Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Lawyer Affiliation: (political committee only)	$1,000.00
7/23/08	Full Name: Grover Arnett Address: (residential and mailing if they are different) P.O. Box 489 Salyersville Ky 41465 Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Lawyer Affiliation: (political committee only)	$1,000.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of all contributors of more than $250:

Subtotal of all contributors of $250 or less (From page 2): +

Total Contributions: =

Page 3.

Contributors of More than $250

☐ *Check if additional pages have been attached.*

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE'S NAME	AMOUNT
9/18/08	Full Name: Joe Stevens Address: (residential and mailing if they are different) P.O Box 635 Contributor's job: (individual contributor only) Lawyer Hamlin, 25523 Where contributor works: (individual contributor only) 5137 Court AVE. Affiliation: (political committee only)	$1,000.00
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of all contributors of more than $250:	6,500
Subtotal of all contributors of $250 or less (From page 2):	+ 725.00
Total Contributions:	= 7225.00

Page 4.

FUND-RAISING EVENTS

☐ *Check if additional pages have been attached.*

All monetary contributions received at a fundraiser must be reported in the Event Summary below.
If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund.
The only exception to this rule may apply to political party executive committees. (WV Code §3-8-5a)

EVENT SUMMARY

Date of Event ______	Total Monetary Contributions:
Type of Event ______	Total Expenditures: (Itemized on page 7) -
Name of Place Held ______	NET RECEIPTS: =
Address of Place Held ______	Total In-Kind Contributions Related to the Fund-raiser (Itemized on page 5.) Ø

Contributors of $250 or less

Date	Full Name	Amount

Subtotal of contributors of $250.00 or less: Ø

Contributors of more than $250

Date		Amount
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	

Subtotal of contributors of more than $250:
Subtotal of contributors of $250 or less: +
Total Contributions: Ø

MAKE COPIES OF THIS PAGE TO LIST ADDITIONAL CONTRIBUTIONS. ATTACH ADDITIONAL PAGES TO REPORT.

Page 5.

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount

Total Other Income:

☐ *Check if additional pages have been attached.*

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Market Value

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total In-Kind Contributions:

Page 6.

LOANS

☑ *Check if additional pages have been attached.*

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable.

Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case.

Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.

How to report loans

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below:
   a. loan(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. Any loan that was repaid in previous reporting periods does not need to be listed.
   b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)
2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS

(A copy of the loan agreement for each loan secured during this filing period must accompany this report)

Bank Loans: List name & address of financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period Amount	Column B Amount of new loan received during period Date	 Amount	Column C Repayments during period Date	 Amount	Column D Balance outstanding at end of period Amount
1. Ann Dunlavey, [redacted]	$17,700.00	5/21	1,000.00	Ø		$18,700.00
2.						
3.						
4.						
5.						
			Loans Received		Repayment of Loans	Outstanding Loans
Totals:			$ 1000.00		Ø	18,700.00

PROMISSORY NOTE

$1,000.00 Date: May 27, 2008

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted]huntington, West Virginia 25701, promises to pay to the order of amy Daugherty, (the "Lender"), at [redacted]huntington, West Virginia 25701, (or at such other place as the Lender may designate in writing) the sum of $1,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 27 day of May, 2008, at Huntington, WV.

Borrower:
Committee to elect Amy Daugherty

By: Sasha S. Burns
Committee to elect Amy Daugherty

Page 7.

ITEMIZED EXPENDITURES
(Itemize 3rd party expendures/ reimbursements)

☐ *Check if additional pages have been attached.*

Date	Name of Person or Vendor and Address	Purpose	Amount
5/27/08	Lamar Advertising P.O. Box 458 Kenova, WV 25530	Deposit for Billboards	$297.60
6/19/08	Democratic Womens Committee RR1 Box 438 Lesage WV 25537	lunch	$22.00
6/19/08	American Red Cross 1111 Veterans Memorial Blvd. Huntington, WV 25709	Ad.	$100.00
6/20/08	LP Marketing P.O. Box 54 Gardner KS 66030	Pens	$1,460.00
6/20/08	LP Marketing P.O. Box 54 Gardner KS 66030	Can Coolers	$235.00
8/15/08	Sams Club 432 Private Dr. 288 South Point OH 45680	Food for Picnic (DNC)	$106.47
8/15/08	Sagds 1049 12th St. Huntington WV 25701	Cheese tray for luncheon	$40.17
8/30/08	Wal Mart 3333 US. Route 60 Huntington, WV 25705	Mums Door Prizes	$55.44
8/30/08	Democratic Womens Committee RR1 Box 438 Lesage WV 25537	lunch	$25.00
9/8/08	Dale Stevens (AAA Signs) 227½ 5th ave Huntington, WV 25701	Wickets For Signs	$580.00
9/11/08	Sams Club 432 Private dr. 288 South Point Ohio 45680	Candy for Parade.	$93.62
9/11/08	Big Eagle 400 W. 4th St. Huntington, WV 25704	Advertisement	$530.00
9/15/08	Lamar Advertising P.O. Box 458 Kenova, WV 25530	Billboards Art Work	$500.00

MAKE AS MANY COPIES
OF THIS PAGE AS YOU NEED.

Total Expenditures: $3995.30

Page 8. Receipt of a Transfer of Excess Funds

☐ *Check if additional pages have been atached.*

Date	Candidate Committee Name and Year	Amount

Total Receipts of Transfers of Excess Funds:

Disbursements of Excess Funds

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount

Total Disbursements of Excess Funds:

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Page 9. **UNPAID BILLS** ☐ *Check if additional pages have been attached.*

Date	Owed to Whom	Affiliated with what Company or Group	Purpose	Amount

Total Unpaid Bills: Ø

OATH OR AFFIRMATION

I, Sandra S. Burns, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

Sandra S. Burns
Signature of Candidate, Financial Agent or Treasurer

Date Sept. 23, 2008

Office Use Only

Received by:

2008 SEP 24 P 12:18

KAREN S. COLE
CABELL COUNTY
CLERK

State of West Virginia Campaign Financial Statement
(Long Form) in Relation to the 2008 Election Year

Candidate or Committee Name	Candidate or Committee's Treasurer
Amy Daugherty	Tresha Burns
Political Party (for candidates)	Treasurer's Mailing Address (Street, Route or P.O. Box)
Democrat	[redacted]
Office Sought (for candidates) / District/Division	City, State, Zip Code / Daytime Phone #
Magistrate / Cabell	Huntington, WV 25701 / 617-0880

Election Cycle Reporting Period (check one):

- ☐ Primary - First Report — Due March 29 - April 4, 2008
- ☐ Pre-primary Report — Due April 28 - May 2, 2008
- ☐ Post-primary Report — Due May 26 - 30, 2008
- ☐ General - First Report — Due Sept. 22- 26, 2008
- ☒ Pre-general Report — Due Oct. 20- 24, 2008
- ☐ Post-general Report — Due Nov. 17 - 21, 2008
- Non-Election Cycle Reporting Period: ☐ Annual Report due in ____ Calendar Year — Due last Saturday in March or within 6 days thereafter

Check if Applicable:

- ☐ Amended Report — You must also check box of appropriate reporting period
- ☐ Final Report — Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

Fill in totals at the completion of the report.

RECEIPTS OF FUNDS:	Totals for this Period
Contributions (Page 3)	$325.00
Monetary Contributions from all Fund-Raising Events (Page 4)	+ Ø
Receipt of a Transfer of Excess Funds (Page 8)	+ Ø
Total Monetary Contributions:	= 325.00
In-Kind Contributions (Page 5)	+ Ø
Total Contributions:	= 325.00

Other Income (Page 5)	Ø
Loans Received (Page 6)	+ 2000.00
Total Other Income:	= 2000.00

OUTSTANDING LOANS & DEBTS:

Unpaid Bills (Page 9)	Ø
Outstanding Loans (Page 6)	+ 19,700
Total Debts:	= 19,700

CASH BALANCE SUMMARY	
Beginning Balance (ending balance from previous report)	$4728.37
Total Monetary Contributions	+ 325.00
Total Other Income	+ 2000.00
Subtotal: a.	= 7053.37
Total Expenditures (Page 7)	$5658.39
Total Disbursements of Excess Funds (Page 8)	+ Ø
Repayment of Loans (Page 6)	+ 1,000.00
Subtotal: b.	= 6658.39
Ending Balance: (*Subtotal a. - Subtotal b.*) **Cannot be negative balance*	= $394.98

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE
(Add total contributions from all reports)
$ 17,790

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE
(Add total expenditures from all reports)
$ 37095.05

Page 2.

Contributors of $250 or Less

☐ *Check if additional pages have been attached.*

DATE	CONTRIBUTOR'S FULL NAME OR COMMITTEE'S NAME	AMOUNT
9/23/08	Lewis Bright	$100.00
9/23/08	John and Jean Morris	$100.00
9/26/08	Donald Trainer	$50.00
10/16/08	Philip and Beverly Carter	$75.00

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of contributors of $250.00 or less: $325.00

Page 3.

Contributors of More than $250

☐ *Check if additional pages have been attached.*

DATE	INDIVIDUAL CONTRIBUTOR OR COMMITTEE'S NAME	AMOUNT
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual contributor only) Where contributor works: (individual contributor only) Affiliation: (political committee only)	

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED

Subtotal of all contributors of more than $250:	
Subtotal of all contributors of $250 or less (From page 2):	+
Total Contributions:	=

Page 4.

FUND-RAISING EVENTS

☐ *Check if additional pages have been attached.*

All monetary contributions received at a fundraiser must be reported in the Event Summary below.
If contributor's name and amount are not listed, the contribution must be turned over to the West Virginia General Revenue Fund.
The only exception to this rule may apply to political party executive committees. (W V Code §3-8-5a)

EVENT SUMMARY

Date of Event		Total Monetary Contributions:	
Type of Event		Total Expenditures: (Itemized on page 7)	-
Name of Place Held		NET RECEIPTS:	=
Address of Place Held		Total In-Kind Contributions Related to the Fund-raiser (Itemized on page 6.)	

Contributors of $250 or less

Date	Full Name	Amount

Subtotal of contributors of $250.00 or less:

Contributors of more than $250

Date		Amount
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	
	Full Name: Address: (residential and mailing if they are different) Contributor's job: (individual only) Where contributor works: (individual only) Affiliation: (Political committee only)	

Subtotal of contributors of more than $250:

Subtotal of contributors of $250 or less: +

Total Contributions:

MAKE COPIES OF THIS PAGE TO LIST ADDITIONAL CONTRIBUTIONS. ATTACH ADDITIONAL PAGES TO REPORT.

Page 5.

OTHER INCOME: INTEREST, REFUNDS, MISCELLANEOUS RECEIPTS

Date	Source of Income	Type of Receipt	Amount

Total Other Income:

☐ *Check if additional pages have been attached.*

IN-KIND CONTRIBUTIONS

Date	Name and Contributor Information	Description of Contribution	Market Value

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total In-Kind Contributions:

Page 6.

LOANS

☐ *Check if additional pages have been attached.*

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

The loan agreement must include all items asked for in the statute. (See above.) The loan agreement does not have to follow a certain format; generally, if all the required information is listed, any format is acceptable.

Candidates or political committees that take out a loan for the campaign through a bank or other commercial lending institution must include a copy of the loan agreement executed with that bank or institution. Candidates should not take out loans which are partially for personal use and partially for the campaign. It is almost impossible to keep reporting straight in this case.

Any money a candidate contributes to his or her campaign committee with the hope of repayment must be treated as a loan and reported in this section. When a candidate determines that no further repayment can be expected, the loan can be reported as repaid in this section by entering the amount left to repay in the repayments column and reporting the same amount as a contribution from the candidate on Page 2. These loans must be executed in writing. Caution: Candidates may not carry outstanding loans from one campaign to the next. Each campaign is separate. Funds from a current campaign cannot be used to repay a loan from a previous campaign.

How to report loans

1. Each loan for your campaign should be listed on a separate line. (Each time you loan money to the campaign or get a loan, it is considered to be a separate loan.) Include the following information on the form below:
   a. loan(s) from prior reporting periods and the balance of each loan (Col. A.) If a payment was made on the loan, list that in Col. C. Any loan that was repaid in previous reporting periods does not need to be listed.
   b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)
2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS

(A copy of the loan agreement for each loan secured during this filing period must accompany this report)

Bank Loans: List name & address of financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period	Column B Amount of new loan received during period		Column C Repayments during period		Column D Balance outstanding at end of period
	Amount	Date	Amount	Date	Amount	Amount
Amy Daugherty [redacted] Huntington, WV 25701	18,700.00	10/01	2,000	10/15	$1,000.00	$ 19,700
2.						
3.						
4.						
5.						
		Loans Received		Repayment of Loans		Outstanding Loans
Totals:		$ 2,000		$ 1,000		19,700

PROMISSORY NOTE

$ 2,000.00 Date: Oct. 1, 2008

For value received, the undersigned Committee to elect Amy Daugherty (the "Borrower"), at [redacted] huntington, West Virginia 25701, promises to pay to the order of amy Daugherty, (the "Lender"), at [redacted] huntington, West Virginia 25701, (or at such other place as the Lender may designate in writing) the sum of $2,000.00 with no interest.

The unpaid principal shall be payable in full on December 31, 2008 (the "Due Date").

All payments on this Note shall be applied first in payment of accrued interest and any remainder in payment of principal.

If any payment obligation under this Note is not paid when due, the remaining unpaid principal balance and any accrued interest shall become due immediately at the option of the Lender.

The Borrower reserves the right to prepay this Note (in whole or in part) prior to the Due Date with no prepayment penalty.

If any payment obligation under this Note is not paid when due, the Borrower promises to pay all costs of collection, including reasonable attorney fees, whether or not a lawsuit is commenced as part of the collection process.

If any of the following events of default occur, this Note and any other obligations of the Borrower to the Lender, shall become due immediately, without demand or notice:

1) the failure of the Borrower to pay the principal and any accrued interest in full on or before the Due Date;

2) the death of the Borrower or Lender;

3) the filing of bankruptcy proceedings involving the Borrower as a debtor;

4) the application for the appointment of a receiver for the Borrower;

5) the making of a general assignment for the benefit of the Borrower's creditors;

6) the insolvency of the Borrower;

7) a misrepresentation by the Borrower to the Lender for the purpose of obtaining or extending credit.

If any one or more of the provisions of this Note are determined to be unenforceable, in whole or in part, for any reason, the remaining provisions shall remain fully operative.

All payments of principal and interest on this Note shall be paid in the legal currency of the United States. The Borrower waives presentment for payment, protest, and notice of protest and nonpayment of this Note.

No renewal or extension of this Note, delay in enforcing any right of the Lender under this Note, or assignment by Lender of this Note shall affect the liability or the obligations of the Borrower. All rights of the Lender under this Note are cumulative and may be exercised concurrently or consecutively at the Lender's option.

This Note shall be construed in accordance with the laws of the State of West Virginia.

Signed this 1st day of October 2008, at Huntington, WV.

Borrower:
Committee to elect Amy Daugherty

By: Trasha S. Burns
Committee to elect Amy Daugherty

Page 7.

ITEMIZED EXPENDITURES

(Itemize 3rd party expendures/ reimbursements)

☐ *Check if additional pages have been attached.*

Date	Name of Person or Vendor and Address	Purpose	Amount
9/29/08	Sam's Club 432 Private dr. 288 South Point OH 45680	Candy for Parade	$125.00
9/29/08	Democratic Womens Club RR1 Box 458 Lesage WV 25530	lunch	$25.00
10/1/08	Clear Channel Radio 134 4th ave Huntington WV 25701	Ad on Radio	$749.00
10/1/08	Connoisseur Media Radio 136 Main St. West Port CT 06880	Ad on Radio	$540.00
10/8/08	Lamar Advertising P.O. Box 458 Kenova WV. 25530	Bill boards	$2678.40
10/8/08	Herald Dispatch P.O. Box 2017 Huntington WV 25701	Ads	$100.00
10/14/08	Big lots 101 Eastern Heights Huntington WV 25705	Door prizes Candy for parade	$98.79
10/14/08	CCDEC (Jim Morgan) P.O. Box 117 Huntington, WV 25706	contribution to Committee	$200.00
10/15/08	Herald Dispatch P.O. Box 2017 Huntington, WV 25701	Ads	$1142.20

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total Expenditures: $5658.39

Page 8. Receipt of a Transfer of Excess Funds

☐ *Check if additional pages have been atached.*

Date	Candidate Committee Name and Year	Amount
	Total Receipts of Transfers of Excess Funds:	

Disbursements of Excess Funds

Date	Name of candidate committee and election year disbursing excess funds	Purpose of Disbursement	Amount
	Total Disbursements of Excess Funds:		

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Page 9. **UNPAID BILLS** ☐ *Check if additional pages have been attached.*

Date	Owed to Whom	Affiliated with what Company or Group	Purpose	Amount

Total Unpaid Bills:

OATH OR AFFIRMATION

I, Tresha Burns, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

Tresha Burns
Signature of Candidate, Financial Agent or Treasurer

Date Oct. 20, 2018

Office Use Only

Received by:

State of West Virginia Campaign Financial Statement
(Short Form) in Relation to the 2008 Election Year

IF YOUR ANSWER TO ANY OF THE FOLLOWING QUESTIONS IS "YES," YOU CANNOT USE THIS FORM. YOU MUST USE THE LONG FORM (FORM F-7) TO FILE YOUR CAMPAIGN FINANCE REPORT.

1. Has your committee received any loans ?
2. Has your committee held any fundraisers?
3. Has your committee received any miscellaneous receipts, such as refunds or checking account interest?
4. Does your committee have any unpaid bills?
5. Have you or anyone else given an in-kind contribution to your campaign?
6. Has your committee given or received a transfer of excess campaign funds?

Candidate or Committee Name	Candidate or Committee's Treasurer
AMY DAUGERTY	TRESHA BURNS
Political Party (for candidates)	**Treasurer's Mailing Address (Street, Route or P.O. Box)**
Democrat	[redacted]
Office Sought (for candidates) / **District/Division**	**City, State, Zip Code** / **Daytime Phone #**
Magistrate / Cabell	Huntington, WV 25701 / 617-0880

Election Cycle Reporting Period (check one):

- ☐ Primary - First Report — Due March 29 - April 4, 2008
- ☐ Pre-primary Report — Due April 28 - May 2, 2008
- ☐ Post-primary Report — Due May 25 - 30, 2008
- ☐ General - First Report — Due Sept. 22 - 26, 2008
- ☐ Pre-general Report — Due Oct. 20 - 24, 2008
- ☒ Post-general Report — Due Nov. 17 - 21, 2008

Non-Election Cycle Reporting Period:

- ☐ Annual Report Due In ____ Calendar Year — Due last Saturday in March or within 6 days thereafter

Check if Applicable:

- ☐ Amended Report — You must also check box of appropriate reporting period
- ☐ Final Report — Zero balance required. PAC must also file Form F-6 Dissolution

REPORT TOTALS

(Fill in totals after you have completed page 2)

CASH BALANCE SUMMARY

Beginning Balance (ending balance from previous report)	1.		394.98
Total Contributions (from Page 2)	2.	+	Ø
Subtotal (lines 1+2)	3.	=	394.98
Total Expenditures (from Page 2)	4.	–	Ø
Ending Balance (lines 3-4)		=	394.98

**Cannot have a negative ending balance*

TOTAL CONTRIBUTIONS ELECTION YEAR-TO-DATE (Add line 2 from all reports)

17,790

TOTAL EXPENDITURES ELECTION YEAR-TO-DATE (Add line 4 from all reports)

37,095.05

Page 2

CONTRIBUTORS OF:

$250 or less			More than $250		
Date	Full Name	Amount	Date		Amount
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	
				Full Name: Address: Contributor's job: (Individual) Where contributor works: (Individual) Affiliation: (Political committee)	

☐ *Check if additional pages have been atached.*

Total Contributions: (add both columns)

ITEMIZED EXPENDITURES (Itemize 3rd party expenditures/ reimbursements)

Date	Full name, residence address (if person); business address (if firm)	Purpose	Amount

MAKE AS MANY COPIES OF THIS PAGE AS YOU NEED.

Total Expenditures:

OATH OR AFFIRMATION

I, Tresha Burns, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement, as required by West Virginia Code §3-8-5a.

Tresha Burns
Signature of Candidate, Agent, or Treasurer

Date November 17, 2008

Office Use Only

Received By:_____

Page 6.

LOANS

☐ *Check if additional pages have been attached.*

West Virginia Code: §3-8-5f. Loans to candidates, organizations or persons for election purposes.

"Every candidate, financial agent, person or association of persons or organization advocating or opposing the nomination or election of any candidate or the passage or defeat of any issue or item to be voted upon may not receive any money or any other thing of value toward election expenses except from the candidate, his or her spouse or a lending institution. All loans shall be evidenced by a written agreement executed by the lender, whether the candidate, his or her spouse, or the lending institution. Such agreement shall state the date and amount of the loan, the terms, including interest and repayment schedule, and a description of the collateral, if any, and the full names and addresses of all parties to the agreement. A copy of the agreement shall be filed with the financial statement next required after the loan is executed."

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   b. new loans, the amount (Col. B), any repayments (Col. C), and the balance (Col. D.)
2. Attach a copy of the loan agreement for each loan received during the reporting period.

LOANS

(A copy of the loan agreement for each loan secured during this filing period must accompany this report)

Bank Loans: List name & address of financial institution Candidate or Candidate's Spouse Loans: List name, residence and mailing address of person(s) making or cosigning loan	Column A Balance of previous loan at end of period Amount	Column B Amount of new loan received during period Date	 Amount	Column C Repayments during period Date	 Amount	Column D Balance outstanding at end of period Amount
Amy Daugherty [redacted]	19,700		∅		∅	19,700
2.						
3.						
4.						
5.						
		Total Loans Received		Repayment of Loans		Outstanding Loans
			∅		∅	19,700

NOV 20 PM 12:18
KAREN S. COLE
CABELL COUNTY
CLERK

PETTY CASH VOUCHER

CASH OUT DATE: 1/20/10 AMOUNT: 100.00

TO WHOM: Lance Brown

FOR: _____

SIGNATURE: _____

*****CASH IN******

CASH BACK DATE: _____ AMOUNT: _____

RECEIPT(S) FOR: Santa Fe Dao 4562

_____

##

PETTY CASH VOUCHER

CASH OUT DATE: 1/22/10 AMOUNT: 70.00

TO WHOM: Ken Sturgill

FOR: Ashland 20 cu dumpster 50 - Ran Jas

SIGNATURE: _____

*****CASH IN******

CASH BACK DATE: _____ AMOUNT: _____

RECEIPT(S) FOR: _____

_____

Homeland Security & Governmental Affairs Committee
EXHIBIT #52

CLF00118

ROC/CAS/OTS AWARDS NOMINATION FORM

FOR ALL NON-BARGAINING UNIT EMPLOYEES

NOMINEE (Individual or Group): Gregory Hall

Position: Group Supervisor Component: OHA Region III_____

Location: Huntington HO Period Covered: 10/1/00 to 9/30/01

Description of employee's accomplishments and contributions:

_Mr. Hall has made major contributions to the efficient running of the Huntington Hearing Office. Since his arrival the excessive use of leave without pay has decreased and employees who were using excessive amounts of leave have changed their leave usage. Mr. Hall has also adapted very quickly to the process of OHA from his experience in the District Office. He has demonstrated an ability to learn new work processes quickly and effectively. His efforts have contributed to increased efficiency and public service.

(If more space is needed, continue on reverse)

Nominated by (Name): Charlie P. Andrus Position: _HOCALJ

Component: _OHA_____ Region: __III_____

Phone: (304) 529-5531__ Extension: __348____ Date: _4/1/02___

TYPE OF AWARD

_XX_____ ROC I would recommend a cash award as Mr. Hall is due shortly for a WIGI

_____ CAS/OTS

Homeland Security & Governmental Affairs Committee
EXHIBIT #53

Receipt acknowledged by: _____ Date: _____

First-Line Supervisor

Tab B

ROC/ECSA/ERA AWARDS NOMINATION FORM

(NBUE and NFFE)

NOMINEE (Individual or Group): ___Greg Hall_____

Position: __HOD_____ Component: SSA:ODAR

Location: _Huntington, WV_____ Period Covered: ___October 2005 to September 2006_____

TYPE OF AWARD: (check one) QSI ____ ROC ____ ECSA ____ ERA ____

Description of employee's accomplishments and contributions:

_Mr. Hall assumed his duties as HOD and was immediately put into a difficult position as our IDA certification was moved up nine months. Mr. Hall organized the staff to meet this new challenge and lead the office to some of the highest scores on the evaluation, in an extremely short time, with numerous changes to the process while this was going on. Mr Hall is a tireless worker, yet he always has time to assist employees with their problems. Mr Hall is also an excellent supervisor making sure that the office functions smoothly and he keeps me well informed as to his actions. He insures that our reports are timely and accurate, and his use of management information is excellent. With all of his expertise, he still thinks of the morale in the office. He has provided imaginative football and basketball season "kickoff" parties for the staff with games prizes and lunch. His wry sense of humor can defuse most situations and most importantly he has that rare ability to know when to be serious and when a touch of humor is appropriate. He is a pleasure to work with and is an example of the best in federal management.

(If more space is needed, continue on reverse)

Nominated by (Name): __Charlie Paul Andrus_____ Position: __HOCALJ_____

Tab B

ROC/ECSA/ERA AWARDS NOMINATION FORM

(NBUE and NFFE)

Region/Component: _Region III ODAR_____

Phone: _304.529.5531____ Extension: _348_____ Date: __11/9/2004__

Receipt acknowledged by: _____ Date: _____

First-Line Supervisor

SOCIAL SECURITY

MEMORANDUM

Date: March 18, 2009 Refer To:

To: All Region III HOCALJs

From: Jasper J. Bede /s/
Regional Chief Administrative Law Judge – Region III

Subject: Designation of Assistant Regional Chief Administrative Law Judges and Special Assistant to the Regional Chief Administrative Law Judge

I am very pleased to announce that Judges David G. Hatfield and Charlie Paul Andrus have accepted assignments as Assistant Regional Chief Administrative Law Judges for the Philadelphia Region. They will serve in this capacity in addition to maintaining their regular duties as Hearing Office Chief Administrative Law Judges for the Seven Fields and Huntington Hearing Offices.

Judge Hatfield was appointed Administrative Law Judge and was assigned to the Pittsburgh Hearing Office in October 1995. He served as the Hearing Office Chief Judge of the Pittsburgh Hearing Office from November 1999 to February 2001. He served as the Acting Deputy Chief Judge and as Acting Chief Judge. On October 16, 2006, he was appointed Hearing Office Chief Administrative Law Judge of the Seven Fields, Pennsylvania Hearing Office. Judge Hatfield received his B.A. from Indiana University and Juris Doctorate from the George Mason University School of Law.

Judge Andrus was appointed Administrative Law Judge in March 1986. He has served as the Hearing Office Chief Judge of the Huntington Hearing Office since August 1997. Judge Andrus received his B.A. and Juris Doctorate from Indiana University Bloomington, Indiana.

I have also asked Judge Therese Hardiman to be the Special Assistant to the RCALJ for electronic business process initiatives. This assignment will include training, mentoring and advising ALJs in all technical areas involving electronic case processing including CPMS, eFile/eView and PCOM tools. It will also include computer skills enhancement for ALJs in areas such as Outlook, Word, and FIT/DGS. In addition she will be involved in the development and coordination of any new electronic initiatives. Judge Hardiman received her B.A. from Mount Saint Mary's University and Juris Doctorate from Thomas M. Cooley Law School.

In addition to their experience as HOCALJs, all three bring to their new assignment a wealth of management and leadership experience. Judges Hatfield, Andrus and Hardiman have served as instructors and mentors for new ALJs.

Homeland Security & Governmental Affairs Committee
EXHIBIT #54

While Judge Hardiman assumes her new role, Judge Edward Brady has agreed to serve as the Acting HOCALJ in the Wilkes-Barre Hearing Office beginning March 30.

Please join me in congratulating Judges Hatfield, Andrus, Hardiman and Brady on their new assignments.

cc: Frank A. Cristaudo, Chief Judge
Regional Chief Judges
Hearing Office Directors, Region III

SOCIAL SECURITY ADMINISTRATION

Office of Hearings and Appeals

Tel:
Fax:

MEMORANDUM

Date: May 10, 2001

To: Charlie Andrus, HOCALJ
Huntington, West Virginia

From: Gregory A. Hall, Group Supervisor
Huntington, West Virginia

Subject: Absence of Judge David B. Daugherty

Yesterday, May 9, 2001 I received a call from our security guard, Arlie Mullins, as to the whereabouts of Judge Daugherty. It was about 10:40 AM and the judge was scheduled for hearings, but could not be found. I was acting HOD for the week as Harriette Cyrus was in a meeting in Falls Church, Va. The judge had hearings scheduled at 10:00 AM; 10:30 AM; and another scheduled for 11:00 AM. The 10:00 AM and 10:30 AM hearings were waiting and Arlie was just concerned as the 11:00 AM hearing was drawing close.

I searched the building and could not find the judge. His auto was not where it usually is parked. I called his house and he was there. He stated he had forgotten about the hearings. He then came immediately into the office and conducted the three hearings.

On Thursday, May 10, 2001 I noticed that Judge Daugherty had shown eight (8) hours worked and also some credit hours worked. There was no mention of leave. He may have later changed the timesheet to reflect leave I do not know.

I point this out to you only because we are holding people accountable for their leave and the fact that many people knew we were looking for Judge Daugherty and he was not here.

Homeland Security & Governmental Affairs Committee
EXHIBIT #55

Message0005	
Subject:	**RE: Judge Daugherty**
From:	Cristaudo, Frank
Date:	6/20/2002 7:53:25 AM
To:	Hamel, Gregory; Loughran, Valerie

Message Body

Greg,

Please see the message I sent to Judge Andrus, SCS, etc., on both of these Daugherty matters. Thanks.

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/
Philadelphia Region - Committed to Providing Quality Due Process Hearings and Decisions
[Timely Hearing & Decision - Adequately Developed Record - Fair Hearing - Legally Sufficient Written Decision]

-----Original Message-----
From: Hamel, Gregory
Sent: Thursday, June 20, 2002 6:53 AM
To: Loughran, Valerie; Cristaudo, Frank
Subject: Judge Daugherty

There's not much to add to Val's detailed and accurate summation. This reminds me a little bit of the situation Judge Bukes has reported regarding some of the Pittsburgh employees. As in the that case, the IG is not going to get involved here. I'm not sure we need SCS's involvement at this stage, but since Sarah H. and I are discussing the other Daugherty matter (the incident in which he reportedly raised his voice at a staff member) I can mention this situation to her. However, I see nothing wrong with Judge Andrus' doing a memo as would/should be done with any employee engaged in the behavior noted. I'm sure Howard would help draft such a memo.

Greg

-----Original Message-----
From: Loughran, Valerie
Sent: Wednesday, June 19, 2002 3:24 PM
To: Cristaudo, Frank; Hamel, Gregory
Subject: RE:

First of all, the IG should not and will not get involved in Time and Leave problems. This is absolutely absurd. This is a clear cut administrative action and the responsibility of the HOCALJ. Second, bargaining unit employees and that includes other judges, and security guards do not investigate time and leave problems, nor should they be asked to document abuse by other employees. This is a management issue and responsibility. (period, period, period.) As I said previously, if this judge's conduct is so egregious and occurs so frequently that everyone else observes it, it should be very simple for management to document it. He allegedly goes to breakfast every morning. Please---how hard can this be. I believe that Judge Andrus wants someone else to do

his job. This is not going to happen. And even if it did, it would not hold up anywhere. I believe if Judge Andrus wanted to do something, he could have done it long ago. But he doesn't. He is just waiting for something to happen and/or trying to shift the responsibility to someone else. It simply won't work. I also believe that the mitigating factors in the recent outburst by this judge, weakens the case considerably. As far as I recall there have been no actions against this judge in many years, so there is no progressive pattern of behavior here (that is documented.) Judge Andrus needs to counsel him and put it in writing. That is my recommendation. We have many bigger fish to fry than this and we do little in the big cases, what are the chances in this one, particularly when the HOCALJs only role is to duck any real responsibility to take appropriate action.

-----Original Message-----
From: Cristaudo, Frank
Sent: Wednesday, June 19, 2002 2:52 PM
To: Loughran, Valerie; Hamel, Gregory
Subject: FW:
Importance: High

In the event I did not send this to you previously. How do you think we should handle this?

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/
Philadelphia Region - Committed to Providing Quality Due Process Hearings and Decisions
[Timely Hearing & Decision - Adequately Developed Record - Fair Hearing - Legally Sufficient Written Decision]

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Tuesday, June 18, 2002 9:32 AM
To: Cristaudo, Frank
Subject: FW:
Importance: High

Judge Cristaudo,

Judge Kemper sent me this today. I checked with him and he is willing, as is Judge Showalter and perhaps Judge Paris to give specifics and to provide signed statements. Prior to this, while he was willing to tell me about this in general, he did not want to give specifics, or he did not want to be a witness. I guess Judge Daugherty has finally got them angry enough to do this.

I checked with the IG a few days ago and they declined to get involved and suggested that I go through you. Before we start down this road, which I am willing to travel, we need to decide how serious Special Counsel and the Associate Commissioner plan to be about this. I have to live in this town and if we do an investigation with documentation we had better be willing to do something.

I would like to know how to proceed to get the detailed facts that we would need. I am not comfortable with using other BUEs as investigators, and I don't think this is within the job description of the guard. This is going to have to be detailed as he will just allege that he was in some other part of the office. Perhaps you could talk to the IG. They would be ideal and it wouldn't take a lot of time to video tape him leaving and where he goes. I

have been told that we can't use the security videos (and the contract also provides this). If I am the only one who does this, he will claim that it is just a vendetta as he has "helped" those who filed EEO complaints, etc.

Please let me know what you want me to do.

Judge Andrus

-----Original Message-----
From: Kemper Jr, James D.
Sent: Tuesday, June 18, 2002 8:53 AM
To: Andrus, Charlie Paul
Cc: Showalter, Judith
Subject:

For your information, when I signed in today, I noticed that Judge Showalter had signed in at 7:15 and directly under her name was Judge Daugherty's initials reportedly showing that he had signed in at the same time. When I drove by the 3rd Avenue entrance at 7:35, I noticed Daugherty's car was parked in the handicap spot and after parking my car and coming to the front entrance, I noticed his car was gone. I spoke to Judge Showalter about this and she assured me that he was nowhere in sight when she signed in at 7:15. At exactly 8:10,Judge Showalter went downstairs and informed me that his car was still gone.

This is the usual procedure he follows every day. When Judge Paris is here, he usually signs in at 6:30 and if no one signs in earlier than about 7:15, Daugherty will sign in directly below Judge Paris' name at the same time of 6:30. If you will speak with Judge Paris, I am sure he will tell you that he never sees Daugherty when he comes in. One of us will be sending you periodic E-mails to show you this pattern of cheating on time and attendance which, by the way, Judges Gitlow, Chwalibog, and I have consistently informed you about through the years. .

Outlook Header Information
Subject: RE: Judge Daugherty
From: Cristaudo, Frank
Sender Name: Cristaudo, Frank
To: Hamel, Gregory; Loughran, Valerie
Delivery Time: 6/20/2002 7:53:25 AM
Creation Time: 6/20/2002 7:53:25 AM
Modification Time: 6/20/2002 7:53:26 AM
Submit Time: 6/20/2002 7:53:25 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 13861

Message0029	
Subject:	**RE: Judge Daugherty**
From:	Hamel, Gregory
Date:	9/23/2002 5:07:11 PM
To:	Cristaudo, Frank

Message Body

Will do.

-----Original Message-----
From: Cristaudo, Frank
Sent: Monday, September 23, 2002 5:02 PM
To: Hamel, Gregory
Cc: Loughran, Valerie
Subject: RE: Judge Daugherty

Thanks for sending this Greg. In the future with status requests to George's office you may wish to phrase them something like, "If we do not hear from you by _____, we shall assume that your office does not wish to proceed with a reprimand or suspension, thus we will consider issuing a counseling memo...." or something like that. The language would need to be better than what I just wrote. Thanks again.

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/

-----Original Message-----
From: Hamel, Gregory
Sent: Monday, September 23, 2002 4:02 PM
To: Lowe, George
Cc: Butler, Jesse; Cristaudo, Frank; Loughran, Valerie; Kennedy, Ted; Humphreys, Sarah
Subject: FW: Judge Daugherty

George,

I am writing primarily to inquire if SCS plans to take any action regarding Judge Daugherty's reported conduct in conjunction with a telephone call a staff member (Carol Huff) took for him. I believe your office received some correspondence and other materials on this matter earlier in the summer.

Can you also let us know if you have any recommendations or comment with regard to two other matters involving Judge Daugherty. One, also referenced below in Judge Cristaudo's note, involves an apparent time and attendance abuse on the part of Judge Daugherty, and the other involves an incident in which Judge Daugherty apparently cancelled a hearing trip and instead indicated that he would decide 30 of the 35 affected cases favorably with on-the-record decisions. I spoke with Sarah about this latter issue, and she has e-mails from Judge Cristaudo on the topic.

Could you let us know within a week of whether your staff intends to take action in these matters? Please let me know if you need more information. Your assistance and comment as always is appreciated.

Greg

Homeland Security & Governmental Affairs Committee
EXHIBIT #57
PSI-SSA-96D2-003146

Gregory M. Hamel
OHA Regional Attorney - Region III
(215) 597-4111

-----Original Message-----
From: Butler, Jesse
Sent: Wednesday, June 19, 2002 4:56 PM
To: Humphreys, Sarah
Subject: FW: Judge Daugherty

Sarah I know George is out so am directing this to you. See the attached message from Judge Cristaudo. I don't remember that we discussed this case on Friday, June 7 and I was not here on June 14 if there was a meeting with your staff. Can you advise Judge Cristaudo and myself about any plans to take action against this judge.

-----Original Message-----
From: Cristaudo, Frank
Sent: Wednesday, June 19, 2002 3:54 PM
To: Andrus, Charlie Paul
Cc: Butler, Jesse; Lowe, George; Loughran, Valerie; Hamel, Gregory; Goldberg, Howard
Subject: RE: Judge Daugherty

Thanks Charlie. I believe you need to investigate this matter by doing some checking yourself based on the allegations you have received. If it is as routine as alleged it should not be that difficult to determine first hand the violations. If you are satisfied that Judge Daugherty is violating the rules of conduct, I suggest you work with Howard Goldberg to draft a counseling memo that you would present to Judge Daugherty both orally and in writing. If Judge Daugherty engages in further time and attendance abuses, we will have a better chance of having the Associate Commissioner or Chief Judge issue a letter of reprimand. And if the problem persists beyond that, it is more likely that the agency would consider a suspension and eventually a termination action. I think we need to proceed progressively here. I do not recall if we counseled or reprimanded Judge Daugherty in the past for time and attendance abuses. If we have, the progressive discipline should be moved to the next level, i.e., reprimand or suspension.

By copy of this message I am asking George Lowe and Howard Goldberg if they have other thoughts on how to proceed here. If they do, they should let us know. If they think we should take a more severe approach they should let us know. I want us to take the appropriate action here.

I realize that Judge Daugherty may file a complaint, but I think as HOCALJ you have the responsibility to deal with the serious allegations that have been presented below.

On the other matter where we received a complaint from an employee in your office about Judge Daugherty's conduct involving a telephone call, by copy of this message I am asking Jesse and George to advise us if they have decided to take any action against Judge Daugherty. If not, I am advising you Charlie that you once again need to work with Howard Goldberg to draft a separate counseling memo which you need to present to Judge Daugherty both orally and in writing on that matter also.

If you have any questions or suggestions, please let us know. Thanks again.

Frank A. Cristaudo

Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
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Philadelphia Region - Committed to Providing Quality Due Process Hearings and Decisions
[Timely Hearing & Decision - Adequately Developed Record - Fair Hearing - Legally Sufficient Written Decision]

-----Original Message-----
From: Andrus, Charlie Paul
Sent: Tuesday, June 18, 2002 9:32 AM
To: Cristaudo, Frank
Subject: FW:
Importance: High

Judge Cristaudo,

Judge Kemper sent me this today. I checked with him and he is willing, as is Judge Showalter and perhaps Judge Paris to give specifics and to provide signed statements. Prior to this, while he was willing to tell me about this in general, he did not want to give specifics, or he did not want to be a witness. I guess Judge Daugherty has finally got them angry enough to do this.

I checked with the IG a few days ago and they declined to get involved and suggested that I go through you. Before we start down this road, which I am willing to travel, we need to decide how serious Special Counsel and the Associate Commissioner plan to be about this. I have to live in this town and if we do an investigation with documentation we had better be willing to do something.

I would like to know how to proceed to get the detailed facts that we would need. I am not comfortable with using other BUEs as investigators, and I don't think this is within the job description of the guard. This is going to have to be detailed as he will just allege that he was in some other part of the office. Perhaps you could talk to the IG. They would be ideal and it wouldn't take a lot of time to video tape him leaving and where he goes. I have been told that we can't use the security videos (and the contract also provides this). If I am the only one who does this, he will claim that it is just a vendetta as he has "helped" those who filed EEO complaints, etc.

Please let me know what you want me to do.

Judge Andrus

-----Original Message-----
From: Kemper Jr, James D.
Sent: Tuesday, June 18, 2002 8:53 AM
To: Andrus, Charlie Paul
Cc: Showalter, Judith
Subject:

For your information, when I signed in today, I noticed that Judge Showalter had signed in at 7:15 and directly under her name was Judge Daugherty's initials reportedly showing that he had signed in at the same time. When I drove by the 3rd Avenue entrance at 7:35, I noticed Daugherty's car was parked in the handicap spot and after parking my car and coming to the front entrance, I noticed his car was gone. I spoke to Judge Showalter about this and she assured me that he was nowhere in sight when she signed in at 7:15. At exactly 8:10,Judge Showalter went downstairs and informed me that his car was still gone.

This is the usual procedure he follows every day. When Judge Paris is here, he usually signs in at 6:30 and if no one signs in earlier than about 7:15, Daugherty will sign in directly below Judge Paris' name at the same time of 6:30. If you will speak with Judge Paris, I am sure he will tell you that he never sees Daugherty when he comes in. One of us will be sending you periodic E-mails to show you this pattern of cheating on time and attendance which, by the way, Judges Gitlow, Chwalibog, and I have consistently informed you about through the years. .

Outlook Header Information
Subject: RE: Judge Daugherty
From: Hamel, Gregory
Sender Name: Hamel, Gregory
To: Cristaudo, Frank
Received By: Cristaudo, Frank
Delivery Time: 9/23/2002 5:07:11 PM
Creation Time: 9/23/2002 5:07:11 PM
Modification Time: 9/23/2002 5:07:11 PM
Submit Time: 9/23/2002 5:07:11 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 16479

Message0024	
Subject:	**RE: Cheating on Time and Attendance**
From:	Cristaudo, Frank
Date:	7/1/2002 10:19:58 AM
To:	Andrus, Charlie Paul
CC:	Loughran, Valerie; Goldberg, Howard; Polito, Gerri

Message Body

Charlie,

As we discussed, please confront Judge Daugherty this morning about your observations of this morning about apparent failure to comply with the time and attendance rules, and send us an email today outlining your observations and the results of your investigatory discussion with Judge Daugherty. By copy of this message I am asking Gerri to arrange a conference call for tomorrow with you, Val, Howard, and me to discuss the action we think should be taken. Thanks. Frank

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/
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-----Original Message-----
From: Andrus, Charlie Paul
Sent: Friday, June 28, 2002 4:48 PM
To: Cristaudo, Frank
Subject: FW: Cheating on Time and Attendance

Judge Cristaudo,

I did not ask these judges to do any investigation, but I did receive this memo. I checked the serial time and attendance sheet and Judge Daugherty signed out without accounting for this absence. I was in hearings this week, and I have not had the opportunity to investigate the allegations that Judge Daugherty left the office after signing in to go to breakfast. I plan to do so starting Monday unless you advise me not to (cell phone [redacted] home phone [redacted]). I plan to arrive early and personally observe whether or not the judge leaves after signing in without notation on the sign-in sheet.

I will advise you as to the results.

Judge Andrus

-----Original Message-----
From: Kemper Jr, James D.
Sent: Friday, June 28, 2002 4:32 PM
To: Andrus, Charlie Paul
Cc: Gitlow, William H.; Showalter, Judith

Subject: Cheating on Time and Attendance

This is the another memo sent to you regarding Judge Daugherty's continuing practice of cheating on time and attendance. On this date (June 28, 2002) I arrived at the office at 7:15 a.m. and noted that Judge Showalter had signed in at 7:05 and Daugherty had signed in just below her name at the same time. She did not see him when she arrived. His car was not parked in front and he was not in his office when I arrived at 7:15. I turned out his light at that time. Thereafter, Judge Gitlow noted that Daugherty was not in his office when he signed in at 7:30. At 7:50, I went downstairs and noted that his car was still not in front. At 8:30 Judge Gitlow and Judge Showalter informed me that the car was not in front and he was still not in his office (light was still off). At 9:15 Judge Showalter noted that his car was still not parked in front or anywhere on either side of the street. Finally, at 9:30, he was seen in the building. It is clear, therefore, that he was gone from the office from between at least 7:15 to 9:15, a period of over two hours. Will he be taking leave or use credit hours like everyone else is required to do?

Outlook Header Information
Conversation Topic: Cheating on Time and Attendance
Subject: RE: Cheating on Time and Attendance
From: Cristaudo, Frank
Sender Name: Cristaudo, Frank
To: Andrus, Charlie Paul
CC: Loughran, Valerie; Goldberg, Howard; Polito, Gerri
Delivery Time: 7/1/2002 10:19:58 AM
Creation Time: 7/1/2002 10:17:59 AM
Modification Time: 7/1/2002 10:19:59 AM
Submit Time: 7/1/2002 10:19:59 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 9605

Message0133	
Subject:	**Time and Attendance Compliance of Judge Daugherty**
From:	Cristaudo, Frank
Date:	11/8/2002 7:08:45 AM
To:	Andrus, Charlie Paul
CC:	Loughran, Valerie; Hamel, Gregory; Goldberg, Howard

Message Body

Charlie,

You have often mentioned that Judge Daugherty fails to comply with time and attendance rules. We asked you to monitor his compliance with the time and attendance rules and to deal with any failures to comply. Please let me know the status of his compliance with the time and attendance rules.

Only by actually documenting incidents of unapproved absences will there be any opportunity to take action for such abuse. Therefore I am asking you to monitor the timesheet and whereabouts of Judge Daugherty. If he cannot be located in his private office or elsewhere in the office environment, you should leave a note in his office asking him to see you as soon as he returns. You of course should keep detailed notes to document periods of absence and times you left notes for him, etc. If he cannot be located in the office and has no approved leave for that time period, you need to direct someone from the management team to watch for his return to the office. The first time he is absent without approved leave, you should give him a leave slip and caution him that further time and attendance abuse will lead to AWOL assessments and disciplinary action. It is very important that you document each instance with notes and copies of leave slips as well as a summary of each incident and the discussion with him. If he persists with abuse of the time and attendance rules, with the record you will have created we will seek disciplinary action against him.

This message mentions only Judge Daugherty by name as he is the only one from your office about whom you have complained about failures to comply with time and attendance. However, the rules apply to everyone and the approach outlined above should be applied to anyone who does not comply.

If this message needs to be corrected or amplified, by copy of this message I am asking the others to let us know.

Please let me know if you would like to discuss this further. Greg Hamel is the staff contact on this issue. Thanks again. Frank

Frank A. Cristaudo
Regional Chief Judge
215-597-4106
frank.cristaudo@ssa.gov
http://ro.ba.ssa.gov/oha/philadelphia/

Outlook Header Information

Conversation Topic: Time and Attendance Compliance of Judge Daugherty
Subject: Time and Attendance Compliance of Judge Daugherty
From: Cristaudo, Frank
Sender Name: Cristaudo, Frank
To: Andrus, Charlie Paul
CC: Loughran, Valerie; Hamel, Gregory; Goldberg, Howard

Memorandum of Record November 18, 2002

To: Assistant IG for Investigations

Attn: Mr. Paul Ragland (Fax: 304 347-5495)

Subject: Criminal Misconduct in Huntington, WV Office of Hearings & Appeals

On Thursday, November 7, 2002, at about 7:35, I drove past our Office Building at 1108 3rd Avenue in Huntington, West Virginia and noted that Judge Daugherty's car was not parked in front of the building. He routinely parks his car in a handicaped spot directly in front of the Office building, within a few feet of the front door. He has a dark gray, [redacted] For many years, Daugherty has been known to abuse his time and attendance by placing the wrong time that he actually arrives on the time sheet, particularly if no one has arrived at the Office before him. He usually signs in at about 6:30 if he is the first to sign in. He then spends several minutes in the Office and either goes to breakfast or elsewhere for hours at a time. Knowing this, I decided that I would briefly park my car and sign in to keep him honest for at least an hour or so. I signed in at 7:40. As I was going down the elevator again to park my car in my assigned place, I saw Judge Daugherty park his car in his usual spot and enter the front door. I then parked my car and came back at about 7:45. I then saw Daugherty again on the first floor going towards his car. He said something to me about getting something from his car. I then went up in the elevator. At 8:45, Judge Gitlow arrived. I asked him whether he had seen Daugherty's car parked in front of the building when he entered the front door of the building. Judge Gitlow stated that the car was not there. Later that day, I noticed his car was gone at 12:00 when I went to lunch, after 1:00, when I returned, at 2:30 when I checked again, and at 4:40 when I checked the last time. When I signed out at 5:35, I noted that Daugherty had signed out at 5:10, claimed a full 8 hour work day, and one credit hour. There were no leave slips on the table that he had filled out. I made a copy of the time and attendance sheet for my own record of this event which is being faxed along with this memo.

The following day, on November 8, 2002, I decided to again check on Daugherty's arrival and departure time. I arrived in front of the building at 7:30, went upstairs to the sixth floor to look at the time and attendance sheet. No one had signed in at that point. I looked into Daugherty's Office and it was empty. Without signing in, I went back downstairs, got in my car, and parked across the street from the Office building where I could be in a position to see Daugherty drive up in front of the building and park in his usual handicap, metered space. My assigned day-to-day parking space, for which I pay $35.00 per month, is one block away from the Office and where I would be unable to see the front of the building where Daugherty usually parks. I sat in my car across the street and waited until Daugherty arrived. At 7:40 he pulled up in front of the building and walked in. I waited until almost 8:00 to see if he would leave the building. When he did not, I parked my car, came back to the building and went upstairs to sign in. There on the first line, I noted that Daugherty has signed in at 6:40, exactly one hour earlier than he actually arrived according to my own observations. I signed below his name at 8:00 am.

At exactly 8:40, I walked downstairs to see if Daugherty's car was still there. It was gone. I checked again at 10:00 and his car was still gone. I did not see his car at 12:30 or again at 2:00. I later saw him in the Office at about 3:00. He signed out at 3:40 and claimed that he worked a full 8 hour day, plus ½ credit hour.

It should be noted that when Judge Paris is in Huntington, he enters the office and signs in at 6:30. Judge Showalter usually comes and signs in between 7:00 and 7:30. During these times, Daugherty is forced to sign in at a later time, directly below their names, usually at exactly the same time as they signed. Neither Judge Showalter nor Judge Paris were in Huntington during the week of November 4th 2002. I was gone on November 6, 2002 and was in Prestonsburg, Ky the week of November 12-15. While Judge Daugherty abuses time and attendance throughout the month, the most egregious times he commits such acts are when Chief Judge Andrus is out of the Office for hearings or on vacation or when Judge Daugherty is not required to be present in Huntington to hold hearings. These last two days are examples of such occasions.

These are not isolated incidences, but represent an ongoing act of falsifying the time and attendance records in this Office and leaving the office without signing for annual or sick leave. I have reported these acts to Chief Judge Andrus on numerous occasions as have other judges. He in turn, to the best of my knowledge, has reported these offenses to the regional chief judge. As far as I know, Daugherty has been counseled, but nothing further has been done. He continues to commit these acts of fraud whenever he has the opportunity. As an example, in April 1998, he forged my initials on the time and attendance sheet. I promptly reported this to our Chief Judge (see memorandum to Charles Andrus dated April 18, 1998). Other than "counseling," it appears that no further action was taken.

It appears that the primary reason that no action has been taken is because Judge Daugherty puts out the largest number of cases in the Office. How does he do this? He grants, or finds an individual disabled and entitled to permanent disability benefits, on many cases without ever seeing the individual claimant at a hearing. When he does have hearings, the vast majority of such hearings are held in less than 10 minutes, hardly enough time to evaluate any individual properly. His "numbers" therefore make the administration look good. At the end of the fiscal year, he signed over 100 cases in a one month period. Most of these were favorable, and a large number of these were decided on-the-record, without ever seeing the claimant. The average number of cases decided by a judge in this office and elsewhere across the nation is less than ½ that figure. Why should management go after such an individual? On the other hand, how can management simply ignore criminal conduct? At the top of the time and attendance sheet it specifically says that "willful falsification of time records may result in severe disciplinary action including a fine of $10,000 or imprisonment or both (18 U.S.C. 287, 1001)." Furthermore, how must other employees feel who are making less than ¼ th the income that Judge Daugherty is making, when they are held to strict time and attendance standards? This also puts supervisors of such employees in an untenable position. What about the impact of such behavior on the reputation of the remaining judges in the office who adhere to the time and attendance rules and perform their duties as honestly and

effectively as they can? Judge Daugherty is supposed to be in the Office working. What do people in the community think when they observe him on so many occasions trooping through the golf course, shopping, or performing other private activities on official time? It makes a mockery of the entire Huntington Office and government employees in general. He is also violating the very code of professional ethics that he swore on oath that he would follow. See Standards of Ethical Conduct for Employees of the Executive Branch, OGC (1999), Subpart A-General Provisions, Section 2635.101 (Basic Obligations of public service) and Subpart G—Misuse of Position, Section 2635.705 (Use of Official Time).

This matter should be fully investigated and disciplinary action taken if found appropriate. It is recommended that a surveillance of this Office be conducted for several days at the times it would be most likely that Daugherty would abuse the time and attendance (when Andrus is not present and when Daugherty is not scheduled for hearings in Huntington) so that the investigators can see for themselves when he arrives and when he leaves and compare these observations with the times he enters on the time and attendance sheet.

If possible, I would rather not have my name mentioned as the source of this information unless it is contemplated that action will in fact be taken against Judge Daugherty and I will be required to make a statement or testify against him. I see no point in revealing my name if this matter is simply going to be dropped as it has been in the past.

James D. Kemper, Jr.
Administrative Law Judge
Office of Hearings & Appeals
Huntington, WV 25705
Tel: (304) 529-5531 (Ext. 332).

Message0517	
Subject:	**RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty**
From:	Cristaudo, Frank OHA Philadelphia RO
Date:	4/28/2005 2:21:13 PM
To:	Loughran, Valerie OHA Philadelphia RO

Message Body

What if I call Kemper and ask him for suggestions on how to deal with this problem?

> _____
> From: Loughran, Valerie OHA Philadelphia RO
> Sent: Thursday, April 21, 2005 9:40 AM
> To: Cristaudo, Frank OHA Philadelphia RO
> Subject: RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
>
> We can discuss this at our next LMR meeting. The other reason that Judge Andrus said he didn't want to do anything, was that he was subjected to false allegation that he was sniffing or smoking cocaine in his office!
>
> _____
> From: Cristaudo, Frank OHA Philadelphia RO
> Sent: Thursday, April 21, 2005 9:27 AM
> To: Loughran, Valerie OHA Philadelphia RO
> Subject: RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
>
> Perhaps we need to have the call with him and Harriette and then require him to file weekly or periodic reports on the aetions he has taken.
>
> _____
> From: Loughran, Valerie OHA Philadelphia RO
> Sent: Thursday, April 21, 2005 9:20 AM
> To: Cristaudo, Frank OHA Philadelphia RO
> Subject: RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
>
> Judge Andrus went on and on about how he has tried to do something but no one supports him. I told him that nothing has ever been documented sufficiently to address this matter. He is a master at wiggling out of things he doesn't want to do and aggressive in getting into things he does want to do. My only concern is not the outcome, but that we on record that we have attempted to address it.
>
> _____
> From: Cristaudo, Frank OHA Philadelphia RO
> Sent: Wednesday, April 20, 2005 5:31 PM
> To: Loughran, Valerie OHA Philadelphia RO
> Subject: RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
>
> Thanks Val. I agree something needs to be done. I have directed Judge Andrus on several occasions to take care of this. He is either unwilling or unable to handle the situation. I> '> m not sure the call will be helpful, but I am willing to do it. Should we ask Judge Kemper if he wants to be appointed the Acting HCJ to deal with this situation if Judge Andrus refuses to do so?
>
> _____

> From: Loughran, Valerie OHA Philadelphia RO
> Sent: Tuesday, April 19, 2005 8:20 AM
> To: Cristaudo, Frank OHA Philadelphia RO
> Cc: Loughran, Valerie OHA Philadelphia RO
> Subject: RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
>
> The timesheets are right outside Greg Hall's office, and he could see someone signing in, but I stood at the sign in sheet twice this morning and he did not notice me. I think we might want to ask that Greg at least for some period of time, note exactly when Judge Dougherty signs in. Unless he stays late he is not going to be able to see him sign out.
>
> _____
> From: Loughran, Valerie OHA Philadelphia RO
> Sent: Monday, April 18, 2005 3:46 PM
> To: Cristaudo, Frank OHA Philadelphia RO
> Cc: Loughran, Valerie OHA Philadelphia RO
> Subject: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
>
>
> Judge Kemper asked to speak to me after speaking with Barbara. He says that he has talked to Judge Andrus, you and OIG and no one has ever done anything about this blatant fraud.
>
>
> He says that Judge Dougherty continues to do as he has always done. He falsifies timesheets; when he does come in he disappears for long stretches without signing out and without charge to leave; and no one really seems to care. He feels that this is a totally wrong and unfair situation since no one else in the office is allowed to do this. (Not to mention, it is illegal.)>
>
> He says that Judge Dougherty parks in the alley, where he really isn't supposed to park, comes in and then leaves. One assumes that if his car is gone, then he is gone as well. I think we need to do something.
>
> I had suggested that the timesheets be moved to where they can be visible to someone in management, but that has not happened. This might keep him from falsifying the time sheets. We have an allegation that an employee is leaving the office regularly without charge to leave. We need to have someone establish whether this is true or not true and if its true, we need to take appropriate action. If it is not true, we need to document our findings and close the book. But we need to make this a federal case, and ensure that it is done this time. I think you, Judge Andrus, Harriette, and Howard and I need to discuss this.

Outlook Header Information
Conversation Topic: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
Subject: RE: Judge Kemper and Complaints about Leave Abuse by Judge Dougherty
From: Cristaudo, Frank OHA Philadelphia RO
Sender Name: Cristaudo, Frank OHA Philadelphia RO
To: Loughran, Valerie OHA Philadelphia RO
Delivery Time: 4/28/2005 2:21:13 PM
Creation Time: 4/28/2005 2:21:13 PM
Modification Time: 4/28/2005 2:21:13 PM
Submit Time: 4/28/2005 2:21:13 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 10337

Message0525	
Subject:	**RE: Complaint about Judge Daugherty's Time and Attendance**
From:	Cristaudo, Frank OHA Philadelphia RO
Date:	5/25/2005 4:09:22 PM
To:	Andrus, Charlie Paul
CC:	Loughran, Valerie OHA Philadelphia RO; Cyrus, Harriette M.; Hamel, Gregory OHA Philadelphia RO; Goldberg, Howard RO Philadelphia

Message Body

Thank you for discussing this matter with us today. I know you are busy closing cases the last week of the report period. I am very concerned that we handle this matter appropriately because of the prior complaints. If you need more time than outlined below, or if you have any other suggestions, please let me know. Thanks again Charlie. Frank

Frank Cristaudo
Regional Chief Judge
(215) 597-1700
http://ssahost.ba.ssa.gov/oharegion3/
Philadelphia Region: Committed to Providing Quality
Due Process Hearings and Decisions [Timely Hearing and Decision-
Adequately Developed Record-Full and Fair Hearing-Legally Sufficient Decision]

> _____
> From: Cristaudo, Frank OHA Philadelphia RO
> Sent: Monday, May 23, 2005 2:55 PM
> To: Andrus, Charlie Paul
> Cc: Loughran, Valerie OHA Philadelphia RO; Hamel, Gregory OHA Philadelphia RO; Goldberg, Howard RO Philadelphia
> Subject: Complaint about Judge Daugherty's Time and Attendance
>
>
> Charlie,
>
> Nice seeing you again last week Charlie. Congratulations on your HOMT Team Spirit award. As we discussed, we have received another complaint about Judge Daugherty> '> s alleged abuse of the time and attendance rules. As you know, this is not the first time we have received such a complaint. I realize sometimes people who believe others are violating the time and attendance rules do not know that the suspected individual in fact has taken leave. However, I am very concerned that these allegations continue to surface.
>
> I would like to schedule a conference call on this issue with your HOMT, and folks here in the RO including Val, Greg, Howard, and me. Please let me know if any day this week works for you.
>
> While you are primarily responsible for requiring the judges to comply with the standards of conduct, all members of the HOMT share in the responsibility and can assist you by being observant and reporting concerns to you for the necessary action if any. If you are not in the HO when they suspect a violation of one of the standards of conduct, they should first attempt to contact you to discuss the appropriate course of action to take. If they cannot reach you, they should call me, or if I am not available, Judge Slahta or Val.
>

> Once we have the call to discuss this matter, I would like you to investigate this matter for me and send me a written report of your findings and recommendations. In addition to speaking with the complainant and taking any other actions you believe necessary to fully investigate this matter, you will need to advise Judge Daugherty of the complaint and discuss the matter with him. As disciplinary action may result if the allegations are accurate, he should be advised of his right to representation. I would like your report by June 3 if possible. If you need more time, please let me know.
>
> I would also like you to discuss your expectations in regard to compliance with the time and attendance rules at a meeting of the judges. I would like that meeting to occur in June if possible. Please let me know when you have held that meeting.
>
> If you have any questions, or if you would like to discuss this further, please let me know. Thanks Charlie.
Frank
>
>

Outlook Header Information
Conversation Topic: Complaint about Judge Daugherty's Time and Attendance
Subject: RE: Complaint about Judge Daugherty's Time and Attendance
From: Cristaudo, Frank OHA Philadelphia RO
Sender Name: Cristaudo, Frank OHA Philadelphia RO
To: Andrus, Charlie Paul
CC: Loughran, Valerie OHA Philadelphia RO; Cyrus, Harriette M.; Hamel, Gregory OHA Philadelphia RO; Goldberg, Howard RO Philadelphia
Delivery Time: 5/25/2005 4:09:22 PM
Creation Time: 5/25/2005 4:09:22 PM
Modification Time: 5/25/2005 4:09:22 PM
Submit Time: 5/25/2005 4:09:22 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 11512

Message0536	
Subject:	**RE: Time and Attendance Re Judge Daugherty**
From:	Loughran, Valerie
Date:	7/15/2005 1:55:09 PM
To:	Cristaudo, Frank

Message Body

I think you might want to say something more: Thank you for investigating the alleged time and attendance policy violations on the part of one of your judges and your assurance that the matter has been taken care of. If a judge..

> _____
> From: Cristaudo, Frank
> Sent: Friday, July 15, 2005 1:51 PM
> To: Loughran, Valerie; Hamel, Gregory; Goldberg, Howard RO Philadelphia
> Subject: FW: Time and Attendance Re Judge Daugherty
>
> My proposed response to Judge Andrus to close out this matter:
>
> Judge Andrus,
>
> Thank you for looking into this matter for me. As you know, we expect the judges and all agency employees to comply with the agency's time and attendance policy. If a judge or any employee arrives late, leaves early, takes an extended lunch, or is otherwise absent from work without approval, we expect the individual to submit the proper leave request. Please continue to monitor this situation and advise me if you need our assistance in dealing with any of these issues. Thank you again.
>
> Frank Cristaudo
> Regional Chief Judge
> (215) 597-1700
> http://ssahost.ba.ssa.gov/oharegion3/
> Philadelphia Region: Committed to Providing Quality
> Due Process Hearings and Decisions [Timely Hearing and Decision-
> Adequately Developed Record-Full and Fair Hearing-Legally Sufficient Decision]
>
>
> _____
> From: Andrus, Charlie Paul
> Sent: Thursday, June 16, 2005 9:58 AM
> To: Cristaudo, Frank
> Cc: Goldberg, Howard RO Philadelphia
> Subject: Time and Attendance Re Judge Daugherty
>
> Judge Cristaudo,
>
> I have conducted an investigation into the allegations made by Judge Kemper regarding Judge Daugherty signing in at the wrong time. Judge Daugherty related that he had come in and started working at his computer and forgot to sign in on the roster. He then went to the sign in sheet and signed in for the time he arrived in the office.
>
> I spoke with him on the importance of accuracy in the sign in sheet and that the incident had been brought to my attention. I also reviewed his 7B file and there were no current memos in the file. The last time we had

> Unless there is something more you wish me to do, this concludes my action regarding this matter. I will keep a memory jogger of the incident.
>
> Charlie Paul Andrus
> Hearing Office Chief Judge

Outlook Header Information
Conversation Topic: Time and Attendance Re Judge Daugherty
Subject: Time and Attendance Re Judge Daugherty
From: Cristaudo, Frank
Sender Name: Cristaudo, Frank
To: Andrus, Charlie Paul
CC: Loughran, Valerie; Hamel, Gregory; Goldberg, Howard RO Philadelphia
Delivery Time: 7/15/2005 2:52:51 PM
Creation Time: 7/15/2005 2:52:51 PM
Modification Time: 7/15/2005 2:52:51 PM
Submit Time: 7/15/2005 2:52:51 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 9369

Message0553	
Subject:	**FW: Complaint**
From:	Kemper Jr, James D.
Date:	5/1/2007 10:29:41 AM
To:	Gitlow, William H.

Message Body

From: Habermann, Robert S.
Sent: Monday, April 30, 2007 4:09 PM
To: Kemper Jr, James D.
Subject: RE: Complaint

Dan,

I fully understand and concur with you assessment.

Hope all is well - I am looking forward to seeing you in Providence this summer.

Bob

From: Kemper Jr, James D.
Sent: Monday, April 30, 2007 4:01 PM
To: Habermann, Robert S.
Subject: RE: Complaint

Dear Bob,

Thank you for your assistance in this matter. I have decided after reading the response from your colleague and discussing my proposal with every judge in this Office. not to pursue this any further. Unfortunately, there were a lot of complaints from several of the judges here in the past, but no one has the backbone (I would like to use a less delicate term) to back me up if push comes to shove. I will be retiring about October 1, 2007 so if no one cares about Daugherty's conduct but me, then so be it. As far as your colleague's comment about personal animosity, if by reporting fraudulent conduct (putting out 100 cases per month and spending less than 30 hours in the Office, cheating on time and attendance, etc.) amounts to personal animosity, than I am guilty of this. However, I would do the same whether the judge was Daugherty, John Doe, or your colleague if I observed such behavior on a daily basis. You certainly saw the manner in which Daugherty conducts "hearings" when you were with him in Prestonsburg, Ky. several years ago. His conduct has not changed, as evidenced by my most recent trip there last week. People coming in and out of the hearing room in five minute intervals after being told that their case would be granted. As far as falsifying his time and attendance, everyone in this Office has seen him do this. (Entering the earliest possible time on arrival and the latest time on departure and leaving the Office for hours at a time without reporting annual leave. Several years ago, he forged my initials on a time and attendance sheet when I was the first one in the Office at 8:00 a.m. He tore off the original sheet that showed me as the first in the Office that morning, put his initials on line one of the new sheet, entered his

arrival time as 6:30, and forged my initials on line 2 as coming in at 8:00). Unfortunately, in the long run, this type of performance and conduct by a judge, whether it be Daugherty or anyone else, can only hurt the reputation of ALJ's everywhere. More importantly, it hurts the integrity of the entire disability program. Dan

---

From: Habermann, Robert S.
Sent: Monday, April 16, 2007 9:05 AM
To: Kemper Jr, James D.
Subject: Complaint

Good Morning Dan,

I sent your letter to one of my colleagues prior to responding to your proposed complaint with the IG. The following is his reply. I have hearings this morning.

Please let me know what you think.

Bob

" I have just a few comments. Are other ALJs in the hearing office also complaining about ALJ Daugherty? Unless other ALJs in the hearing office support filing a formal complaint against ALJ Daugherty, I would advise a solitary ALJ to seriously consider whether to do so. If only a solitary ALJ in a hearing office complains, the first question raised is whether personal animosity or bad blood between the two ALJs is the genesis of the complaint.

By way of comparison, the complaints against prior HOCALJ Johnson were filed jointly by four ALJs. Also, the four ALJs initially filed a complaint with CALJ Washington and then AC Thurmond about HOCALJ Johnson. It was only after CALJ Washington and AC Thurmond failed to take any remedial action that the four ALJs filed a complaint with the SSA Office of Inspector General (OIG). If an OIG complaint is filed, the OIG will conduct an investigation. How rigorous any OIG investigation will be is hard to determine in advance. OIG investigations have confidentiality restrictions. See Article 5 ("Employee Rights"), Section 4 (D), SSA/AALJ collective bargaining agreement (CBA).

Concerning the issues of ALJ Daugherty's high number of dispositions and high pay ratio, I would tend to wait until the SSA OIG Audit division completes its currently ongoing investigations and issues reports related to ALJ productivity and pay ratios before filing any formal complaint. Attached is a summary of the 2007 SSA OIG Workplan discussing currently ongoing and pending SSA OIG Audits. With respect to high number of dispositions, you might have noticed at page 6 of Jim Hill's 04/12/2007 Senior Attorney Adjudicator (SAA) proposal on behalf of NTEU the statement that a September 2006 Social Security Advisory Board (SSAB) Report included "findings" that "over 100 ALJs had a payment rate over 90% and over 300 ALJs had a payment rate of over 80%." [The reference to the September 2006 SSAB Report by Jim Hill is probably incorrect. The correct SSAB report is probably the May 2006 SSAB Report "Disability Decision Making: Data and Materials".]

Similarly, the January 2007 report of ALJ dispositions indicates that 62% of all ALJs dispositions are favorable. 25% of Appeals Council (AC) appeals are remanded. Given that a high percentage of AC remands are paid, the overall nationwide ALJ favorable disposition rate probably exceeds 70%. The January 2007 report of ALJ dispositions is published in NOSCCR's Social Security Forum, Volume 29, No. 3 (March 2007) at page 15. My point is that using high ALJ dispositions and favorable pay ratios as basis for an OIG complaint may be difficult to sustain since nationwide ALJ statistics in that regard appear to be extremely high.

Complaints against ALJs that would involve the SSA Office of Special Counsel (OSC) are discussed in the CBA at Article 5, Section 7 ("Complaints Regarding a Judge") and Article 21 ("Records"), Section 4 ("Bias and Misconduct Complaints"). Article 21, Section 4 discusses the ALJ bias and misconduct complaint process established in the SSA Notice published in the Federal Register at 57 Fed. Reg. 49,186 (1992). Unless there is indisputable evidence that ALJ Daugherty has falsified time records, I would not make that allegation.Also, allegations that ALJ Daugherty does not provide sufficient explanation to writers of the reasons for his decisions does not appear to be an issue that OIG or OSC would attempt to determine.

One final thought. All SSA ALJs are members of the AALJ bargaining unit (regardless of whether the ALJ is dues paying or non-dues paying). ALJ Daugherty may request assistance from AALJ as exclusive bargaining representative if a complaint is filed against him-even though the complaint is being filed by a fellow ALJ bargaining unit member. That is basically what occurred in the Ft. Wayne, IN hearing office where one ALJ filed a complaint against another ALJ.

As discussed at a recent NEB telephone conference, the NEB is apparently of the opinion that AALJ should not get involved with filing or supporting complaints against ALJ bargaining unit members. However, individual ALJs are free to file complaints pro se against other ALJs in the bargaining unit at any time and without any restriction by AALJ.

I hope some of the ruminations above are of some assistance.You may want to solicit additional opinions or suggestions from other NEB members about this situation. "

Outlook Header Information
Conversation Topic: Complaint
Subject: FW: Complaint
From: Kemper Jr, James D.
Sender Name: Kemper Jr, James D.
To: Gitlow, William H.
Received By: Gitlow, William H.
Delivery Time: 5/1/2007 10:29:41 AM
Creation Time: 5/1/2007 10:29:40 AM
Modification Time: 5/1/2007 10:29:41 AM
Submit Time: 5/1/2007 10:29:41 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 20475

From: Randolph, Sarah
Sent: Tuesday, October 14, 2008 3:33 PM
To: Andrus, Charlie Paul
Subject: ALJ Sign out sheet

FYI, An employee was looking for ALJ Daugherty to sign something at 3:20 today. I went to the sign out sheet and he had signed out at 3:30 and it was only 3:20. Apparently someone was looking for him on Friday also, Vicky mentioned that that DBD forgot to sign out on Friday, however, she could not find him all day and he claimed 8 hours. I have notified Jerry and John of the situation..

Tracking:

Homeland Security & Governmental Affairs
Committee
EXHIBIT #65

SHRED-ALL DOCUMENTS
Secure Information Destruction Service

www.ShredAllDocuments.com
P. O. Box 2894 • Pikeville, KY 41502
606-437-1032 Fax 606-478-7093
877-35-SHRED
info@shredalldocuments.com

Need 40 QB + Extended Tuesday

SHRED-ALL Documents Customer Service Agreement

PO Box 2894, Pikeville, KY 41502

Date: May 13, 2010

Scheduled June 8 Inv @ 1:00

Customer Billing Information: Eric C. Conn Law Offices
Attn: Jamie
Stanville, KY

Physical Location: US 23
Eric C. Conn Law Complex
Stanville, KY

Phone: Email: ericcconnlaw@gmail.com

SHRED-ALL Documents Information Destruction Service will provide the following services:

Service: __X__ **Free NAID "Compliance Toolkit" application.**

__XX__ **Secure cleanout services off-site at secured plant**
First 1000 lbs minimum charge $150.00
Amount after first 1000lbs cost equals (.12) twelve cents per pound.

Authorized client employee may view destruction in comfortable viewing office on closed circuit monitors, this option cuts the shredding time to less than half the time of on-site shredding.
NOTE: Regular route customers are not charged the minimum.

_____ **Secure cleanout services mobile on-site destruction**
First 1000 lbs minimum charge $200.00
Amount after 1000lbs costs equals (.18) eighteen cents per pound
Labor charges apply for **any wait time lapse or stairs or difficult access to materials during** clean outs to be agreed to **before** labor occurs by parties of both companies.
$ 60.00 per hour per employee.

_____ Secure Route Services

Bin Sizes

95 Gallon - holds approx 300lbs
65 gallon - holds approx 200lbs
Console - holds approx. 100lbs- perfect for small offices/reception areas.
BUD (bin under desk) – secure personal size container for convenience.

1 Pickup per calendar month minimum
(2nd Tuesday of each month, for example)

ALL Materials Recycled at no additional cost!
You may add this service to any "Going Green" initiatives/marketing
because ALL of your destroyed information material is recycled.
"SHRED-ALL Shred GREEN!
Protect your Customer, your Company and the Planet!"

Secure route services cost:

_____Secure information destruction (paper) and bin service

$50.00 includes FIRST bin per stop	**$ 50.00**
Includes secure shredding and free recycling	
Additional bins at same site	**$ 18.00 per bin**
Unscheduled Stop requests	**$ 50.00**
Cleanout Situations	**$ 0.12 per lbs**
Additional bins during cleanouts (no charge)	**$ 0.00**
Fuel Surcharge	**$ 0.00 per mile from base**
Plastics/cd/dvd destruction	**$ 0.38 per lbs**
Hard Drive destruction	**$ 35.00 per unit**
Computer/monitor destruction	**$ 35.00 per unit**

Options:

For Route service:
Charge for additional material outside containers= $ 0.12 per lb

Containers furnished remain the property of SHRED-ALL at all times.

1 Key furnished with each container upon request at no charge
Replacement for lost keys or additional keys=$ 5.00 each
Request for additional key must be made in writing by authorized employee.

Notarized Certificate of Destruction provided with each invoice
Shred-ALL Technicians are all bonded and insured.

NAID Compliance Toolkit authorized agent, be certain that your information destruction policies comply with the latest regulations at NO additional Cost!

Terms: **30 days** available upon approval

SHRED-ALL Documents liability insurance certificates available upon request.
Member National Association for Information Destruction (www.naidonline.org)
Accredited *Member Better Business Bureau.*

Authorized Signature:

Representative
Date: 5/13/10

Company Approval:

Date: May 13, 2010

Company approved representative must be at site of removal to sign removal ticket.
Please include their name below, any changes must be completed before removal begins and the above company representative from SHRED-ALL Documents must be informed and give acknowledgment.

_____ approved removal rep.

Additional contact information:

Additional Directions:

WWW.SHREDALLDOCUMENTS.COM
CONFIDENTIAL DOCUMENT

SHRED-ALL DOCUMENTS
Secure Information Destruction Service

www.ShredAllDocuments.com
P. O. Box 2894 • Pikeville, KY 41502
606-437-1032 Fax 606-478-7093
877-35-SHRED
info@shredalldocuments.com

Confidential Document Destruction Agreement

This Confidential Document Destruction Agreement is entered into as of this 13th, day of May, 2010 by and between SHRED-ALL Documents, having a place of business at Pikeville, KY 41501 and Eric C. Conn Law Offices having a place of business at Stanville, KY.

1. SERVICES

1.1 Services to be Furnished. Company will provide the services for the secure destruction of records ("Services") described on Exhibit A "service agreement" attached hereto and made a part hereof. Company will furnish a Certificate of Destruction to Customer, upon request by Customer. The Services may, at Customer's option and as indicated on Exhibit A, be performed as part of a regular schedule or pursuant to specific directions which Customer shall give Company from time to time. Customer may also request custom Services not set forth on Exhibit A, in which case Company will consult with Customer as to the terms and conditions of the Services requested.

1.2 Services to Affiliates and Subsidiaries. Customer's related, affiliated and subsidiary companies (including subsidiaries of affiliates) may acquire Services pursuant to this Agreement. Any such acquisition of Services will be evidenced by an Order executed by an authorized representative of the applicable affiliate or subsidiary in its own corporate name and referencing this Agreement. Invoices for such Services shall be directed to and be payable by such affiliate or subsidiary.

1.3 Services by Third Parties. Company may procure the services of any responsible third party to perform all or part of the Services, insofar as said third party complies with all security standards and procedures required of Company by Customer, and further that said third party shall accept in writing the fiduciary responsibility requisite of the transfer of custody. Company will remain liable for all Services performed for Customer. Company will record all custody transfers and/or the use of any subcontractor to render contracted services to the Customer, and make Customer aware of any use of any subcontractor, including their identity.

2. RESPONSIBILITIES

2.1 Right to Rely on Instructions. Company may act in reliance upon any instruction, instrument, or signature reasonably believed by Company to be genuine, and may assume that any of Customer's employees or any employee of Customer's affiliates or subsidiaries giving any written notice, request, or instruction has the authority to do so.

2.2 Compliance with Contracts, Laws and Regulations. Customer shall be responsible for, and warrant compliance with, all contractual restrictions and all applicable laws, rules and regulations, including but not limited to environmental laws and contractual restrictions and laws governing the

confidentiality, retention and disposition of information contained in any materials delivered to Company. Company shall comply with applicable laws, statutes, regulations and ordinances.

2.3 Cooperation and Assistance. Customer shall cooperate with Company with regard to the performance of the Services, subject to normal security requirements and in a manner that is not unnecessarily disruptive to Customer's business operations, by providing to Company such information, data, access to premises, management decisions and approvals as may be reasonable to permit Company to perform the Services hereunder.

2.4 Hazardous Substances. Customer shall not deliver to Company any material considered toxic or dangerous or which is regulated under any federal or state law or regulation relating to hazardous materials. In the event of the accidental or negligent custodial transfer of hazardous or regulated waste, including bio-hazard, Customer agrees to arrange to appropriately, safely and legally assume custody of such hazardous materials at their expense. And further to indemnify the Company from any property damage or personal injury resulting from such transfer of material.

2.5 Performance of Services. All Services performed by Company will be in a professional manner in accordance with NAID standards and practices. (Or as are described in the policies and procedure described in Exhibit "A " Service Agreement)

2.6 Material Descriptions: Itemized lists or descriptions of contents of materials submitted by the Customer to the Company shall be generally considered for recordkeeping, reconciliation, and reference purposes only, and are not to considered proof that said documents contained on such lists and descriptions are in fact contained in the materials accepted. Company will make provision for validation of such document contents in advance and under special terms and fess at the request of the Customer.

2.7 Negotiable Items: Customer agrees to make Company aware in writing and in advance of any instance in which negotiable instruments, including but not limited to checks, bearer bonds, travels checks, or coupons will be sent to a single facility in a single service where the total combined amount of said instruments will be in excess of $100,000.

3. **FEES AND PAYMENTS** - All standard charges for Services under this Agreement shall be as specified on Exhibit A. The prices set forth in Exhibit A shall remain in effect for the first twelve (12) months of this Agreement. Thereafter, price adjustments shall be made only after thirty (30) days' prior written notice. For any service requested by Customer that is not listed on Exhibit A, the charges will be as agreed to in writing by Customer and Company prior to the rendering of such Service. Invoices shall be due and payable within thirty (30) days from receipt of the applicable invoice. Amounts due and not paid within thirty (30) days after Customer's receipt of the invoice shall bear interest at the rate of one and one-quarter per cent (1.25%) per month.

4. **CONFIDENTIALITY** - "Confidential Information" means any information relating to Customer's property, business and affairs. Unless such Confidential Information was previously known to Company free of any obligation to keep it confidential, is subsequently made public by Customer or by a third party having a legal right to make such disclosure, or was known to Company prior to receipt of same from Customer, it shall be held in confidence by Company and shall be used only for

the purposes provided in this Agreement. Company shall use the same degree of care to safeguard your Confidential Information as it uses to safeguard its own. However, Company may comply with any subpoena or similar order related to materials delivered to Company; provided that it shall, unless prohibited by law, notify Customer promptly of any such subpoena or notice. Customer shall pay Company's reasonable costs for such compliance.

5. TERM AND TERMINATION

5.1 Term. This Agreement shall commence on the Effective Date set forth above and, unless otherwise terminated in accordance with Section 5.2, shall continue in effect for one year, with automatic renewal for successive one-year terms, unless written notice of non renewal is delivered by either party to the other not less than ninety (90) days prior to the date of expiration of such term.

5.2 Termination. Either party may terminate this Agreement if the other is in material or repeated breach of any of its obligations hereunder and the breaching party has not cured the breach within sixty (60) days after written notice from the non breaching party. In the event of any such termination, all amounts due for Services rendered up to the effective date of termination shall become due and payable. Upon termination, Customer shall return (or permit Company to retrieve) all Company bins and other property kept at Customer's site, and Company shall have no obligation to provide further Services to Customer.

6. CLAIMS AND DISPUTE RESOLUTION

6.1 Time for Presenting Claims. Customer must present any claim with respect to any Service in writing to Company within a reasonable time and in no case later than three (3) months after the occurrence of the event on which the claim is based.

6.2 Arbitration. Any claim, controversy, or dispute arising out of or relating to this Agreement, or any interpretation or breach of this Agreement or performance under this Agreement, including without limitation any dispute concerning the scope of this Article 6, that cannot be resolved within fifteen (15) days by informal discussions between the parties, shall be resolved by submission to final, binding and nonappealable arbitration, without any right by either party to trial de novo in any court. Such arbitration and all pre-hearing, hearing, and post-hearing arbitration procedures, including for discovery, disclosure of arbitrator's interests, and challenge of designation of any arbitrator, shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association. A single arbitrator shall be selected by the American Arbitration Association.

6.3 Services during Arbitration. During any arbitration proceedings, Company shall continue to provide Services, and Customer shall continue to make payments to Company, in accordance with this Agreement. The fact that arbitration is or may be allowed shall not impair the exercise of any termination rights under this Agreement.

7. LIABILITY AND WARRANTY

7.1 **Limitation of Liability. Company shall not be responsible or liable in any manner whatsoever for the release or loss of any materials deposited in bins or otherwise delivered to it for secure destruction unless the release or loss is due to Company's negligence or willful misconduct. Company's maximum liability for any and all claims arising with respect to the Services provided under this Agreement shall not exceed the aggregate amounts paid by Customer with**

respect to the Services provided at the particular Customer location during the six (6) months preceding the event which gives rise to a claim. In no event shall Company be liable for any consequential, incidental, special or punitive damages, regardless of whether the action is brought in tort, contract or any other theory.

7.2 Ownership Warranty. Customer warrants that it is the owner, legal custodian or otherwise has the right to deliver for confidential destruction any and all materials Customer provides Company hereunder. Customer shall reimburse Company for any expenses reasonably incurred by Company (including reasonable legal fees) by reason of Company complying with its obligations under this Agreement to destroy such materials in the event of a dispute concerning the destruction of the materials provided by Customer to Company.

8. MISCELLANEOUS

8.1 Notices. All notices hereunder shall be in writing and addressed to either party at its address set forth above (or to such other address as either party may specify by notice given in accordance with this Section). Notices to Company shall be sent to the attention of its General Manager.

8.2 Binding Nature and Assignment. This Agreement shall be binding on the parties and their respective successors and assigns. Except as permitted by Section 1.3 above, neither party may assign this Agreement, except to an affiliate, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

8.3 Force Majeure. Each party shall be excused from any delay or failure in performance under this Agreement for any period if and to the extent that such delay or failure is caused by acts of God, governmental actions, labor unrest, riots, unusual traffic delays or other causes beyond its control.

8.4 Relationship of Parties. Company is acting as an independent contractor hereunder and has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by Company under this Agreement.

8.5 Entire Agreement. This Agreement constitutes the entire agreement between Company and Customer with respect to the subject matter of this Agreement. No change, waiver, or discharge of this Agreement shall be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced. Except as provided in Section 3, this Agreement may be amended only by an amendment in writing signed by Customer and Company.

8.6 Invalidity. If any provision of this Agreement is declared invalid by any tribunal of competent jurisdiction, then such provision shall automatically be adjusted to the minimum extent necessary to the requirements for validity as declared at such time and as so adjusted shall be deemed a provision of this Agreement as though originally included herein. In the event that the provision invalidated is of such a nature that it cannot be so adjusted, the provision shall be deemed deleted from this Agreement as though such provision had never been included herein. In either case, the remaining provisions of this Agreement shall remain in effect.

8.7 Exclusivity: Customer agrees to retain Company on an exclusive basis at all facilities covered by this agreement for the term of this contract.

IN WITNESS WHEREOF, each of the parties have caused this Agreement to be executed by its duly authorized representative as of the Effective Date first set forth above.

CUSTOMER

By: _____

Title: _____

Date: _____

By: Tracy Syck, President
SHRED-ALL Documents

Date: May 13, 2010

Rock Solid Records Management and Secure Storage also available.

Shred Innovations, Inc.

Invoice

Shred-ALL Documents
Rock Solid Records Mgnt Svcs & Storage
PO BOX 2894
Pikeville KY. 41502

Date	Invoice #
6/30/2010	5773

PAID

Bill To

Eric C Conn Law
PO Box 308
Stanville, KY 41659

P.O. No.	Terms	Project
	Net 30	

Quantity	Description	Rate	Amount
5,612	Secure Information Destruction by Shredding Per lb Jamie Slone 6/8/10	0.12	673.44
	Certificate Of Destruction: Shred-ALL Documents hereby certifies that all materials for confidential destruction throughout the proceeding schedule of services was confidentially handled, completely destroyed beyond recognition and recycled. Tracy Syck, notary, My commission expires August 18, 2012	0.00	0.00T
	Sales Tax	0.00%	0.00

All work is complete!

Total $673.44

PSI-Shred_All_Docs-01-0009

06/07/10

D005809

Page No. 1

stomer: CONN - Eric C Conn Law Offices
Requestor: P.O. Box 328
Address:
Stanville, KY 41659.
Phone:
Desc: SCHEDULED SERVICE
Notes: Schedule Id = 5643
Comments: 80 boxes See Jamie [redacted]

Status: Open
Due: 06/08/10
Site:
Route: PMC TUESDAYS
Priority: S
Trans Code: TRX

Bin #	Service Type	Description	Bin Type	Code	Service Type	CBAD #
	SHP	Shred Per lbs off-site				

5,612

5773
Dor

Signature: Jamie Stone
Eric C Conn Law Offices
Date: 6/8/10

Signature:
Shred-All Documents
Date: 6.18.10

PSI-Shred_All_Docs-01-0010

Shred Innovations, Inc.

Invoice

Shred-ALL Documents
Rock Solid Records Mgnt Svcs & Storage
PO BOX 2894
Pikeville KY. 41502

Date	Invoice #
9/30/2010	6319

PAID

Bill To
Eric C Conn Law PO Box 308 Stanville, KY 41659

P.O. No.	Terms	Project
	Net 30	

Quantity	Description	Rate	Amount
5,881	Secure Information Destruction by Shredding Per lb Signature on file 9/15/10	0.12	705.72
	Certificate Of Destruction: Shred-ALL Documents hereby certifies that all materials for confidential destruction throughout the proceeding schedule of services was confidentially handled, completely destroyed beyond recognition and recycled. Tracy Syck, notary. My commission expires August 18, 2012	0.00	0.00T
	Sales Tax	0.00%	0.00

All work is complete!

Total $705.72

PSI-Shred_All_Docs-01-0011

09/14/10

D006760

stomer: CONN - Eric C Conn Law Offices

Requestor:

Address:

Stanville, KY

Phone:

Desc: SCHEDULED SERVICE

Notes: Schedule Id = 6468
Comments: Approximately 100 boxes.
Scheduled for 11am.

Status: Open
Due: 09/15/10
Site:
Route: 1ST OFF WEDNESD
Priority: S
Trans Code: TRX

Bin #	Service Type	Description	Bin Type	Codo	Service Type	CBAD #
	SHP	Shred Per lbs off-site				

5881 lbs

Signature: _____
Eric C Conn Law Offices

Date: 9-15-10

Signature: _____
Shred-All Documents

Date: 9/15/10

PSI-Shred_All_Docs-01-0012

Shred Innovations, Inc.

Shred-ALL Documents
Rock Solid Records Mgnt Svcs & Storage
PO BOX 2894
Pikeville KY. 41502

Invoice

Date	Invoice #
11/30/2010	6655

PAID

Bill To

Eric C Conn Law
PO Box 308
Stanville, KY 41659

P.O. No.	Terms	Project
	2% 10 Net 30	

Quantity	Description	Rate	Amount
7,256	Secure Information Destruction by Shredding Per lb	0.12	870.72
	Signature on file 11/15/10		
	Certificate Of Destruction: Shred-ALL Documents hereby certifies that all materials for confidential destruction throughout the proceeding schedule of services was confidentially handled, completely destroyed beyond recognition and recycled. Tracy Syck, notary, My commission expires August 18, 2012	0.00	0.00T
	Sales Tax	0.00%	0.00

All work is complete!

Total $870.72

PSI-Shred_All_Docs-01-0013

11/11/10

D007321

stomer: CONN - Eric C Conn Law Offices

Requestor:

Address:

Stanville, KY

Phone:

Desc: SCHEDULED SERVICE

Notes: Schedule Id = 6943
Comments: ~~11 cm~~

Status: Open
Due: 11/15/10
Site:
Route: CALL-IN
Priority: S
Trans Code: TRX

Bin #	Service Type	Description	Bin Type	Code	Service Type	CBAD #
	SHP	Shred Per lbs off-site				

(7256 lbs)

~~16~~ 56

Signature: _____ Date: 11-15-10
Eric C Conn Law Offices

Signature: SB Date: 11-15-10
Shred-All Documents

PSI-Shred_All_Docs-01-0014

Shred-ALL Documents

Rock Solid Records Mgmt & Storage
PO Box 2894
Pikeville, KY 41502

Date	Invoice #
6/30/2011	5846

PAID 07/31/2011

Bill To

Eric C. Conn Law Offices
12407 US Highway 23 S
Stanville, KY 41659

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description of Services	Bin Size	Rate	Serviced	Approved by	Amount
26,532	Secure shredding off-site at our plant Certificate Of Destruction: Shred-ALL Documents hereby certifies that all materials for confidential destruction throughout the proceeding schedule of services was confidentially handled, completely destroyed beyond recognition and recycled. Tracy Syck, notary, My commission expires August 18, 2012		0.12 0.00	6/23/2011	Jeanna Newsome	3,183.84 0.00

Thank you for your business.

Total $3,183.84

PSI-Shred_All_Docs-01-0015

Invoice# 7609 183661

CUSTOMER'S ORDER NO.	DEPARTMENT	DATE 1/9/12

NAME Eric C Conn

ADDRESS Stanville, Ky.

CITY, STATE, ZIP

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RETD	PAID OUT
TB						

	QUANTITY	DESCRIPTION	PRICE	AMOUNT
1				
2		Shred per lb		
3		off site		
4				
5				
6		88 @ 1		155
7				
8				
9				
10				
11				
12		Shred-ALL Documents		
13		P.O. Box 2894		
14		Pikeville, Ky 41502-2894		
15				
16				
17				
18				
19				
20				

RECEIVED BY Amy Slone

adams RDC5805

KEEP THIS SLIP FOR REFERENCE

ORIGINAL

Shred-ALL Documents

Rock Solid Records Mgnt & Storage
PO Box 2894
Pikeville, KY 41502

Date	Invoice #
1/31/2012	6809

Bill To

Eric C. Conn Law Offices
12407 US Highway 23 S
Stanville, KY 41659

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description of Services	Bin Size	Rate	Serviced	Approved by	Amount
8,821	Secure shredding off-site at our plant Certificate Of Destruction: Shred-ALL Documents hereby certifies that all materials for confidential destruction throughout the proceeding schedule of services was confidentially handled, completely destroyed beyond recognition and recycled. Tracy Syck, notary. My commission expires August 18, 2012	Purge Items	0.12 0.00	1/9/2012	Amy Stone	1,058.52 0.00

Thank you for your business

Total $1,058.52

PSI-Shred_All_Docs-01-0017

Phone # 877-35-SHRED Fax # 606-478-7093 info@shredalldocuments.com www.shredalldocuments.com

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD

SOCIAL SECURITY ADMINISTRATION, Agency, v. ALGERNON W. TINSLEY Respondent.	)	Docket No. Date:

STATEMENT OF CHARGES AND SPECIFICATIONS

The Social Security Administration ("SSA" or "Agency") hereby proposes that Algernon W. Tinsley ("Respondent"), an Administrative Law Judge ("ALJ") in the employ of SSA, appointed pursuant to 5 U.S.C. § 3105, be suspended for thirty (30) days, as the Agency believes that good cause supports Respondent's suspension. In accordance with 5 U.S.C. § 7521 and corresponding regulations, the Agency refers this matter to the Merit Systems Protection Board ("MSPB" or "Board") to determine if there is good cause to suspend Respondent.

General Background

Respondent is an ALJ assigned to the Huntington, West Virginia Hearing Office of SSA's Office of Disability Adjudication and Review (ODAR). The Huntington, West Virginia Office is one of approximately 140 hearing offices throughout the nation under the direction of ODAR, the component within SSA that administers the nationwide hearings and appeals program for SSA. The principal management official in the hearing office is the Hearing Office

Chief Administrative Law Judge ("HOCALJ"), who is responsible for the overall management and administration of that office. The HOCALJ is also the first-line supervisor of the ALJs in that particular office and is responsible for providing leadership and administrative direction to the ALJs and other employees under his or her supervision.

The Charge against Respondent is as follows:

Charge: Making a False Entry on an Agency Serial Time and Attendance Roster (SSA-30)

Specification: On or about May 16, 2007, Respondent made a false entry on an Agency Serial Time and Attendance Roster (SSA-30) when he stated that his "Time Out" was 5:30 p.m.

Specification: On or about May 18, 2007, Respondent made a false entry on an Agency Serial Time and Attendance Roster (SSA-30) when he stated that his "Time Out" was 5:30 p.m.

Specification: On or about August 24, 2007, Respondent made a false entry on an Agency Serial Time and Attendance Roster (SSA-30) when he stated that his "Time Out" was 5:30 p.m.

Specification: On or about October 18, 2007, Respondent made a false entry on an Agency Serial Time and Attendance Roster (SSA-30) when he stated that his "Time Out" was 5:45 p.m.

NARRATIVE

May 16, 2007, and May 18, 2007

Respondent was scheduled to hold hearings at the Huntington Hearing Office's remote site in Prestonsburg, Kentucky on Tuesday, May 15, Wednesday, May 16, and Friday, May 18, 2007. *See* Exhibit A. Although he was originally scheduled to hear four cases on Wednesday, May 16, Respondent, on his own, moved the Wednesday hearings to Tuesday, May 15, 2007, and heard no cases on Wednesday. Instead, Respondent allegedly prepared four (4) cases for hearings scheduled on Friday, May 18, 2007. Upon review, the four cases were routine. Furthermore, records show that his last hearing on Friday, May 18, 2007, ended at 3:40 p.m. *See* Exhibit B.

Upon Respondent's return to the Huntington office, he submitted to HOCALJ Charlie Paul Andrus SSA-30 forms (SSA Serial Time and Attendance Roster) for the previous week. *See* Exhibit C. Respondent submitted a separate sheet showing when he started work (Time In) and when he finished work (Time Out) each day. *Id.* The form SSA-30 that he completed for Wednesday, May 16, 2007, shows that he worked from 8:30 a.m. - 5:30 p.m. *Id.* The form SSA-30 that he completed for Friday, May 18, 2007, shows that he worked from 8:00 a.m. - 5:30 p.m. *Id.*

At the remote site in Prestonsburg, Kentucky, the last SSA employee to leave for the day is required to lock the door and set the building alarm. The security guards at the Prestonsburg office do not have the code to set the building alarm, nor do they have keys to the building. Therefore, the guards are instructed to stay at their post until 5:30 p.m., or until the last SSA employee leaves for the day, whichever comes sooner. The guards at the Prestonsburg office keep a log book to show when they leave their duty station. The log book shows that the last security guard on duty on May 16, 2007, left his post at 5:15 p.m., and the last guard on duty on May 18, 2007 left his post at 4:15 p.m. The guards would not have left before 5:30 p.m. on either day, if an SSA employee, like Respondent, remained in the building. Furthermore, HOCALJ Andrus confirmed these facts when he interviewed the guards. Thus, contrary to his statements on the Serial Time and Attendance Rosters, Respondent could not have remained at work at the Prestonsburg office until 5:30 p.m. on either day. Consequently, Respondent made false entries on the SSA-30 forms for Wednesday, May 16, 2007, and Friday, May 18, 2007, when he claimed to be working until 5:30 p.m.

August 24, 2007

Respondent was again scheduled to hold hearings at Huntington's remote site in Prestonsburg, Kentucky during the week of August 20, 2007. On Friday, August 24, 2007, Respondent recorded his time of departure on the SSA-30 form as 5:30 p.m. *See* Exhibit D. However, the last security guard on duty confirmed that he left the site at approximately 4:00 p.m. on Friday, August 24, 2007, or about 1 ½ hours before the time Respondent claimed he left. *See* Exhibit E. Furthermore, Amanda Hall, a hearing reporter, set the building alarm when she left at approximately 4:00 p.m. on Friday, August 24, 2007, and the alarm system remained on without incident for the rest of the day. *See* Exhibit F. It would have been impossible for any SSA employee, including Respondent, to exit the location after Ms. Hall's departure without tripping the alarm. Thus, Respondent made a false entry on the SSA-30 form for Friday, August 24, 2007, when he claimed to be working until 5:30 p.m. that day.

On or about September 16, 2007, HOCALJ Andrus spoke with Respondent and his union representative about Respondent's false entries on the SSA-30 form. Respondent could not provide an acceptable explanation for the August 24, 2007 incident, and said only that he could not remember, but that "he was there if he said he was." *See* Exhibit E.

October 18, 2007

Respondent was again scheduled to hold hearings at Huntington's remote site in Prestonsburg, Kentucky from October 14, 2007, through October 18, 2007. On Thursday, October 18, 2007, Respondent recorded his time of departure on the SSA-30 form as 5:45 p.m. *See* Exhibit G. However, the last security guard on duty confirmed that he left the site at approximately 4:28 p.m. on Thursday, October 18, 2007, or about 1 ¼ hours before the time Respondent claimed he left. Thus, contrary to the entry he made on the Serial Time and Attendance Roster, Respondent did not remain at work at the Prestonsburg office until 5:45 p.m.

Thus, Respondent made a false entry on the SSA-30 form for Thursday, October 18, 2007, when he claimed to be working until 5:45 p.m. that day.

CONCLUSION

As an Administrative Law Judge, Respondent holds a significant position with the United States Government. There are few positions within the Federal Government that carry with them the prestige and level of responsibility of the ALJ position. The Federal Government rightfully expects that Respondent fulfill his responsibilities with a considerable amount of independence. Further, in order for the Agency to meet its mission to advance the economic security of the Nation's people, it is essential that Agency ALJs follow all Agency rules and regulations and discharge their duties with honesty, integrity, responsibility, and trust.

Respondent's misconduct is serious because he failed to discharge his duties with honesty, integrity, responsibility, and trust when he made false entries on four (4) Serial Time and Attendance Rosters. The Merit Systems Protection Board (Board) regards falsification as a serious offense that "affects an employee's veracity, trustworthiness, and ethical conduct . . . ." *Seas v. U.S.P.S.*, 73 MSPR 422 (1997). Respondent's repeated failure to record his true departure time demonstrates an intentional and substantial disregard for the interests and mission of the Agency and his duties as an ALJ. When faced with an employee who provides false information on an official attendance record, the Agency's trust in that employee is diminished. The Agency is burdened, because it cannot rely on the individual to behave at a level of professionalism required of any employee, particularly an ALJ.

Respondent is an experienced ALJ with over twenty-eight (28) years of Federal service. Falsifying information is inconsistent with the honesty and integrity required in such a position of authority and trust. Respondent should have been well aware of the responsibilities associated with his position, and he was on notice of his duty to accurately complete his official attendance record. The SSA-30, Serial Time and Attendance Roster, is plainly and visibly marked with a warning against falsification. It states, "WILLFUL FALSIFICATION OF TIME RECORDS MAY RESULT IN SEVERE DISCIPLINARY ACTION INCLUDING A FINE OF NOT MORE THAN $10,000.00 OR IMPRISONMENT OR BOTH (18 USC 287, 1001)."

Board case law has established that proof of falsification will almost always warrant severe discipline. *See e.g., Kirkpatrick v. U.S.P.S.*, 74 MSPR 583, 591 (1997); *Scott v. DOJ*, 69 MSPR 211, 242-44 (1995); *Haack v. U.S.P.S.*, 68 MSPR 275, 283 (1995). Accordingly, the Agency believes that a thirty (30)-day suspension is necessary to impress on Respondent the seriousness of his offense and to deter future misconduct. Thus, the Agency believes there is good cause to suspend Respondent for thirty (30) days.

PRAYER FOR RELIEF

Accordingly, for the reasons specified, the Agency requests that the Merit Systems Protection Board authorize the Social Security Administration to suspend Respondent, Algernon W. Tinsley, for thirty (30) days without pay from his position as an ALJ.

Respectfully submitted,

Date

Frank Cristaudo
Chief Administrative Law Judge
Office of Disability Adjudication and Review

AFFIDAVIT

STATE OF: West Virginia

COUNTY OF: Cabell

I, Charlie Paul Andrus, make the following statement freely and voluntarily to Maria Moran, who has identified herself to me as a Contract EEO Investigator for the Social Security Administration, investigating a complaint of discrimination filed by Algernon Tinsley, knowing that this statement may be used in evidence. I understand that this statement is not confidential and may be shown to the interested parties (those with a legal right to know). I hereby solemnly swear or affirm:

1. My name is Charlie Paul Andrus. I am the Hearing Office Chief Administrative Law Judge for Huntington, West Virginia, a position I have held since August 1997. My first-line supervisor is Jasper Bede, Regional Chief Judge in Philadelphia, and my second-line supervisor is Frank Cristaudo. Judge Cristaudo was my first-line supervisor since I started in 1997, and he became my second-line supervisor when he became Chief Judge – I can't recall when. Judge Bede has been the Acting Regional Chief Judge or the Regional Chief Judge for the last two or three years.

2. I first met Judge Tinsley in person when he was in training in Dallas when he became an ALJ, and that was four years ago, I believe in June or July. I had talked to him on the telephone about four weeks prior to that.

3. I was aware of Judge Tinsley's race before I first met him. I had done a Google search of his name when I found out he was coming to Huntington, to try and find an alternative way to get hold of him, as when I called the number given to me by my regional office, I just kept getting voicemail. One of the articles I saw mentioned

Homeland Security & Governmental Affairs
Committee
EXHIBIT #68

that he was African-American. This was just prior to the Dallas training. I first became aware of Judge Tinsley's approximate age shortly after he was hired because I had received his application information showing his date of birth.

4. I first worked with Judge Tinsley as soon as he became a judge. I still currently supervise him. When Judge Tinsley started, our relationship was cordial, as it is now, and on a professional basis. I have not associated with him socially other than to occasionally have lunch during a business day. I was mentoring him on some of the job duties for an ALJ along with other judges, and then, as now, he was a very pleasant, professional, personable person, and always has been with me.

5. I was one of his instructors in ALJ training, so I was working with him that one week of the training, as his instructor. After he got back here, my other duties made it difficult to do that full time, so I asked other judges to assist. I was still mentoring him in Huntington occasionally, however, and on occasion he would come to me with questions. I answer questions for all of the judges, but I stopped being his mentor under the formal mentoring program, to the best of my knowledge, about four or five months after he started. Of course, if any of the judges come talk to me, I am always willing to do that. I told him verbally that he could go to others. I know he went to Judge Chwalibog, Judge Dougherty, Judge Quinlivan, and Judge Kemper (now retired) with questions. They mentioned that they've talked to him and worked with him, but I wasn't there when they did it.

6. I don't know when Judge Tinsley first met Judge Bede. Judge Bede wasn't the Regional Chief when Judge Tinsley came on duty. I have no personal

knowledge of how they met. The only time that I recall that Judge Bede and Judge Tinsley were together was at a judicial conference. I believe that would also have been the first time they would have met. We had a conference in Baltimore, a little over a year ago if I'm not mistaken, for the judges in regions 1, 2 and 3. There were meetings involving various judges and he would have been involved. I have no real recollection of introducing them, but I'm sure I probably did. I can't remember if I pointed him out.

7. Regarding an incident at a conference when Judge Bede had to wake Judge Tinsley up. I have no first-hand knowledge, because Judge Tinsley was sitting behind me. The only information I have from that is from a conversation I had with Judge Bede. I was not aware personally of Judge Tinsley sleeping – if I had been, I would have woken him up myself. I cannot recall any other judges sleeping, but I'm not saying it didn't happen, I just don't recall seeing anyone else. Judge Bede told me that one of the personnel from the Chief Judge's office who was responsible for the meeting had come to him and told him that Judge Tinsley was asleep and about ready to fall out of a chair, and that he went and awakened him. I don't know if Judge Bede made physical contact with Judge Tinsley or not. I understand that Judge Bede woke him up. I don't know if Judge Tinsley objected – Judge Bede did not mention it. I had no communications with Judge Tinsley about it. I would have known if there had been any recrimination or writing up because I would have had to do it, and there was none.

8. It is correct that Judge Tinsley was charged with falsifying a serial time and attendance sheet. I was the person who first became aware of it, which was in May 2007. There were three occurrences, one in May and two others between May

and October. One of my management support assistants who was charged with preparing Judge Tinsley's travel voucher, Matt Day, came to me and indicated he could not prepare the voucher as Judge Tinsley had requested because of some inconsistencies that he saw. What brought his attention to it was that Judge Tinsley had been on an authorized hearing trip, and that he moved his hearings set for Wednesday to Tuesday and had no hearings on Wednesday, which abrogated any need for him to be in Prestonsburg on Wednesday. He was to be on preapproved sick leave on Thursday for a doctor's appointment and then was to return to Prestonsburg on Thursday evening to complete his hearings on Friday. When I looked at the time and attendance records he had submitted, it seemed strange, it just didn't match up with when we normally get our hearings done.

9. I conducted an investigation. The first thing I did was go into the electronic file and ascertain what time the hearings ended, and I also looked at the itinerary and case schedule and the notes made by the hearing reporter, which indicated that the Wednesday hearings were moved to Tuesday, and then I noted that the times didn't match what was on the sign-in sheet. The hearings ended early on Friday, yet Judge Tinsley said he was working until much later, and then claimed travel compensation time, said he left Prestonsburg at 5:30 p.m. on Friday. The hearing ended about 4 p.m.

10. I know that Judge Tinsley was not working in the work space at the Prestonsburg location at that time. Our hearing site has a security alarm to it. The guard does not have a code to activate or deactivate it, nor does he have a key. So he

leaves when the last SSA employee or contract hearing reporter leaves. His sign out sheet indicated that he left before 5:30. He would have stayed until 5:30 if someone had been in the building. I talked to the security officer and he related that his sign out logs indicated that everyone was out of the building about 4:30 p.m.

11. On the two subsequent occasions, he also left the building prior to the time he said he had left it on the time and attendance sheet. Prior to talking to the guard, I had my hearing office director, Mr. Hall, contact the alarm system to find out if I needed to talk to the security guard. I got either a paper printout or what Mr. Hall had written down, I don't remember which, but I remember that it indicated that Judge Tinsley had set the alarm and left earlier than he indicated on his sign out sheet. We had a printout for each of the occasions. The guard's log and the guard himself also verified the information, as in the first instance.

12. Under the contract we have with AALJ/IFPTE, we don't use security systems to prove time and attendance issues, but Huntington is small and Prestonsburg is smaller, and it was fairly apparent to me that if I talked to anyone about the comings and goings of a judge, it was going to be talked about quite a bit. If I had found that the times matched, I wouldn't have mentioned it to anyone and would have saved Judge Tinsley unnecessary embarrassment. So when I did find out that there might be a problem, the other thing to do was to go to the guard.

13. It was based on the guard's record that I made my recommendation to the regional office. I told them I could show them that he was not in the office at the time he said it was. Then Judge Tinsley said he would conduct hearings by videoconference

in, I think, June and July, and he went back down in person in August, and the other two instances occurred after that. At that time I recommended that we request a suspension.

14. I first spoke with Judge Tinsley about his actions in June 2007, right after the first incident. I believe it was after I spoke with the guard. If there was no problem shown I wouldn't have bothered talking to Judge Tinsley. He couldn't remember what he was doing but if he said he was there, he was there. I spoke with him after each time and asked him about the discrepancies. He said he didn't remember.

15. Regarding the argument that he was working in a hotel room or elsewhere at those times, his attorney did make comments to that effect when he was questioning me during the MSPB hearing, but the problem was that I have told all the judges that you don't inaccurately put down time on the time and attendance sheet, and we aren't allowed to claim credit hours for working in the hotel room to begin with. He wasn't at the hearing site when he said he was. By doing that, it's a felony. In addition, the times he falsified the time sheets were Friday afternoons, after he had checked out of the hotel. He never admitted doing it.

16. I told him that if you are going to claim credit hours for when you are working, you have to fill out a time and attendance sheet, and that the place where we earn credit hours is at the hearing site. I told him that before he started going to Prestonsburg, and I tell it to other judges. So far, he's been the only judge in twenty-three years that has ever claimed credit hours while in travel status. Credit hours are similar to compensation time, and are controlled by statute. Judges don't use a sign-in,

sign-out sheet, in travel status unless they are claiming credit hours. I don't recall if there were ever any issues with Judge Tinsley's time and attendance in Huntington or at any other location.

17. It is appropriate for me to make recommendations about penalties, as the Hearing Office Chief Judge. With Judge Tinsley, I sent the report of the first incident to the Regional Chief Judge without a specific recommendation as to what action should be taken. I believe I recommended that if the action is less than a suspension, i.e. a reprimand or counseling, it should be delivered in person by Chief Judge Cristaudo to give it additional weight because it is a very serious offense. Every time a record is falsified, it's a felony. I reported it each time. After the third time, I recommended suspension. I don't have access to what they've done in any similar situations, and I don't know what Judge Bede recommended. I was told that when the matter was filed with MSPB that Judge Cristaudo recommended thirty days. I remember it took a very long time, from the time I filed a report with the regional office until the thirty-day suspension was completed. The suspension ended in May 2009.

18. In the regional office, I sent information to Howard Goldberg, in Employee Relations, and to Judge Bede. I talked about it with Judge Bede at least three or four times that I recall. I don't recall exactly what the substance of those conversations was, exactly. We were talking about it one time after the second incident and I was getting the paper evidence and logs together, and we discussed that. One of the things I know we discussed was how long it was taking, just what information I had to get for them and, I believe, whom to send it to.

19. Since those three instances in 2007, I have not been watching Judge Tinsley's timesheets more closely because I have found no need to do so. Judge Tinsley has not submitted time sheets for the time he is in travel status and there has been no specific information given to me that there is a problem with his time and attendance in Huntington. Regarding whether others have been watching Judge Tinsley's timesheets; I have no knowledge.

20. Time and attendance issues have come up before with other judges, but not involving travel status. It came up with Judge Dougherty in Huntington several years ago, before 2001. I conducted an investigation in a comparable way to the investigation I conducted with regard to Judge Tinsley, except that I didn't have to contact the alarm service because it was before we had an alarm system. I personally observed it. Judge Dougherty did not refute it, he admitted it. I forwarded it to Judge Cristaudo, who was then the Regional Chief Judge, and from our conversations, I understand he sent it to Judge Boyer, then the National Chief Judge. I did not recommend a penalty as I was asked to just submit a report. Nothing happened after that, to my knowledge. I have no idea if there was any recrimination. It has not come up since. Allegations have been made about Judge Dougherty, but when I go to check the time and attendance records, there is no evidence of abuse.

21. I don't agree that security devices have been used to monitor Judge Tinsley's time and attendance records in violation of the contract with AALJ/IFPTE. I knew that printouts from the alarm system were security devices, which is why I didn't use them; I used the guard's log. . I know exactly what was intended in the contract, I

wrote that article, and I knew I wasn't going to be able to use security device information. However, if I did not have to even inquire about the time he left the Prestonsburg site, I could avoid embarrassment to a judge. I used the security device information to see if I had to investigate. I had the information from the disparity between when his hearings last ended and when he said he left. My choices were to go to the guard immediately, or to make sure that I needed to go to the guard, and I thought it would be better not to embarrass somebody, because if I found out that he had indeed not left until 5:30, no further action would be needed, and I'd be the only one that knew about the allegations. I testified to this effect at the hearing, and the ALJ at MSBP found I did not violate the contract by doing this.

22. Regarding the third issue in Judge Tinsley's claim, I can't understand exactly what he is alleging. Judge Tinsley never came to me about this, never complained. I was first aware of this allegation in the EEO notice. There are paralegal advisors and attorney advisors who write up decisions according to a judge's instructions, who go to judges to talk to them if they find a problem. If they find that they cannot write the decision given the instructions they have, we (management) tell them, that they should go to the judge and ask for clarification. I assume they have done that with Judge Tinsley as they have done that with me. That's the only thing I can think of that could even come close to what he's talking about. Sometimes a writer will come to me and say that they have problems with a piece of evidence which seems to show something contrary to my instructions. Sometimes I say, yes, change it. Other times I say, yes, I saw that, but this is why I decided the case the way I did, and

write it up that way. I don't know if they've done that to Judge Tinsley. For my cases, if I'm not available, my instructions for my cases are that if they can't write a decision, if they find something totally insurmountable, to take it to the acting chief judge, or write it the best they can and attach a note that my instructions were not followed and why.

23. Judges are told in training and in mentoring that the writers may come to them and ask for clarification and come in and talk to them, and if they choose to, they should encourage that. They are told that this would make them more effective at this job. We also tell the judges and the writers that the judge has the ultimate decision in the case. If the Judge and the writer disagree, the judge should tell the writer to go ahead and write it the way it was instructed. I would think it would be tactless for an employee to come to the judge and say that the decision is wrong and the outcome must be different. I haven't had anyone come to me and say, "you're wrong." Some have come and brought my attention to an exhibit, how and ask how they should handle it.

24. There may have been times where I said a decision was not within my authority, although I can't recall any specific instances, but I do not remember ever saying something was "above my pay grade." There are some things that judges want that I cannot authorize, such as the use of hand-held metal detectors before they were authorized. Regarding the issue about Judge Tinsley's time and attendance records, the ultimate decision as to what action to take was beyond my authority, and I may well have told him that, and that I had forwarded the matter to the Regional Chief Judge.

25. Judge Tinsley never told me that he felt he was being treated disparately

because of his race or because of his age. Regarding whether I personally treated Judge Tinsley differently because of his race or age: absolutely not. I also have no reason to believe that Judge Tinsley has received disparate treatment in the office.

26. I have not personally harassed Judge Tinsley, nor have I heard of any incidents from anyone else doing so. In no way would I characterize Judge Tinsley's work environment as hostile. I would imagine that when he found that charges had been filed to suspend him that he was not terribly happy about it, but we did not try and make him feel bad, we just enforced the regulations regarding time and attendance. Throughout this whole process, he has been the same personable, enjoyable professional man that he has always been.

27. If a judge believes they are being harassed or are experiencing a hostile work environment, they should come to me. If they feel that I'm the cause, they should go to Judge Bede.

28. Regarding whether Judge Tinsley is being treated differently because there are very few black employees: I don't feel he's being treated differently, and it certainly not because he's African-American. I haven't treated him differently than any of the other judges, and to my knowledge, none of the staff, including other judges, have treated him differently. There is currently only one other African-American employee as two other African-American employees left for either a promotion or a hardship transfer. We did hire the only African-American applicant for our case technician position.

29. Regarding whether I ever called Judge Tinsley by the name of another

African-American employee, the only other black male employee while Judge Tinsley was here was Arthur Weathersby, who was a group supervisor. He went by "Arthur," and Judge Tinsley goes by "Al." I can't recall ever calling Judge Tinsley by the incorrect name. It certainly wasn't intentional, if it happened.

30. I know of no insensitivity towards minorities in the office. Since I became Hearing Office Chief Judge in 1997, there have been no requests by black employees requesting transfers out of the Huntington office because of disparate treatment based on their race. Mr. Weathersby accepted a position as a District Office Manager in New Jersey, a promotion. The other African-American employee, Ms. [redacted] requested a hardship transfer to our [redacted] hearing office to be closer to her son who plays basketball at the [redacted] Regarding whether the Huntington office did not, at one time, have any posters up about how to file an EEO complaint, I really don't know. I don't know if there are right now as I expect Mr. Hall to insure that we are in compliance with all posting requirements.

31. I would suggest Howard Goldberg, Judge Bede and Judge Cristaudo as witnesses, but it's correct that they got all of their information from me. I discussed that there were some charges pending with my hearing office director, Mr. Hall, because he needed to know. I have spoken with the other managers when Mr. Hall wasn't here as they had to perform his duties. I have spoken with the guard. There were two government attorneys from the Office of the General Counsel who represented the government. I have no idea, however, whether they would have any first-hand knowledge about these matters.

32. I would like to add that I am very sensitive to make sure that all of our employees are treated equally without regard to race. If I had heard any comments from any of my staff or judges that could be considered any kind of racial slur or anything of that nature, I would have put a stop to it immediately.

I have read this statement, consisting of ___ pages, and it is true, complete, and correct to the best of my knowledge and belief.

_____
Signature

_____
Date

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

HUNTINGTON DIVISION

ALGERNON W. TINSLEY,

Plaintiff,

v. CIVIL ACTION NO. 3:09-0600

MICHAEL J. ASTRUE, Commissioner
Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Defendant Michael J. Astrue's Motion for Summary Judgment and his Motion to Dismiss Plaintiff's Whistleblower Claim for Lack of Subject Matter Jurisdiction. [Doc. Nos. 37 and 47]. Also pending is Defendant's First Motion in Limine [doc. no. 50], Defendant's Motion to Strike Jury Trial [doc. no. 51], and Plaintiff's Motion to Allow Briefing of Race Discrimination Issues [doc. no. 59]. On November 29, 2010, the Court held a Pretrial Conference and entertained arguments on the motions.[1] For the following reasons, the Court **GRANTS** Defendant's Motion for Summary Judgment on Plaintiff's race and age discrimination claims, **DENIES** Defendant's Motion to Dismiss Plaintiff's Whistleblower Claim, and **DENIES** the Motion in Limine, Motion to Strike Jury Trial, and Motion to Allow Briefing.

[1]Plaintiff's Motion to Allow Briefing of Race Discrimination Issues was filed after the hearing.

I.
FACTUAL AND PROCEDURAL HISTORY

Plaintiff Algernon W. Tinsley is an African American male who was employed by the Social Security Administration, Office of Disability Adjudication and Review, in Huntington, West Virginia, as an Administrative Law Judge ("ALJ"). On or about March of 2008, Plaintiff received a thirty-day suspension from his employment for making false entries on the Agency's "Serial Time and Attendance Rosters" (SSA Form 30), on four separate occasions. Plaintiff challenged the suspension before the Merit Systems Protection Board (MSPB), alleging, inter alia, that he was being discriminated against on the basis of age and race. He also raised an affirmative defense under the Whistleblower Protection Act.

On August 26, 2008, a hearing was held before MSPB ALJ William N. Cates. At the hearing, Charlie Paul Andrus, the Hearing Office Chief ALJ for the Huntington office and Plaintiff's first-line supervisor, testified. Amongst his duties, ALJ Andrus stated he is in charge of keeping track of the other ALJ's time and attendance. ALJ Andrus explained that, if an ALJ chooses to work hours different than 8:00 a.m. to 4:30 p.m., they must sign in and out on a SSA Form 30. He further explained that the ALJs in the Huntington office each hear cases one week per month in Prestonsburg, Kentucky. When they travel to Prestonsburg, they are considered to be in travel status so they do not normally complete an SSA Form 30.

ALJ Andrus testified that the problems for Plaintiff began in May of 2007 when there was an issue with a travel voucher he submitted after hearing cases in Prestonsburg. In checking into the voucher, ALJ Andrus discovered that on May 18, 2007, Plaintiff signed out of the building

at 5:30 p.m. and claimed two hours of travel compensation to return to Huntington. ALJ Andrus said that he had information Plaintiff actually left the building around 4 or 4:30, which would have allowed him time to get back to Huntington without claiming travel compensation. In addition, ALJ Andrus stated that the building's alarm system had been armed before Plaintiff signed out. ALJ Andrus explained the alarm system is set after everyone has left the building. ALJ Andrus said he spoke to Plaintiff about the incident and Plaintiff told him he could not remember exact times, but if he said he was at the office working that is what he was doing. Thereafter, Plaintiff agreed to stay in Huntington and do hearings via teleconferencing.

Plaintiff held hearings by teleconferencing until August, when he returned to Prestonsburg for four days. Given the problems with the May time sheet, ALJ Andrus decided to investigate Plaintiff's August time sheet by again comparing his times to those of the alarm service. After learning there was a discrepancy with when the alarm was set and Plaintiff's sign out time, ALJ Andrus checked the guards' checkout sheet to see what time they left the building. ALJ Andrus stated that guards cannot leave the building if members of the public are present. However, if only employees or contractors are in the building, guards may leave at 5:30. If the last employee or contractor leaves before 5:30, then the guards leave at the same time because they do not have a key to lock the building or the code to set the alarm system. ALJ Andrus stated that Plaintiff's time sheet stated he checked out at 5:30, but the guards signed out earlier and Plaintiff did not say that he traveled back to Huntington until 6:00.[2]

[2]It appears in the testimony of Ray Burton, a security guard at the building, that the security guard on duty on August 24 left the building at 4:00 p.m.

Plaintiff returned to Prestonsburg in September and October. ALJ Andrus found no problems with his September records, but he did find a discrepancy with his October time sheets between the time Plaintiff said he left and the time the office closed. Given the problems with Plaintiff's records, he received a thirty-day suspension from his job.

During cross-examination, ALJ Andrus stated that it is the Agency's policy that a judge working at a remote site may work on cases in a hotel room, but they cannot claim credit hours for time spent outside the building where the hearings are held. When pressed on the issue, ALJ Andrus further stated he did not know if the policy was written down anywhere and he had no knowledge of the policy ever being disseminated in writing to the ALJs. He did say, however, that he orally advised Plaintiff he must be at the hearing building to earn credit hours.

When questioned as to whether ALJ Andrus was aware of discrepancies in the time sheets of any other ALJs, he said he found problems with three or four time sheets of ALJ David B. Daughterty, a white male. ALJ Andrus stated he conducted an investigation, and he sent a report to the Chief ALJ Frank Cristaudo. ALJ Andrus testified he handled ALJ Daughterty's case the same way he handled Plaintiff's case, but he stated ALJ Daugherty received no formal disciplinary action. ALJ Andrus stated he was unaware of any ALJs younger than Plaintiff who engaged in similar misconduct and was not punished for it.

Chief ALJ Cristaudo also testified at the hearing. He said that he believed the thirty-day suspension was appropriate in Plaintiff's case because he was told a number of times about the

rules, yet he ignored the policy. In addition, he held a position which encompassed expectations of honesty and integrity, and his actions failed to meet those standards. He also said that Plaintiff was one of the least productive judges in the nation. He asserted Plaintiff's race and age played no role in his decision. In fact, he testified he was not even sure how old Plaintiff was. In addition, Chief ALJ Cristaudo testified that he was unaware Plaintiff made certain disclosures to the Office of the Inspector General against the Agency. Chief ALJ Cristaudo further related that, when he worked as a Regional Chief ALJ he knew about attendance violations by Judge Daugherty, but he had no authority at the time to discipline Judge Daugherty. He did forward the information to his superiors, but he did not believe his superiors suspended Daugherty. Chief ALJ Cristaudo stated it was not until about two years ago that he was given the authority to discipline ALJs.

After considering the testimony and the arguments of the parties, ALJ Cates upheld Plaintiff's suspension on October 21, 2008. In his decision, ALJ Cates noted that Chief ALJ Cristaudo denied treating Plaintiff any differently on the account of his race or age. Chief ALJ Cristaudo specifically stated he had proposed discipline against non-African American judges and against judges younger than what he thought Plaintiff was. He further said he would have issued a disciplinary action against ALJ Daugherty if he had the authority to do so at the time. Moreover, ALJ Andrus had treated Plaintiff and ALJ Daugherty exactly the same, by conducting an investigation and making reports to his superior. ALJ Andrus further asserted he did not know of any judge younger than Plaintiff who engaged in similar conduct who was not disciplined based upon that individual's age.

With respect to Plaintiff's affirmative defense that he was disciplined in violation of the Whistleblower Protection Act, ALJ Andrus testified he had no knowledge or indication that Plaintiff had spoken to the Office of the Inspector General until he was prepared for his deposition. Likewise, Chief ALJ Cristaudo had no recollection of Plaintiff making a report to the Inspector General. Therefore, ALJ Cates found no evidence to support Plaintiff's claim. Accordingly, as ALJ Cates found the uncontested evidence established Plaintiff had falsified his time on the SSA 30 Form[3] and there was no evidence of discrimination or a violation of the Whistleblower Protection Act, ALJ Cates found Plaintiff was suspended for good cause and his suspension was appropriate.

Plaintiff appealed the decision, but it was affirmed by the MSPB on February 20, 2009. Plaintiff then appealed the decision to the Equal Employment Opportunity Commission, Office of Federal Operations ("EEOC, OFO"). On April 29, 2009, the OFO affirmed the decision. Therefore, on June 2, 2009, Plaintiff, acting pro se, filed a Complaint in this Court, alleging he was unlawfully discriminated against in his employment because of race, age, and retaliation for disclosure of fraud and conspiracy. Nearly a year later, Plaintiff retained counsel.

II.
DISCUSSION

"The ultimate question in every employment discrimination case involving a claim of disparate treatment is whether the plaintiff was the victim of intentional discrimination." *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 153 (2000). Title VII declares that "[i]t shall be

[3]ALJ Cates specifically found that the Agency had met its burden of proof that Plaintiff made false entries on May 18, August 24, and October 18, 2007. He found the Agency had not met its burden with respect to May 16, 2007.

an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race . . . ." 42 U.S.C. § 2000e-2 (a)(1) (2006). Under Title VII, a plaintiff can survive a summary judgment motion by offering direct or circumstantial evidence raising a genuine issue of material fact that race motivated an adverse employment decision or, in the alternative, an employee may proceed under the *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), framework. *Hill v. Lockheed Martin Logistics Mgmt., Inc.*, 354 F.3d 277, 284-85 (4th Cir. 2004).

Under the *McDonnell Douglas* framework, the employee first must establish a prima facie case of racial discrimination. *McDonnell Douglas*, 411 U.S. at 802. Depending upon the facts presented, the elements of a prima facie case will differ. *Id.* at 802, n.13. In situations like this case, where Plaintiff has alleged disparate discipline based upon race, he must prove that: (1) "he is a member of the class protected by Title VII" or the Age Discrimination in Employment Act (ADEA); (2) "the prohibited conduct in which he engaged was comparable in seriousness to misconduct of employees outside the protected class;" and (3) "the disciplinary measures enforced against him were more severe than those enforced against those other employees." *Cook v. CSX Transp. Corp.*, 988 F.2d 507, 511 (4th Cir.1993) (citation omitted). If the plaintiff establishes a prima facie case, the burden then shifts to the employer to demonstrate a legitimate, non-discriminatory reason for the disciplinary action. *McDonnell Douglas*, 411 U.S. at 802. The plaintiff then "must demonstrate[] that the employer's proffered permissible reason for taking an adverse employment action is actually a pretext for discrimination." *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 318 (4th

Cir. 2005) (internal quotation marks and brackets omitted). It is well established that, even under the *McDonnell Douglas* burden-shifting scheme, the ultimate burden of persuasion remains on the plaintiff at all times. *Texas Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253 (1981) (citations omitted).

In its motion for summary judgment, Defendant argues that Plaintiff cannot show that his race played a role in the decision-making process or influenced the outcome. Specifically, the only employee Plaintiff points to as receiving more favorable treatment than him for committing similar misconduct is ALJ Daughtery, a white male who is approximately 73 years old. However, as discussed at the Pretrial Conference, ALJ Daughtery is not a "similarly situated" employee for comparison purposes because the decision maker involved in ALJ Daughtery's case is not the same decision maker who disciplined Plaintiff in this case.

It is not refuted that at the time ALJ Daughtery was found to have committed similar infractions, Chief ALJ Cristaudo had no authority to suspend him as that authority was vested with someone else. Instead, Chief ALJ Cristaudo did the only thing he had the authority to do and that was forward the reports to his superiors. Chief ALJ Cristaudo specifically stated that, if he would have had the authority to discipline ALJs at the time, he would have disciplined ALJ Daughtery based on the information he was given. On the other hand, at the time Plaintiff was found to have made false entries on his time sheets, there had been a restructuring of the Agency, and Chief ALJ Cristaudo was given authority to discipline ALJs. Thus, it is clear there were different decision makers involved in determining whether Plaintiff and ALJ Daughtery should be disciplined, and

Plaintiff cannot rely upon ALJ Daughtery as a comparable employee. *See Forrest v. Transit Mgmt. of Charlotte, Inc.*, 245 Fed. Appx. 255, 257 (4th Cir. 2007) (per curiam) (citing *Plair v. E.J. Brach & Sons, Inc.*, 105 F.3d 343, 350 n.3 (7th Cir. 1997); *Shumway v. United Parcel Serv., Inc.*, 118 F.3d 60, 64 (2d Cir. 1997)) (stating "[i]f different decision-makers are involved, employees are generally not similarly situated"); *Heyward v. Monroe*, 166 F.3d 332 (4th Cir. 1998) (per curiam) (same).

At the Pretrial Conference, Plaintiff raised for the very first time that another ALJ would testify that ALJ Daugherty continued to violate the time and attendance policy during the same time period as Plaintiff was found to have violated the policy. However, Plaintiff neither deposed the other ALJ nor obtained an affidavit from him. Likewise, Plaintiff made no mention of this proffered testimony in the Pretrial Order or in his Response to Defendant's Motion for Summary Judgment. Plaintiff orally moved the Court at the Pretrial Conference to allow him to obtain and submit an affidavit from the other ALJ, but the Court denied the motion as it would require reopening discovery on the eve of trial. Plaintiff now has filed a written motion to allow further briefing on the issue by asserting that his own deposition testimony indicates ALJ Daughtery was committing infractions during the time period Chief ALJ Cristaudo had the authority to discipline him.

The Court has reviewed the pages of Plaintiff's deposition he references in his motion and finds they do not support his position. The pages referenced involve Plaintiff's meeting with employees of the Office of the Inspector General. At the meeting, Plaintiff states he raised concerns about the time and attendance of ALJ Daughtery. However, he does not give a time frame of when

those infractions allegedly occurred. Additionally, there is no evidence that his supervisors were made aware of his allegations that ALJ Daughtery was violating the time and attendance policy. In fact, Plaintiff's own testimony is that he did not know if that information was ever reported to ALJ Andrus or anyone else in his office. Thus, the deposition pages cited by Plaintiff are entirely insufficient to demonstrate that there were ongoing violations or that Plaintiff's supervisor knew of any ongoing violations. Plaintiff simply has no evidence to show ALJ Daughtery is a comparable employee. Moreover, as the Court made clear at the Pretrial Conference, it will not allow Plaintiff to raise an entirely new allegation on the eve of trial which will require reopening discovery.

Accordingly, as Plaintiff cannot show any other ALJ, who is a comparable employee, was treated differently than himself, his claim of race discrimination fails because he has no evidence to met his burden of proof on an essential element of his case.[4] *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986) (stating "the plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial"); *Fed. R. Civ. P. 56(c).* Therefore, the Court **GRANTS** Defendant's motion with respect to his race discrimination claim and **DENIES** Plaintiff's Motion to Allow Briefing on Race Discrimination Issues.

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[4]Plaintiff contends that Article 6(a) of the Labor Agreement prohibits disciplining a judge for time and attendance violations based upon information gathered from a security device. Although Plaintiff argues ALJ Andrus' check of when the alarm system set was illegal and demonstrates pretext in the Agency's actions, the Court does not even reach this evidence because Plaintiff failed established a prima facie case.

Turning next to Plaintiff's age discrimination claim[5] under the *McDonnell Douglas* framework,[6] the Court finds Plaintiff has no evidence that anyone outside the protected class was treated any differently than he was. In fact, the only person Plaintiff points to is ALJ Daughtery who is approximately 73 years old and actually older than Plaintiff. As Plaintiff cannot show anyone outside the protected class was treated differently or more favorably than he was, the Court **GRANTS** Defendant's motion on Plaintiff's age discrimination claim and **DENIES as moot** Defendant's Motion to Strike Jury Trial on the ADEA claim. The Court also **DENIES as moot** Defendant's First Motion in Limine to prohibit Plaintiff from introducing any evidence of his nondiscrimination claims during a trial on his race and age claims.

With regard to Plaintiff's claim for a violation of the Whistleblower Protection Act, the Court **DENIES** Defendant's Motion to Dismiss this Claim for Lack of Subject Matter Jurisdiction. As explained at the Pretrial Conference, the Court finds Plaintiff did not abandon his claim merely because he "may have made an obvious error"[7] in another MSPB case in which he denied he raised the issue as an affirmative defense in this case. As Plaintiff raised the issue below,

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[5]Under the ADEA it is illegal for an employer to discriminate against an employee due to the employee's age. 29 U.S.C. § 623(a) (2006).

[6]*See Reeves*, 530 U.S. at 142 (assuming that the McDonnell Douglas burden-shifting framework applies to ADEA claims); *Mereish v. Walker*, 359 F.3d 330, 334 (4th Cir.2004) (applying *McDonnell Douglas* framework to ADEA claims). In *Gross v. FBL Financial Services, Inc.*, 129 S. Ct. 2343 (2009), the United States Supreme Court recently stated that "[t]o establish a disparate-treatment claim under the plain language of the ADEA,. . . a plaintiff must prove that age was the 'but-for' cause of the employer's adverse decision." 129 S. Ct. at 2350. *Gross* also expressly left open the question of "whether the evidentiary framework of [*McDonnell Douglas*], utilized in Title VII cases[,] is appropriate in the ADEA context." *Id.* at 2349, n.2.

[7]*Plaintiff's Response to Defendant's Motion to Dismiss Whistleblower Claim*, at 2.

exhausted his administrative remedies, and raised the issue in the Complaint filed in this Court, the Court will allow the claim to proceed. In that regard, the parties agreed at the Pretrial Conference that, as this action was brought as a "mixed case,"[8] the Court's review must be based upon the administrative record and the standards set forth in 5 U.S.C. § 7703(c).[9] Accordingly, the Court **DIRECTS** the parties to meet and confer to discuss preparing the administrative record to be

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[8]"A federal employee who asserts both discrimination in violation of Title VII and an 'adverse employment action' asserts a 'mixed case' . . . ." *Pueschel v. Peters*, 577 F.3d 558, 563(4th Cir. 2009) (citations omitted). "Congress explicitly gave the district courts exclusive jurisdiction over mixed cases." *Afifi v. U.S. Dept. of the Interior*, 924 F.2d 61, 63 (4th Cir. 1991).

[9]Section 7703(c) provides:

> (c) In any case filed in the United States Court of Appeals for the Federal Circuit, the court shall review the record and hold unlawful and set aside any agency action, findings, or conclusions found to be--
>
> > (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
> >
> > (2) obtained without procedures required by law, rule, or regulation having been followed; or
> >
> > (3) unsupported by substantial evidence;
>
> except that in the case of discrimination brought under any section referred to in subsection (b)(2) of this section, the employee or applicant shall have the right to have the facts subject to trial de novo by the reviewing court.

5 U.S.C. § 7703(c).

submitted to the Court and a briefing schedule. The Court **ORDERS** the parties to submit their plan to the Court on or before **December 20, 2010.**

III.
CONCLUSION

Accordingly, for the foregoing reasons, the Court **GRANTS** Defendant's Motion for Summary Judgment on Plaintiff's race and age discrimination claims [doc. no. 37], **DENIES** Defendant's Motion to Dismiss Whistleblower Claim for Lack of Subject Matter Jurisdiction [doc. no. 47], **DENIES as moot** Defendant's First Motion in Limine [doc. no. 50], **DENIES as moot** Defendant's Motion to Strike Jury Trial [doc. no. 51], and **DENIES** Plaintiff's Motion to Allow Briefing of Race Discrimination Issues [doc. no. 59]. The Court also **ORDERS** the parties to submit their plan regarding the filing of the administrative record and the briefing schedule on the Whistleblower claim to the Court on or before **December 20, 2010.** The Court further **CANCELS** the Final Settlement Conference currently set on December 13, 2010, and the trial set on December 14, 2010.[10]

[10]At the Pretrial Conference, the parties also discussed a contract claim. As that claim was not made in the Complaint, the Court will not allow Plaintiff to pursue it.

The Court **DIRECTS** the Clerk to send a copy of this written Opinion and Order to counsel of record and any unrepresented parties.

ENTER: December 7, 2010

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE

Message0031	
Subject:	**FW: Wall Street Journal questions for Chief Judge Charlie Andrus - Huntington**
From:	Andrus, Charlie Paul
Date:	5/6/2011 10:11:00 AM
To:	Bede, Jasper J.

Message Body

Judge Bede,

Here are the answers to the questions as requested. If anyone has any questions, please call me and I will be happy to provide more information.

Judge Andrus

From: Paletta, Damian [mailto:Damian.Paletta@wsj.com]
Sent: Thursday, May 05, 2011 11:47 AM
To: ^Press Office
Subject: Wall Street Journal questions for Chief Judge Charlie Andrus - Huntington

Hi Mark, Please forward this to Chief Judge Charlie Andrus, Huntington, WV. Thank you.

May 5, 2011

Dear Chief Judge Charlie P. Andrus,

My name is Damian Paletta and I'm a reporter with the Wall Street Journal in Washington DC. I am working on a story about Social Security disability programs and administrative law judges. One element of my reporting involves the work performed in the Huntingdon, W. Va., office where you are chief judge.

I have tried to set up an interview with you, without success, and wanted to offer you the fullest opportunity to have input into my reporting effort. Below, please find a list of questions.

In addition, we would of course welcome any other comments you would like to make.

Best regards,

Damian Paletta

The Wall Street Journal

[redacted] office

[redacted] cell

damian.paletta@wsj.com

1. You became chief judge of the Huntington office in 1997 after serving as an ALJ for 11 years. You have been Judge Daugherty's supervisor since 1997. Are these facts correct? If not, please set me straight.

Your information is correct.

2. Since 2006, staff and judges have complained to you about Judge Daugherty processing an unusually large number of cases brought forward by Attorney Eric C. Conn. They believe the situation showed favoritism, especially since some of the cases were taken out of rotation. Do you think these complaints had merit? Have you queried Judge Daugherty about the Conn cases he has decided?

· In order to decide cases fairly and as soon as possible I have offered all the judges in the office the opportunity to review unassigned cases to see if the evidence warranted an on-the-record decision. This was especially the case if new evidence was received in the office. Judge Daugherty did this.

· Mr. Conn has a large percentage of our cases in the Prestonsburg Kentucky service area.

· I directed Mr. Conn's cases to be assigned to the judges in strict rotation as soon as they arrived in the office; as he had so many cases that it was hard to schedule, and to insure that each judge had an equal amount of this workload.

· I was informed on one occasion that a staff member had not assigned these cases as soon as they came into the office and Judge Daugherty had decided them as they were not assigned. I had the

supervisor take corrective action to insure that the cases were assigned as soon as they arrived.

· I was informed some months later that Judge Daugherty had changed judicial assignments. I spoke with him and reminded him of the office policy that Eric Conn cases are not to be reassigned to another judge on a routine basis. He agreed.

· About one year later I was informed that this had happened again. I went to Judge Daugherty and he related that he did not know it was assigned to another judge as he did not know where to look in our computer system for the information. I asked him to go through a supervisor when any cases were to be reassigned to him.

· About a year later I was informed that this had happened once again. At that time, on April 29, 2011, I issued a written directive that no case was to be reassigned between judges by anyone unless I gave specific permission.

3. Staff and judges say you and Greg Hall, the director of the hearing office, retaliated against them when they raised concerns about Judge Daugherty. What is your version of events?

· I cannot answer the first part of the question as it is far too vague and does not give specific allegations.

· I have received complaints through the years concerning judges, staff and supervisors. I have investigated to determine if the allegations are supported, and if so I have taken corrective action in accordance with our collective bargaining agreements, and government regulations. In cases where I did not feel I had the authority to act, I forwarded the matter to those who did.

· Mr Hall and I have never retaliated against anyone for raising concerns, nor would we in the future.

4. Last year, Judge Daugherty approved 99.7% of cases he saw. He awarded benefits in 729 of the 729 cases he heard from Sept. 25, 2010 through March 25, 2011, according to data on ssa.gov. The other judges in your office have lower rates. Why do you think Mr. Daugherty's rate is relatively high? Have you ever asked him about these figures?

· I do not know why the rate is high, nor would I as a manager question a judge about how he or she may decide a case. Under the Administrative Procedure Act a judge has independence in how to decides a case.

5. The Huntington office has goals it strives to meet each month for the number of cases it processes. Our reporting shows that once the quote is met it is common practice to hold approved cases over until the next month, to count towards the following month's goal. As a result, approved applicants must wait to get their benefits and attorneys representing those clients can collect more in back pay. Several judges believe this is unfair. Have you authorized this approach in Huntington and, if so, why?

· This office usually exceeds the goals by a large margin. We do not stop because we have met a certain number.

· We also try our best to use a FIFO system, that is, First In, First Out. This allows us to get the older cases processed first which gets the claimant's their decision in a more timely manner.

· We cannot close a case until it is signed by the judge. If we have cases in mail status we will do our best to get it out that day, sometimes this cannot be done. Our labor agreements with all three unions do provide for flexible work schedules such as 4/10, 5/4/9, flexi-place, and the ability to start as early as 6:30 a.m., leaving by 3:00p.m. The result can be that we have limited staff the late afternoon of the last day of the week, and especially the last day of the reporting period. If a Judge signs a case late in the day, it may not be closed until the following Monday.

· We also try to manage our caseload. While we appreciate the efforts of Commissioner Astrue to get funding to give us a full staff, it is still a finite amount of staff resources. We try to close our cases evenly throughout the month as other components of the agency have to work on the cases after we are done, and if we closed a large number of cases at the end of the month it would make their work much more difficult and less efficient.

· As Judge Daugherty's cases, for example, are significantly younger, if we were to push his cases through the system we would not have the staff resources to close older cases decided by other judges causing those claimants to wait even longer. Any delay this may cause in Judge Daugherty's cases is a matter of days.

· Judges sometimes ask the management team, or check the computer tracking system, to see where we stand on meeting the goal throughout the month. If they see that we have enough cases to exceed the goal they may well work to get cases ready for hearings, or get them ready to close the next week. However, if a judge asks us to close a case by signing it, management will do our best to get the case closed the same day; if this is not possible we will close it the next business day.

6. Do the bonuses you receive each year depend on the ability of the office to hit these monthly targets?

· I am an Administrative Law Judge. I do not get bonuses.

7. Social Security Administration Commissioner Michael Astrue said in an interview there are some judges he called "outliers," which approve high numbers of cases. He said SSA had little control over those judges because they were protected by judicial independence. Do you view Mr. Daugherty' approval rate as high and what is your explanation for that?

· I agree with the Commissioner that judges are protected by judicial independence and as a supervisor I don't ask judges why they decide cases the way they do. I believe the numbers speak for themselves.

8. How and when did you meet attorney Eric C. Conn? What is the nature of your relationship with him?

· I met Mr. Conn several years ago, I am not sure when, as he began to represent claimants in my hearings.

9. Have you ever accepted gifts, dinners, money, or anything from Mr. Conn or his associates?

· NO

10. Several people have said that on numerous occasions Mr. Daugherty has taken Eric Conn cases assigned to other judges and reassigned them to Mr. Daugherty himself. Are you aware of this practice? If so, when were you notified? Have you asked Mr. Daugherty to desist? If so, how many times?

· I have covered this information in my answer to question 2.

11. The SSA inspector general's office has opened an investigation into Mr. Daugherty's high approval rate and is looking at any potential relationship between him and Mr. Conn. What is your view of this investigation and what is your understanding of their mutual dealings?

· I cannot confirm or deny the existence of any IG investigation, nor would I ever express an opinion about any investigation other than to direct the staff to answer any questions truthfully and to cooperate fully with any investigation.

· I have no knowledge of any dealings between Mr. Conn and Judge Daugherty

Outlook Header Information
Conversation Topic: Wall Street Journal questions for Chief Judge Charlie Andrus - Huntington
Subject: FW: Wall Street Journal questions for Chief Judge Charlie Andrus - Huntington
From: Andrus, Charlie Paul
Sender Name: Andrus, Charlie Paul
To: Bede, Jasper J.
Delivery Time: 5/6/2011 10:11:00 AM
Creation Time: 5/6/2011 10:11:20 AM
Modification Time: 5/6/2011 10:11:25 AM
Submit Time: 5/6/2011 10:11:20 AM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 43364

Atty Abby Lowe [redacted]

INCOMING CALL LOG

Dave | Jamie S

DATE 2011	LINE	CALL NO.	CALL FROM	DISPOSITION	ACTION COMPLETED
5/4	5	121	[redacted]		
	2	122			
	3	123			
	4	124			
	5	125			
	3	126			~~(403)~~.
	2	127			
	4	128			
	6	129	Judge Andrus	Eric Lawe H.	
	2	130	[redacted]		
	2	131			[redacted]
	4	132			
	5	133			
	3	134			
	2	135			
	4	136			
	5	137			[redacted]
	2	138			
	2	139			
	4	140			
	4	141			
	5	142			
	3	143			
	1	144			
	4	145			
	5	146			
	2	147			
	5	148			
	1	149			
	7	150			

Homeland Security & Governmental Affairs Committee
EXHIBIT #71

CLF00085

To: Mark Lassiter, National Press Office

The following are my answers to the questions posed by Mr. Damian Paletta of the Wall Street Journal:

1. Yes
2. Every decision I make is fully supported by relevant medical reports and physical and/or mental residual functional capacity assessments from treating or examining doctors or other medical professionals. And in all of my hearings, there is also competent testimony of a vocational expert.
3. The agency has, for years, ask the ALJs to review assigned and unassigned cases for possible on-the-record decisions in an effort to reduce the serious backlog of cases pending before us nationally. In all of those cases, I weigh the evidence in the same manner as in cases requiring a hearing. In addition, disposing of a case on-the-record saves the agency a great deal of money and work hours.
4. The saying that "some ALJs deny cases because they act like the money is coming out of their own pockets" is more or less a standing joke around ODAR offices. No more, no less.
5. At his first hearing before me, probably 15 years ago or so.
6. I have no idea. I do know that, over the years, I have denied a goodly number of Mr. Conn's cases.
7. Any lawyer who has practiced law at any level would know what that term means to them. It has been around for a long time. It simply means "favorite expert witness". All law firms who utilize expert testimony in court, such as medical, vocational, financial, real estate appraisers, etc., etc., have their favorites. In my cases, I weigh all of the evidence in accordance with the rules of evidence.
8. I have no recollection of prior cases. I try not to because of the confidentiality. Unfortunately, even if I did remember something about a case, I cannot and would not discuss it with anyone outside the office.
9. I have always been under the impression that an ALJ may review all assigned and unassigned cases for possible on-the-record decisions, so long as no other ALJ has seen or reviewed the file. I was recently reminded that that is no longer true and I promptly returned those said cases to the original assignees. All of my career, all of my efforts have been to help my office reach its "numbers" goals each month.
10. It has always been my opinion that if an ALJ spends 10 working days (about half of his/her time) in the courtroom each month, it is virtually impossible to adequately do the many, many other things we must do to move a case through the system. Some

do, others do not. I am dyslexic and I simply cannot spend that much time in the courtroom. The agency has also asked us to try to handle cases wherein the files have not been worked up by a clerk (raw form – nothing in order). I have been doing that for years. To my knowledge, no other ALJs in my office do it. This, of course requires more time for review and preparation for a hearing or an OTR. Thus, it is necessary to schedule all of my hearings (about 60-80 per month) on 4 or 5 days during the month. This allows me sufficient time to review and prepare for hearings, resulting in full and complete knowledge of the documents in the case prior to hearing.

11. Absolutely not.
12. I have no knowledge of an investigation. I would venture to say that of the 729 cases mentioned in question 2, approximately 200-250 of them were Mr. Conn's cases (because of his remarkable volume of cases) and the other 500 (give or take) were those of the other lawyers whose cases I hear. The manner in which I weigh the evidence and render a decision is in no way different in Mr. Conn's cases than in all other lawyer's cases.
13. Historically, I have always held my Prestonsburg hearings in the last week of the month, thus allowing no time to process the decisions by the end of the month. Therefore, all of my P-burg decisions are signed and closed during the first 2 weeks of the following month. My local cases are heard in the 2nd week of each month and they can usually be processed in the last 2 weeks of the month. Thus, my production in a given month consists of the P-burg cases from the previous month together with the local cases of that month. The P-burg cases that I work on during a given month must be held until the following month or I would have no cases for the coming month because I closed 2 months worth of cases in one month. I apologize for the confusion, but it is all about the "numbers game" that most, if not all, federal agencies are subject to.

D. B. Daugherty, ALJ

Huntington, WV ODAR Office

Message0396	
Subject:	**RE: the story is running tomorrow**
From:	Astrue, Michael J.
Date:	5/19/2011 10:56:00 AM
To:	Lassiter, Mark

Message Body

Thx. All told though it could have been much worse

From: Lassiter, Mark
Sent: Thursday, May 19, 2011 9:19 AM
To: Astrue, Michael J.
Subject: RE: the story is running tomorrow

I would have too. I actually went back at him on that issue yesterday.

From: Astrue, Michael J.
Sent: Thursday, May 19, 2011 9:04 AM
To: Lassiter, Mark
Subject: RE: the story is running tomorrow

I would have liked him to note that ALJ allowances are down on my watch, but he's been fair.

From: Lassiter, Mark
Sent: Wednesday, May 18, 2011 5:49 PM
To: Astrue, Michael J.; Tittel, Jo; Sklar, Glenn; Borland, Jim; Bice, Debra HQ ODAR
Cc: Courtney, Jim; Gambino, Phil; Hinkle, Mark; Fredricks, Kristen; Lasher, Jonathan
Subject: FW: the story is running tomorrow
Importance: High

FYI

From: Paletta, Damian [mailto:Damian.Paletta@wsj.com]
Sent: Wednesday, May 18, 2011 5:33 PM
To: ^Press Office
Subject: the story is running tomorrow

Hi Mark,

Thanks again for all your assistance over the last six weeks as I've come back again and again with questions for my ALJ story. I really appreciate it. Here's the thrust of the story, which is running on tomorrow's front page, in case there are any last-minute things you all would like to add.

The storylooks at the ALJ situation in Huntington, WV with Judge David B. Daugherty, who approved benefits in 1,280 of the 1,284 cases he decided last year and has approved benefits in 729 of the 729 cases he decided this year.

The story includes several quotes from my interview with Commissioner Astrue.

They include a quote about how there were several "outliers" among the judges, but that his powers are tied to intervene. He also says most o the judiciary is "very productive." And that the Social Security administration has an obligation to pay people who deserve benefits and protect taxpayers in cases where people don't' deserve benefits.

The story gets into complaints from numerous judges that they are under so much pressure to clear the backlog that they at times will err on the side of approvals, because they are faster and are rarely second guessed.

The story will also get into the situation in Huntington, where numerous judges and staff have complained about Mr. Daugherty over the years and said the situation should be addressed. They have also complained that there is one lawyer in particular who has had a large number of his cases decided by Daugherty, with some days as many as 20 hearings being seheduled 15 minutes apart.

The story says that the Huntington office has held cases that were approved to meet monthly goals. In april, 50 cases were held – these were Eric Conn cases approved by Daugherty – and they weren't processed until early May. That means one extra month the beneficiaries have to wait for benefits, but one month's additional fee for the lawyer.

The story also says that the inspector general's office is looking into the matter.

My best,

Damian Paletta

The Wall Street Journal.

[redacted](office)

[redacted](cell)

twitter.com/damianpaletta

Outlook Header Information
Conversation Topic: the story is running tomorrow Subject: RE: the story is running tomorrow From: Astrue, Michael J. Sender Name: Astrue, Michael J. To: Lassiter, Mark Delivery Time: 5/19/2011 10:56:00 AM Creation Time: 5/19/2011 10:56:00 AM Modification Time: 5/19/2011 10:56:00 AM Submit Time: 5/19/2011 10:56:00 AM Importance: Normal Priority: Normal Sensitivity: Normal Flags: 1 = Read Size: 18339

Because I love my work,
Because I do numerous OTRs (the agency has, for years, ask us to do so),
Because most of my decisions are in cases wherein the files are not worked-up
(likewise, the agency has, for years, ask us to do so),
Because I write many of my own decisions,
Because I do much of my own scanning,
Because I issue more than 100 decisions per month, and
Because I tend to be a little energetic, if not aggressive, about my production,

I find myself defending my work ethic because of allegations made against me by two of our most unreliable and unproductive employees. One finds it difficult not to feel some degree of resentment under the circumstances.

Yes, there have been times that I have assigned other ALJ's cases to myself, or had someone else assign them to me. I was under the distinct impression that it was OK to do that if the other ALJ had not seen the file. When I was informed by Judge Andrus that I should not do it, I immediately stopped.

I was the first ALJ in our office to volunteer to handle electronic cases. Only four of our ALJs are now doing them, and these cases are accumulating rapidly, resulting in noticeable backlogs.

One particular lawyer in eastern Kentucky handles probably 2 of every 3 Kentucky cases. This means that each ALJ should be trying to schedule, or otherwise address, this lawyer's cases, accordingly. It is quite difficult to accomplish this, but I have always tried.

One of my accusers scheduled Prestonsburg cases for me last summer. A had about a half dozen cases penciled in on one particular day of my itinerary for another particular lawyer, but when I began my hearings that day, I discovered that she had added about 5-6 more of his cases, none of which I had reviewed, or even seen. I have since learned that both of my accusers are, and have been, particularly partial toward said lawyer. I didn't say anything because I was able to dispose of them without any problems. If it had been most any other ALJ, something likely would have been said or done.

The other one of my accusers has for months bugged me to schedule, or do OTRs in, cases for that same lawyer. I have done nothing but try to accommodate her.

It seems as though you just cannot be nice to some people, especially those who will use anything or anyone in order to have their way.

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ITEMS 1
05-20-2011 14:37:01 05941 02 754562 9910

Homeland Security & Governmental Affairs
Committee
EXHIBIT #75

CLF01022

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TOTAL	$58.29
CASH	$100.00
CHANGE	$41.71

ITEMS 2
2011-04-28 14:14:21 04642 02 2149

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CLF01036

Message2825	
Subject:	**Administrative leave for Judge Daugherty**
From:	Andrus, Charlie Paul
Date:	5/26/2011 2:19:58 PM
To:	Bice, Debra HQ ODAR

Message Body

Judge Bice,

As instructed, I read the statement to Judge Daugherty and was with him until he left the office. I have his proximity cards for our building, and the remotes site in Prestonsburg, Kentucky. I informed him that he needs to be available at home from 8:00 a.m. to 4:30 p.m. His home number is [redacted] and his Cell is [redacted] I directed him not to come into the office, nor is he to do any government work. I told him if he needed any personal effects to request them in writing to me and we would get them to him. I have directed the timekeeper to put him on administrative leave as of today. I have further directed the HOD to have his pin number removed from the alarm system in Huntington and in Prestonsburg. I will inform the guards here and in Kentucky that he is not to be in the building until further notice. I have made a memory jogger.

He does have leave scheduled from Friday June 3, 2011 through Friday June 10, and had purchased plane tickets. He asked if he can go or if he needs to stay. Please advise me and I will let him know.

Also, at your convenience, please advise me what I should tell the staff and the disposition of his cases.

If there is anything else you need me to do, please let me know.

Charlie Paul Andrus
Hearing Office Chief Judge
Huntington, WV

Outlook Header Information

Conversation Topic: Administrative leave for Judge Daugherty
Sender Name: Andrus, Charlie Paul
Received By: Bice, Debra HQ ODAR
Delivery Time: 5/26/2011 2:19:58 PM
Creation Time: 5/26/2011 2:19:58 PM
Modification Time: 5/26/2011 5:44:37 PM
Submit Time: 5/26/2011 2:19:55 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 17819

Standard Header Information

Received: from PH-CAS-HT-02.ph.ad.ssa.gov (10.26.86.118) by
HQ-CAS-HT-02.ba.ad.ssa.gov (10.17.110.54) with Microsoft SMTP Server (TLS) id
8.2.255.0; Thu, 26 May 2011 14:19:58 -0400
Received: from PH-MB-01.ph.ad.ssa.gov ([10.26.86.121]) by

Message2821	
Subject:	**RE: Tornado**
From:	Bice, Debra HQ ODAR
Date:	5/23/2011 8:22:00 PM
To:	Stroup, Marsha

Message Body

I agree with what all you say. It will be interesting talk in June. It sounded like people were in favor of capping cases – although I heard from one HOCALJ who was vexed. I like Andrus also but I think there is going to be some fallout from this – unfortunately. I'm not sure any office could withstand this scrutiny. On the positive side I am viewing it as an opportunity to get back to an emphasis on quality.

From: Stroup, Marsha
Sent: Monday, May 23, 2011 8:11 PM
To: Bice, Debra HQ ODAR
Subject: Re: Tornado

I think Huntington is embarrasing but not surprising, hopefully no kickbacks going on. The agency should have stopped this years ago but raw numbers have been valued too much and the claimants obviously love this kind of judge. We certainly don"t want another Bellman fiasco but the number of cases scheduled for any judge should be controlled by the office. Judges shouldn't be allowed to troll for OTRs anymore and should only be scheduled, say no more than 60-80 cases a month. I'd be interested in seeing the quality of writing on his cases. I also wondered how he got so many cases with the same attorney. The OIG report will be interesting. Depending on what it says, I'd take a hard look on how Andrus has been running the office. I like Charlie but there are a lot of questions swirling around in the field about him now. I have some other thoughts. We can talk more at dinner in June. MS

Marsha Stroup

Sent from my BlackBerry Wireless Handheld

From: Bice, Debra HQ ODAR
Sent: Monday, May 23, 2011 06:54 PM
To: Stroup, Marsha
Subject: RE: Tornado

I was talking with [redacted] last night and he mentioned they were under tornado watch. I talked with region – PRS is still intact, no injuries to employees. [redacted] mentioned the debris from the hospital in Joplin (xrays) ended up in Springfield!

Also tornados in Minneapolis – some damage to FO employees but none in odar.

I agree – not a good year from mother nature!

What do you think about the whole Huntington thing?

From: Stroup, Marsha
Sent: Monday, May 23, 2011 2:59 PM
To: Bice, Debra HQ ODAR
Subject: Tornado

Hi,

Just read about the Joplin tornado, good grief. Any damage in KC or around your area.

Had a long talk with [redacted] last week. He's a very unhappy camper. [redacted]

All is well here though it hasn't stopped raining in 2 weeks. We've had 7 inches of rain in May and more tonight. This breaks a record. My yard has never looked this good. The ski areas are still open, that's a record. The Spring runoff hasn't even started and that's going to be a record with widespread expected flooding. Mother Nature is certainly on a rampage this year.

RCALJ

Region VIII

Outlook Header Information
Conversation Topic: Tornado
Subject: RE: Tornado
From: Bice, Debra HQ ODAR
Sender Name: Bice, Debra HQ ODAR
To: Stroup, Marsha
Delivery Time: 5/23/2011 8:22:00 PM
Creation Time: 5/23/2011 8:22:34 PM
Modification Time: 5/23/2011 8:22:39 PM
Submit Time: 5/23/2011 8:22:34 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 16203

Message2543	
Subject:	**Huntington**
From:	Bice, Debra HQ ODAR
Date:	6/8/2011 5:49:18 PM
To:	Bede, Jasper J.; Allen, John

Message Body

I talked with Judge Andrus today. He has agreed to step down temporarily as HOCALJ. He is doing hearings at the PRS this week and has leave scheduled for next week. I told him that Judge Allen would be Acting HOCALJ and would be there Tuesday of next week. He asked if he has to move out of his office and I told him no.

I then went to Huntington office and spoke with Greg Hall and then the staff. I told them Judge Andrus had requested to step down temporarily and I had approved his request. I also told them Judge Allen would be Acting HOCALJ and would be there on Tuesday.

Judge Allen I told judge andrus and greg hall that you would probably call. I also told Greg to arrange for a place to sit. One of the first things you two will have to figure out is how to reassign daugherty's cases and whether judge allen is going to do columbus or huntington cases.
Debra Bice

Outlook Header Information

Conversation Topic: Huntington
Subject: Huntington
From: Bice, Debra HQ ODAR
Sender Name: Bice, Debra HQ ODAR
To: Bede, Jasper J.; Allen, John
Delivery Time: 6/8/2011 5:49:18 PM
Creation Time: 6/8/2011 5:49:18 PM
Modification Time: 6/8/2011 5:49:19 PM
Submit Time: 6/8/2011 5:49:18 PM
Importance: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 6938

Message2512	
Subject:	**RE: Thank you**
From:	Bice, Debra HQ ODAR
Date:	6/9/2011 1:45:00 PM
To:	Andrus, Charlie Paul

Message Body

:-)

From: Andrus, Charlie Paul
Sent: Thursday, June 09, 2011 1:44 PM
To: Bice, Debra HQ ODAR
Subject: RE: Thank you

Thanks. I appreciate your concern. And again I really appreciate how you handled a very difficult duty. You are really a class act.

Chuck

From: Bice, Debra HQ ODAR
Sent: Thursday, June 09, 2011 1:41 PM
To: Andrus, Charlie Paul
Subject: RE: Thank you

Yes, I don't think this will spark anything new but wanted you to think about it.

From: Andrus, Charlie Paul
Sent: Thursday, June 09, 2011 1:40 PM
To: Bice, Debra HQ ODAR
Subject: RE: Thank you

Thanks. I was careful to only discuss things that are quite well known by everyone.

From: Bice, Debra HQ ODAR
Sent: Thursday, June 09, 2011 1:25 PM
To: Andrus, Charlie Paul
Subject: RE: Thank you

Just might want to consider if the wsj will quote this.

From: Andrus, Charlie Paul
Sent: Thursday, June 09, 2011 12:24 PM
To: Bice, Debra HQ ODAR

Homeland Security & Governmental Affairs Committee
EXHIBIT #79
PSI-SSA-100-030471

Cc: Bede, Jasper J.
Subject: Thank you

Judge Bice,

With your permission, I would like to send the below e-mail to the Huntington staff. My son tells me that it wasn't 20 minutes after your announcement that the reporter from the WSJ called my home gloating about my losing my job. Nice way for my family to find out.

Judge Andrus

As you know, as HOCALJ I carry a full load of cases as a judge as well as having administrative duties in the office. Recent events have added even more stressful duties. After my heart surgery I have been very cognizant of the stresses in my life. Some of you have expressed concern with things you saw indicating I am adversely reacting to the stress.

With this in mind, and given my doctor's warning about too high levels of stress, I requested that Judge Bice relieve me of the HOCALJ responsibilities on a temporary basis until the investigation is over. This will allow me to concentrate on my primary duty as an Administrative Law Judge. When the extra stressors are resolved, I plan to reassess the situation and in conjunction with my doctor, decide if I could safely request to resume the HOCALJ duties. Judge Bice agreed to my request.

I want to take this opportunity to thank all of you for your hard work for the claimants we serve. Now, more than ever, it is important to focus on what we are here to do—to get the claimants a fair decision as soon as we can. That is what I plan to devote my efforts toward, and I would ask that you join me in giving Judge Allen all possible support as the office continues to give the citizens who depend on us the world class service they deserve.

Judge Andrus

Outlook Header Information

Conversation Topic: Thank you
Subject: RE: Thank you
From: Bice, Debra HQ ODAR
Sender Name: Bice, Debra HQ ODAR
To: Andrus, Charlie Paul
Delivery Time: 6/9/2011 1:45:00 PM
Creation Time: 6/9/2011 1:45:17 PM
Modification Time: 6/9/2011 1:45:22 PM
Submit Time: 6/9/2011 1:45:17 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 21109

file:///C|/Temp/Html/81920.html[3/7/2012 6:23:43 PM]

Message0223	
Subject:	**FW: Thank you**
From:	Andrus, Charlie Paul
Date:	6/9/2011 1:09:44 PM
To:	#PH WV ODAR Huntington All
CC:	Bede, Jasper J.; Allen, John

Message Body

As you know, as HOCALJ I carry a full load of cases as a judge as well as having administrative duties in the office. Recent events have added even more stressful duties. After my heart surgery I have been very cognizant of the stresses in my life. Some of you have expressed concern with things you have seen indicating I am adversely reacting to the stress.

With this in mind, and given my doctor's warning about too high levels of stress, I requested that Judge Bice relieve me of the HOCALJ responsibilities on a temporary basis until the investigation is over. This will allow me to concentrate on my primary duty as an Administrative Law Judge. Judge Bice agreed to my request. When the extra stressors are resolved, I plan to reassess the situation and in conjunction with my doctor, decide if I could safely request to resume the HOCALJ duties.

I want to take this opportunity to thank all of you for your hard work for the claimants we serve. Now, more than ever, it is important to focus on what we are here to do—to get the claimants a fair decision as soon as we can. That is what I plan to devote my efforts toward, and I would ask that you join me in giving Judge Allen all possible support as the office continues to give the citizens who depend on us the world class service they deserve.

Judge Andrus

Outlook Header Information

Conversation Topic: Thank you
Sender Name: Andrus, Charlie Paul
Received By: Gitlow, William H.
Delivery Time: 6/9/2011 1:09:44 PM
Creation Time: 6/9/2011 1:09:44 PM
Modification Time: 6/9/2011 1:09:44 PM
Submit Time: 6/9/2011 1:09:42 PM
Importance: Normal
Priority: Normal
Sensitivity: Normal
Flags: 1 = Read
Size: 18477

Standard Header Information

Received: from PH-MB-01.ph.ad.ssa.gov ([10.26.86.121]) by
PH-CAS-HT-02.ph.ad.ssa.gov ([10.26.86.118]) with mapi; Thu, 9 Jun 2011
13:09:43 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: "Andrus, Charlie Paul" <Charlie.Paul.Andrus@ssa.gov>
To: #PH WV ODAR Hun

Message0809	
Subject:	**RE: I know you said not to work on the weekend but...**
From:	Bice, Debra HQ ODAR
Date:	8/28/2011 12:39:00 PM
To:	Devlin, Michael

Message Body

While no promises have been made to Charlie Andrus, at the same time he has not been given any assurances that he will return. When a final decision is made, it could be unpleasant. That said, you do have the authority to make changes, after running it through our daily workgroup. If Andrus starts to act up let me know and I will take care of it.

-----Original Message-----
From: Devlin, Michael
Sent: Saturday, August 27, 2011 6:03 PM
To: Bice, Debra HQ ODAR
Subject: I know you said not to work on the weekend but...

At lunch Friday, Charlie Andrus mentioned that he can't wait for things to get back to normal so he can run the office again.

I would like to know whether he is delusional or whether you or Judge Bede have given him some assurance that he would return as HOCALJ.

Since I will soon be making changes in the office, he may see it as me stepping on his turf. Particularly if he views the Acting HOCALJ's as merely caretakers keeping the status quo until his return.

For all his hale fellow well met gregariousness, I think he is capable of being a mean SOB. He has been cordial and pleasant with me, but then again we have not had any disagreements yet.

It would help me to know where things stand if Andrus challenges my authority to make changes.

Thanks.

Mike

Michael Devlin

Sent from my BlackBerry Wireless Handheld.

Outlook Header Information

Conversation Topic: I know you said not to work on the weekend but...
Subject: RE: I know you said not to work on the weekend but...
From: Bice, Debra HQ ODAR
Sender Name: Bice, Debra HQ ODAR
To: Devlin, Michael
Delivery Time: 8/28/2011 12:39:00 PM
Creation Time: 8/28/2011 12:39:40 PM
Modification Time: 8/28

Homeland Security & Governmental Affairs Committee
EXHIBIT #81
PSI-SSA-10-029427

Name:	Charlie Paul Andrus
Position:	Administrative Law Judge, Huntington Hearing Office
Interview Date:	January 15, 2013
Place of Interview:	Huntington Hearing Office, HOCALJ office
Individuals Present:	Judge Andrus, Interviewee Michelle M. Murray, attorney, Office of the General Counsel Amanda Gilman, attorney, Office of the General Counsel Erin Justice, attorney, Office of the Counsel to the Inspector General

STATEMENT OF CHARLIE P. ANDRUS

At the beginning of the interview, Judge Andrus was informed:

> Previously, you were interviewed by agents from the Office of the Inspector General, about a "plan" to have Sarah Carver followed or videotaped while she was working on Flexiplace.
>
> Since your interview, OIG referred this matter to the Office of Disability Adjudication and Review for any necessary administrative action. ODAR asked that the Office of the General Counsel conduct a supplemental investigation.
>
> Today, we will ask you a series of questions about your involvement or knowledge in this matter. We will be taking contemporaneous notes during our discussion. Following the interview, we will format the notes into a Question and Answer statement for you to review, edit and sign.

Judge Andrus indicated that he remembered being interview by an OIG agent regarding a plan to have Sarah Carver followed or videotaped and acknowledged the interview format.

Representative

Q: Are you represented by anyone during this interview?

A: No.

Q: Do you decline representation voluntarily?

A: Yes.

Initials _____

Homeland Security & Governmental Affairs Committee
EXHIBIT #82

Background

Q: What is your full name?

A: Charlie Paul Andrus.

Q: What is your current position?

A: Administrative Law Judge.

Q: How long have you held this position?

A: 27 years on March 3, 2013.

Q: What are your responsibilities in this position?

A: I hear and adjudicate disability cases and other appeals for SSA.

Q: Who is your first line supervisor?

A: The acting HOCALJ, Lisa Martin.

Q: Who is your second line supervisor?

A: Judge Bice is taking the place of the regional chief judge.

Q: Do you supervise anyone?

A: No.

Q: You once held the HOCALJ position in this office, correct?

A: Yes, from August 1997-October 2011.

Q: How were your responsibilities different?

A: I served as both a Judge and administratively, running of the office.

Q: Did you supervise anyone?

A: Yes. I was the first line supervisor for HOD and for the ALJs.

Q: For any other staff?

A: I was the ~~third~~ second line supervisor for the group supervisors; and third line for ~~staff~~ responsible to the group supervisor.

Initials CPA

Statements to OIG

Q: Do you recall being interviewed by an OIG agent regarding a plan to have Sarah Carver followed or videotaped?

A: Yes

Q: Were you truthful and forth coming during that interview?

A: Yes

Q: Please describe in your own words generally what the plan entailed?

A: It started out as general discussions with Eric Conn and moved to be specifically about Sarah Carver. Eric Conn said he would hire a private investigator to see if Ms. Carver was working while on flexiplace.

Q: When did the discussions begin?

A: Almost a year ago – not precisely, but about March or April of 2012.

Q: Who is Eric Conn?

A: He is an attorney in Stanville, KY.

Q: How do you know him?

A: He's represented a large number of claimants before me since 1995.

Q: How did you come to know him?

A: Through his work at SSA.

Q: How would characterize your relationship with Mr. Conn?

A: Professional and as an acquaintance.

Q: Could you elaborate?

A: We would discuss things other than SSA – for instance, he has been married 11 or 12 times. He would talk about online dating; travels to meet people; he traveled to Siberia in February.

Q: How often would talk with him?

A: When I was HOCALJ, I would have more interaction with Eric Conn discussing problems that would crop up about the operation of the office. For example, Eric Conn's staff was providing a lot of duplicate documents that we would have to sort and file. I discussed that with him and other scheduling problems because there were so many hearings. I remember I had a meeting with my HOD and Eric Conn and his manager about ways we could facilitate the scheduling.

Q: Do you remember when those discussions occurred?

A: We were still in the old office down the street.

Q: Who was at the meeting?

A: Harriet Cyrus, the HOD, Eric Conn and his mother, and another Conn staffer.

Q: You characterized your discussions as more frequent in the past then now – why?

A: Because I would be discussing matters regarding the running of the office. For instance, I told Mr. Conn about the initiative to have attorneys gain electronic access to the files and gave him information on how to apply - because Eric Conn had such a huge volume. I had the same discussion with Grover Arnett, another Salyersville, Kentucky attorney.

Q: Did you tell any other attorneys about that program?

A: Several – we were told to tell the local bar, but I can't remember the others.

Q: Did you have any similar meetings with other representatives like the one with Eric Conn, his mother, and Harriet Cyrus?

A: Before I became HOCALJ, Ms. Cyrus had a meeting with Bill Redd in Huntington – at that time he also had a large number of cases, but I was not at the meeting.

Q: Did you ever provide Eric Conn with changes in SSA policies and procedures?

A: I don't understand.

Q: With how the agency business was conducted?

A: I probably would have if it were public information. For instance, I told him about the electronic files and the initiative to have attorneys propose fully favorable decisions.

Q: Why would it matter if it was public information?

A: I don't discuss confidential information with attorneys.

Q: Do you recall when you shared information regarding that initiative?

A: No.

Q: Do you recall sharing that fully favorable initiative with other representative attorneys?

A: I believe I shared it with Grover Arnett, but I wanted to see if it worked. At the time, Eric Conn was the most electronically savvy; he would propose some fully favorable decisions for me and for Judge William Gitlow, using the FIT template on the SSA internet website.

Q: How did you know he was doing them for Judge Gitlow?

A: Judge Gitlow is retired now. Judge Gitlow was having trouble meeting his goal, and this would help him move cases without a hearing.

Q: How would you communicate with Eric Conn?

A: I would talk with him in Prestonsburg or on the telephone.

Q: Since, you were removed from the HOCALJ position – have you spoken with Eric Conn?

A: Yes.

Q: What was the nature of those conversations?

A: We communicated about individual cases, much less frequently – and we discussed Ms. Carver.

Q: Are you aware if Mr. Conn is still in this area?

A: I believe he is.

Q: When was the last time you communicated with him?

A: Late April - beginning of May 2012 – before I went on vacation in May.

Q: Has Mr. Conn ever given you a gift?

A: He left some CDs for me – and on a few occasions, he brought sandwiches to the hearing site for everyone.

Q: How many times did he do that?

A: Three or four – I'm not sure.

Q: Anything else? Ever dine with Mr. Conn outside of work?

A: I went to his office to check the connection for his video conferencing equipment– and when I was there he was having a staff dinner – I had some of that – this was several years ago. I was also at his office to take a look at his model hearing room that he wanted me to see – food was involved in that trip too. There was one time I was having dinner at a Mexican restaurant in Prestonsburg - I believe with one of the VEs - and Mr. Conn and his wife came in and sat with us.

Q: Has he ever invited you to go on trips?

A: Yes, he asked me if I wanted to go with him to Thailand, and I said he had to be kidding and to think about it and there was no way I could do that. Another time, my church was thinking about going to England, and Mr. Conn expressed an interest in taking his father, but the trip never materialized. Mr Conn did not offer to pay my way on that proposed trip. If he had I would have refused

Q: Have you ever shared food with any other representative?

A: Some bring food for the office at Christmas time that we make available to the staff – and Bill Roberts in 1995 was at the same restaurant with me and Judge Coggin, but I can't remember if he joined us. It was a Mexican restaurant. Roggin did

Q: Who paid for that meal?

A: We each paid for our own.

Q: Has Eric Conn ever offered to buy you other items?

A: Not that I can recall – if he did, I wouldn't accept them.

Q: What about the CDs?

A: I shredded the CDs.

Q: Why?

A: Because he made a comment that they were legal under the laws of Thailand, and I thought they might be pirated so I didn't want get involved. They were not commercial CD's they were burned from some source onto a recordable CD RW

Initials _____

Q: Do you know if Mr. Conn offered any gifts to other ALJs?

A: I only remember CDs – can't remember anything else. He also left CDs for Judge Chwalibog.

Q: At the same time he left you the CDs?

A: Yes.

Q: Do you know what Judge Chwalibog did with the CDs?

A: No.

Q: Did Eric Conn tell you why he was giving you CDs?

A: I don't think he ever said – he just had these CDs.

Q: You are aware of May 2011 Wall Street Journal article?

A: Yes.

Q: Are you aware of a federal investigation?

A: Yes, I was interviewed by OIG. Right around that time, we had forwarded a fact sheet about Judge Daugherty to OIG – the fact sheet related an incident when he had come into the office with some benefits checks and was inquiring into whether or not they were proper and could be cashed. He talked to Stephen Hayes – the Group Supervisor at the time – and what had peaked my curiosity was when Judge Daugherty said that he talked to a claimant's mother at the VFW regarding the claim - which he granted as an OTR and then she brought him the checks and she asked whether she could cash the checks and if they were the right amount. I was troubled by the fact that he had them. Stephen Hayes wrote up a factsheet – and I sent it to Judge Bede who informed me that OIG would investigate.

Q: Do you recall when you were first interviewed by OIG?

A: In May, after Wall Street Journal article. Before the article had come out, I think the reporter had sent questions – and Judge Bede asked me to write up the agency's answers. The answers were forwarded to him, who forwarded it to Falls Church. I got a call from Glenn Sklar. He asked me if I had any problems with some revisions regarding the Commissioner's initiative to work down the backlog by reviewing cases for OTR decisions.

Q: What was your understanding of the nature of the investigation?

A: I assumed it was about the factsheet – and whether there was any wrong doing between Judge Daugherty and Eric Conn and other attorneys.

Q: How long after that was the first conversation you had with Eric Conn about Ms. Carver? Tell us about that conversation and what happened next.

A: About a year later. It started off – we were having a general conversation – Eric Conn had mentioned that Sarah Carver and Grover Arnett and retired Judge Kemper had met with the Wall Street Journal reporter about Judge Daugherty. And he was not happy with Sarah Carver. I had mentioned that she was probably not performing time and attendance while on flexiplace; but that generally it was very difficult to do anything. She couldn't be disciplined unless there was video sent to her supervisor. Eric Conn said he'd be willing to hire a private investigator to check.

Then I got real stupid and said that sounds like an idea.

Then we discussed how to let him know when she was on flexiplace since it was not on a regular basis. He asked if there was anyone on staff who would be willing to call him – and I thought of Sandra Nease, a writer, because she had had personal problems with Sarah Carver and Sandra Nease agreed.

Eric Conn gave me a note for Sandra Nease indicating a cell number of a contact in his office and I gave it to Sandra Nease. She said she would call the person when she knew that Sarah Carver was on flexiplace.

Q: Did you read the note?

A: I don't believe I did – but I knew what it was.

Q: Do you remember when you gave the note to Sandra Nease?

A: Not with precision.

Q: How long after you had the first conversation with Eric Conn did you give the note?

A: Shortly.

Q: What did the note look like?

A: It was a yellow sticky note, lined.

Q: How did you give it to note to Sandra Nease? Where?

A: By hand, in her office.

Q: Do you know what Sandra Nease did after you gave her the note?

A: She told me she called Eric Conn's office when the staff was on flexiplace; but I don't know what she did with the note.

Q: Was that the only note you gave her from Eric Conn?

A: Best as I can remember.

Q: Tell us about how Ms. Nease became involved?

A: I just did.

Q: Did you approach her?

A: Yes

Q: When?

A: Shortly after I had the conversation with Eric Conn.

Q: Do you recall how many conversations you had with Ms. Nease?

A: Not exactly, but several.

Q: Can you tell me about those conversations?

A: We discussed what might happen to Sarah Carver once management found out about her time and attendance abuse. We had a discussion about - because there was a video of some kind – it would be more difficult for Sarah Carver to claim retaliation as a basis for any action.

Q: Any other conversations?

A: Not that I can remember.

Q: How did Sandra Nease react when you approached her?

A: She thought it was a good idea.

Q: Did she tell you why?

A: Because she was frustrated with Sarah Carver for getting away with everything while she was trying to make a big problem for the office in general about Judge Daugherty and generally trying to get the management team in trouble while she was abusing time and attendance and nothing was being done.

Q: Did you promise Sandra Nease any benefit for participating?

A: No.

Q: Did you tell her something negative would happen to her?

A: No, I was not in management.

Q: Did Conn promise a benefit or tell you something negative would happen?

A: No – this was all my own stupidity.

Q: Is the information regarding flexiplace days available to the public?

A: We do not publicize it, but it's not a secret as far as I know. A large part of the staff participates in flexiplace.

Q: Did you tell Mr. Conn where Ms. Carver lives?

A: I don't know where Ms. Carver lives.

Q: What information did you provide Eric Conn regarding Ms. Carver, like the car she drives?

A: I don't know that information.

Q: Did you tell Eric Conn about her prior problems with flexiplace?

A: I told him she had prior problems with flexiplace - I didn't go into details.

Q: Do you know if Ms. Nease made the calls?

A: I wasn't there when she made them, but she said that she did.

Q: How would she tell you she did?

A: I went into her office and she said I got a hold of Mr. Conn or the person in Mr. Conn's office – something to that effect.

Q: Anything else?

A: That is all I can remember.

Q: Do you know how many calls she made?

A: No.

Q: Do you know when she starting making calls?

A: I cannot give you a date, shortly after I gave her the note with the phone number.

Q: Do you know if Eric Conn had Sarah Carver followed? Or someone from his office?

A: That's what he told me. He mentioned that one of his employees was a former police officer and he had given that employee a video camera to record her. The employee parked on a public street outside of Ms. Carver's residence and would tape her when she left the house during business hours.

Q: Did he share the video tape with you?

A: I've never seen it.

Q: Did Eric Conn say he caught Ms. Carver?

A: Yes.

Q: Did he tell you what he caught her doing?

A: He saw her leave her house, pick up her son, and go shopping. In another incident, she left in the afternoon and went to a law office. She stayed there for some time and came out with a sheaf of papers.

Q: Do you know what Eric Conn did with the tape?

A: Not directly –I told him it should go to her first line supervisor and then OIG. He asked for the address of the senate committee who was investigating at the time; I gave him the address.

Q: Do you know if he sent the materials to those individuals?

A: Not directly, but I assumed he did.

Q: Why did you assume so?

A: OIG later interviewed me about – indicating that they got it.

Q: After you had the conversation with Eric Conn about senate committee -- did the two of you speak again?

A: I am sure I did. He asked me if I had heard of anything happening. I said would not know, since I wasn't in management – I wouldn't have been informed.

Q: Anything else?

A: That's all I can recall.

Q: After you heard that he had taped her, did you tell anyone?

A: I told Sandra Nease what he had said.

Q: Tell us about that conversation.

A: I related that he told me that they had video tape about her shopping and the incident where she went to the law office -- we speculated why she was there, Ms. Nease thought she was moonlighting. I said I had no clue.

Q: What happened next? Were there further conversations with Ms. Nease?

A: She told me that she was interviewed by staff for the investigating committee– and they had asked about her involvement in the plan.

Q: Who initiated that conversation?

A: I don't recall.

Q: Where were the conversations you would have with Ms. Nease?

A: Always in her office.

Q: Do you recall having any conversations with her after work hours?

A: I believe I called her once at home – she gave me her number to call.

Q: What was that conversation about?

A: Her interview with the senate staffers.

Q: Did you ever tell her how to answer questions?

A: No.

Q: Did she tell you how to answer questions?

A: No.

Q: Did Ms. Nease ever express a hesitancy or uncertainty about being involved?

A: Not that I recall.

Q: Did you ever tell Ms. Nease you had a copy of the video?

A: No – I haven't seen it.

Q: Did Eric Conn send it to you and you did not watch it?

A: No. He never sent a video tape

Q: Why did you want to assist Eric Conn in this matter?

A: It seemed that Ms. Carver was trying to get several people in trouble. First with Judge Daugherty, another example – Mr. Hall – then the hearing office director – he had obtained some small shredding machines after I was no longer the HOCALJ. Ms. Carver emailed Falls Church and a blogger, and made a fuss and shredders were gone.

There were also three other incidents, one right after another. The first one, Kathy Goforth, Carver's supervisor, came to me and said that someone had pointed out that there was a roller bag left unattended by the sign-out sheet. She had taken it and looked inside and it contained files that Sarah Carver had been assigned to take home the day before, and Ms. Goforth kept them in her office. No one claimed them. At the close of business, they put the bag back. The next day Ms. Carver gave them the cases and said she had worked flexiplace. Ms. Goforth said you left the bag. She said another employee had brought them to her over lunch and she had some files at home from a prior flexiplace. Greg Hall checked the internal security system. The alarm had been turned off – someone had come in during the night and got the files. Ms. Carver eventually came forth and admitted what she had done. She confessed that she had lied.

During the same time, she was insubordinate to Ms. Goforth, and there was third thing, but I can't remember what it was.

After discussing with the HR people, Ms. Goforth proposed a suspension, and Greg Hall agreed, and issued it. There was no grievance filed. Or there may have been one but I don't remember.

And then a few months later, we had another incident where she said she completed files on flexiplace. They can only work on paper files. That's why it's intermittent. On flexiplace, SCTs put exhibits in chronological order, remove clips and number the exhibits in the sections. The only two things they prepare are the tab/exhibit list. When her supervisors looked at the files, there was quite a bit not done which should have been done. Her group supervisor –Hayes or Patterson- proposed an additional suspension after speaking with someone in employee relations – a longer suspension. She filed a grievance which was scheduled to go to arbitration. Sometime later, I believe we found out that Judge Bede, based on a conversation with OGC, settled it from a suspension to a letter of reprimand. What was infuriating was that they did not discuss it with the Huntington management.

After that she seemed to have some sort of immunity. Then this thing started with Daugherty and Sarah Carver had sent emails to people calling me a criminal. I went to Judge Devlin, the acting HOCALJ at the time, and said this is creating a hostile work environment and nothing happened on that.

Right before Greg Hall retired, Sarah Carver filed a formal retaliation against Greg Hall for not authorizing advance sick leave. He retired shortly after that.

I know when Judge Laba was the acting HOCALJ, she reminded the ALJs of the problems about time and attendance that had been brought to her attention. Carver was creating problems for others while I believe she was committing crimes while abusing flexiplace.

Q: Did you report your belief to the OIG about her abuse of flexiplace?

A: I discussed her problems – I did – but I asked them - if I had gone to you and told you - would you have done anything? The agent said no – because it wasn't as important as the other things they were investigating.

Q: Do you know how Ms. Nease knew Sarah Carver would be on flexiplace?

A: It is pretty obvious. Supervisors pass out paper files to SCTs. They have secure bags. They put files into the bags to take home. Files are given out the day before. If it is Monday, they give out on Friday.

Q: Did you ask anyone else in this plan to follow Sarah Carver?

A: No.

Q: Do you know Lauren Aldridge?

A: She used to work here.

Initials _____

Q: Did you ask her to take action related to this matter?

A: I don't believe I did.

Q: What position did she hold?

A: Senior Case Technician.

Q: When did she work here?

A: Sometime after Sandra Nease was promoted – she took a job with Veterans Affairs.

Q: Why?

A: She took a GS-12 position – it was a promotion.

Q: Was Brandee McCoy involved in the plan to have Sarah Carver followed?

A: No.

Q: Do you know if Ms. McCoy had knowledge about this plan?

A: No.

Q: Did you ever speak with her about plan?

A: No.

Q: Do you know if Ms. Nease told other people about the plan?

A: I don't know.

Q: Who is [redacted]

A: She worked here about three or four years ago – she went [redacted]

Q: Why?

A: I believe it was a promotion.

Q: Did she have problems with management?

A: Yes - she wanted to keep a refrigerator in her cubicle [redacted] We were told to remove all electric appliances. So we set up a refrigerator for prescriptions only 30 to 40 feet from her cubicle. She said she was afraid others would tamper with her medicine which was strange because she allowed others to use her frig when it was at

the cubicle. When she had to stop using her refrigerator, we asked if she felt more comfortable putting it in one of our offices. There was a grievance – it was finished after she left.

Q: Was she subject to discipline?

A: Not that I was involved in.

Q: Did [redacted] ver not do something you asked her to do?

A: No - do you have something specific in mind?

Q: Did you ever alienate [redacted] have management alienate her?

A: No – [redacted]

Q: Ever discuss the plan to have Sarah Carver followed with anyone outside the office other than Eric Conn?

A: I don't believe I did – other than OIG.

Q: Did you learn that there came a time when Ms. Nease stopped making phone calls?

A: I know she stopped. I'm trying to think of when – before May 26, 2012. When I came back in June, Carver wasn't in the office.

Q: Do you know why Ms. Nease stopped?

A: No. There wasn't anything happening and then she had the discussion with the Senate committee staffers. That's when it dawned on me how incredibly stupid this had been.

Q: Why is the idea incredibly stupid?

A: One of the OIG investigators asked me how I could have been so stupid – I couldn't answer but to say it was incredibly stupid. Fortunately, it doesn't happen often, and I can guarantee it will not happen again. She was committing crimes and no one was doing anything about it and yet she was calling other people criminals who had not done anything wrong.

Q: Did you ever approach anyone in management about the plan? When?

A: I believe I mentioned to Stephen Hayes that I heard there was a video of Ms. Carver on flexiplace, and his response was he couldn't talk about anything like that – I can't remember when, in May before I went on leave.

Q: How did you know there was a video?

A: Mr. Conn had told me.

Q: Did you tell Mr. Hayes your information had come from Mr. Conn?

A: No.

Q: Did you mention anything about "White Vans" to Mr. Hayes?

A: I don't remember.

Q: Were there any "White Vans" involved in the plan?

A: No, but Eric Conn had said that his employee who had taken the video saw white vans.

Q: Did Conn ever tell you who he had videoing?

A: No.

Q: Do you recall when Mr. Conn told you about the white vans?

A: May 2012.

Q: Do you know Curtiss Wyatt?

A: Not that I recall.

Q: Did you ever tell Mr. Conn that you were being interviewed by OIG or the Senate Subcommittee?

A: I may have in May – since then I have not talked to him at all.

Q: Have you communicated in any other way?

A: No.

Q: Do you know why Ms. Carver is out of the office?

A: Not specifically.

Q: Do you know something generally?

A: Something about worker's compensation.

Q: Did you tell Mr. Conn that Ms. Carver is not trust-worthy?

A: Yes, more than once.

Q: Why did you share this information with Eric Conn?

A: She seemed to be the basis for all the action that was being taken.

Q: Did you say that Ms. Carver was a thorn in your side?

A: I don't recall those exact words, but I could have very well have said that.

Q: Do you believe it to be true?

A: Yes, while I was HEARS

Q: Did you ever have a conversation with Ms. Nease about retaliation? Can you tell us about that? Who initiated the conversation?

A: I remember talking with her about it – I said that because it does not come from management, and it was independent evidence, it couldn't be construed as retaliation for Daugherty. I initiated the conversation.

Q: If you had been in management - would it have been retaliation?

A: There would have been a better allegation if I had been in management.

Q: When you told us Mr. Conn had given you DVDs, by not returning the DVDs, wouldn't it look like you had accepted his gift?

A: I was not thinking about that. They really had little if any value as they were just copies burned onto a recordable disk CMH

Q: Why did you not refuse the DVDs?

A: It was easier to shred them.

Q: When you first approached Ms. Nease about having Ms. Carver followed – what did you say?

A: I mentioned that Eric Conn would hire someone to videotape Sarah Carver, and she agreed right away.

Q: Why didn't you make the calls?

A: This was back when I was being stupid. I felt it would be better if it came from someone else. She was with the SCTs – if I was on a hearing trip – she was in a better position.

Q: Do you remember when you moved from the HOCALJ office?

A: October 2011. Judge Bice came and she told me that I was not going to be reinstated as chief judge. She wanted me out of this office.

Q: Do you blame Sarah Carver for being taken out of management?

A: I don't know enough. I asked Judge Bice more than once as to what I had done or not done that had prompted this decision. Judge Bice came to see me in Prestonsburg. She had emailed me, and told me she was going to be there noon the next day during the lunch hour – so no one else was there but the guard. The hearing reporter was at lunch. I figured that it cannot be good.

She said, "It's not as bad as you think," and that "I want you to step down as chief judge temporarily – once the investigation is over – you'll be reinstated – keep a low profile and don't cause disruption – or you'll be removed." I told her I would step down and wait until this is over. I told her, "I don't think this is your idea, sounds like the deputy commissioner." She looked at me and said "it's coming from higher up." The Commissioner wanted me to step down. So I stepped down – and did my cases.

Then I get an email – Judge Bice needs to talk. She told me that she will appoint a permanent HOCALJ here and it would not be me. I was rather upset. What did I do or not do. She said, "I cannot tell you. It's an ongoing investigation." She said, "It was my idea, but of course, I cleared it with the Commissioner – and that you needed to be out of the HOCALJ office." And then she asked me to give Judge Laba any management files.

I was rather upset. She gave me a card for the employee assistance program. Shortly after that, Tim Morton called and asked me how I was. I said – "Not worth a shit what can I do for you?" But eventually, when he came to speak with me the second time, he said, "I got the email that you had been permanently replaced. I figured that was what was bothering you." I don't know if it was Ms. Carver or something that came up or what.

Q: Do you recall when you had the first meeting with Judge Bice?

A: Shortly after the May article, June 2011. The second meeting was year ago - October 2011. She did not need to give me any reason.

Q: Do you know Judge Tinsely?

A: He was an ALJ, while I was HOCALJ.

Initials

Q: Is he no longer here?

A: He retired. I don't know where he is.

Q: What did you think of his performance?

A: He never could get a handle on the work. He was bright, friendly, out-going, even after I had to do disciplinary things, like a suspension. I don't know if it was cognitive or just drive. I did not know what do. His production was the lowest in the office. I tried several things to help him get organized. I had him mentored by other judges. I gave him the assistance of the best senior attorney.

He would work off and on. If there was a problem, instead of working with the representative to resolve, he would stop and go on to another case. The hearings he had – when I listened – he was turning pages. There complaints that he was rude. When I listened, he didn't say anything bad. He was brusk and short.

I talked to Judge Bede. He said to take him off the roster. It will just be for a couple of months so he could get out his decisions. It didn't help. He had over 100 cases. Any other judge could have resolved that within few weeks.

Then Judge Bede had sent him a list of cases that had been in status. He directed him to move the cases by a certain date or explain why he could not. That's the first step when trying to remove a judge for poor production. There are no strict quotas, but when they are not producing without reason, that's grounds for removal. He moved some, but not all. He sent Judge Bede an email saying he could not get all done.

Judge Bede sent another memo, saying move the cases or explain why. He did not move all, but a lot. "I was confused – that's all I can do."

Then there was another incident, the MSA noticed problems with his time and attendance while on travel to Prestonsburg. That led us, the agency, to suspend him for 30 days for falsifying time and attendance. When he came back, he started in with performance issues and then he had hearings set and he did not show up. I was in Prestonsburg, and was called by the HOD. I said call him at home, and see if another judge can hear the cases. We called him at home, and he said he had forgotten.

He missed another set of hearings. The SCT who worked with him to do scheduling, Harriet Beckett, told him he had hearings. He waited to remove the files and then he did not show up.

We sent it up to the Regional office. It was not good. I had supervisors work over to care for people who were waiting to have hearings. You cannot hold hearings like that. Not good at all. We thought removal, but then perfect, he went to work for Eric Conn.

Q: How did that happen?

A: Eric Conn had asked me if I knew anyone who wanted to retire. He was the only lawyer, and it was too much. I told him that the only one I had heard about was Judge Tinsley. He was old enough, but I did not know his plans. Judge Quinlivan told me shortly after that he was going to retire.

I said, "Whatever you do, if you have conversations with him, tell me so that I can take care of his cases." Then I got a call. They had entered into negotiations and had come to an agreement.

Q: When was that?

A: December 2010.

Q: After the suspension?

A: The suspension was in May. It was the following December.

Q: Did Judge Tinsely ask you for help?

A: No.

Q: Did either individual offer anything to you to help expedite the process?

A: No, but I was more than happy to have him retire.

Q: Did Conn ever discuss any staff issue other than that?

A: Over the years, he mentioned problems with some employees that would impact our operations. He would give me a block schedule and we would call.

He talked about opening an office in Ashland, and he asked if I knew an attorney who was capable of working with him. I gave him some names.

Q: Who?

A: One was Marie Goldcamp, who is now a Judge here. Also, Bill Redd.

Q: Do you know anyone of Conn's current or former employees?

A: I have met them, but I have no dealings with them outside of the office. I may have had one or two in a class I taught on administrative law several years ago.

Q: Do you know if any of these people worked with SSA or other federal agencies?

A: I don't know. I know a vocational expert who does reports for workers compensation for one attorney who does ~~not~~ do SSA cases. [redacted]

Q: Do you consider yourself a mentor to Conn? Can you expand?

A: No. He ignores me. He wanted to expand nationally, advertise nationally. I said, "You know what helps your case. You know how the judges work. You know which doctors we look to as more important and not. You go elsewhere and you won't know that. You are effective at getting additional evidence. It's harder to do that on a national scale. Don't do it." He did it. He opened an office in California, and closed the office in Ashland.

Q: Is he still here?

A: As far as I know.

Q: What did he tell you about the California office?

A: Earlier this year, he had hired several attorneys. They are doing most of his work. He hasn't come to a hearing with me since before May. He has claimants here, but not Conn, other attorneys have appeared. I cannot recall any specific details of conversations with Mr. Conn about his California office.

Q: Earlier you mentioned knowing the judges preference about doctors. Please elaborate. Is there a cadre of doctors you don't find credible?

A: When we get the report and it always says, he can only lift 5 lbs, sit 2 hours in an 8 hour day, stand 2 hours in an 8 hour day, and it is not consistent with other evidence, we don't give it much weight.

Q: Do you recognize names?

A: There reports. There are in every case. We look to see if its supported by other evidence in the file. There are some that are so consistently off the mark that you look at the doctor's name and read the report. It's not supported at all. A Third Circuit Case came out, saying a judge should not always afford greater weight to a carbon copy report.

Q: If Conn knew there were doctors who you do not rely on, why use them?

A: Conn is an advocate. He is going to select a consultative evaluator who is going to be more disposed - to be likely to find the claimant disabled. Some doctors say they cannot do anything, and then you look in the file. They have a herniated disc or spinal stenosis which can be painful and limiting, but not necessarily disabling. He is an advocate. The doctor's opinions are supposed to be supported by evidence, and that is why you get into it. Some are way too conservative, others too liberal. Is it supported, with cites, why and so on? Treating doctors get more deference.

Q: He knew how you felt?

A: Yeah. Because I was clear – well, I didn't tell him, "Don't use that guy." But if in my decisions, I said there was no support or it was so far out of the norm. It became real clear quick.

[At this point, the investigators concluded the interview].

A: Let me say something – how profoundly sorry I am that you even have to do this. What I did involving Eric Conn was incredibly stupid and quite frankly I have no idea why it came up to do this. I have wasted or caused the waste of taxpayer money to have you come out here and to deal with this. I am incredibly sorry that I ever got involved with this. I have been with the agency for 27 years. 30 years of federal service. I have done a lot of extra things for this agency because people trusted me.

I have mentored four judges who were having problems in order to help them get on the right track. For years, I taught new judges and then there was extra training. I remember doing diversity training in the early 1990s; electronic business process. I have traveled extensively to do all that because they trusted my ability. Then I go and do something this incredibly stupid. I feel ashamed that I have caused all of this trouble for the agency. And most importantly, I have done something that jeopardized the trust that a lot people had in me – and all I want to do now for whatever time I have left is to do the cases that are assigned to me – and to try to give every claimant the fairest decision in the quickest time allowable. I don't think I even can ask to do anything else. I think of my wife, all that I did at the expense of my family when I was younger. The agency valued my opinions - and I have just thrown all of that away. I have spent years building a good reputation and in one stupid decision threw it all out. I am 63 years old. You would think I have known better. As I said, fortunately it doesn't happen often, but when I decide to, it comes out big. I would like to work four more years and then go home and stay with my grandkids. I'm sorry.

Initials

I, Charlie Paul Andrus, hereby certify that I have read the foregoing statement, which consists of 24 pages, and it is true, complete, and accurate to the best of my knowledge and belief.

Signature: Charlie Paul Andrus Date: March 8, 2013

Initials

Message0332	
Subject:	**RE: Huntington Paralegal Selection**
From:	Andrus, Charlie Paul
Date:	11/19/2010 9:56:00 AM
To:	Taylor, Patricia D.; Hall, Gregory ODAR Huntington HO

Message Body

Let the games begin—those of us who about to die salute you!

From: Taylor, Patricia D.
Sent: Friday, November 19, 2010 9:55 AM
To: Andrus, Charlie Paul; Hall, Gregory ODAR Huntington HO
Subject: FW: Huntington Paralegal Selection

Good Morning,

Kindly see the message below from CHR and initiate the action in FPPS and forward to my attention. Please call me if you have any questions or need assistance in FPPS.

Thanks,
Patti

From: Poulson, Kathleen
Sent: Friday, November 19, 2010 9:49 AM
To: Taylor, Patricia D.
Subject: Huntington Paralegal Selection

Sandra Nease has been cleared for the GS-11 Paralegal selection effective 11/21/10. Thanks.

Kathy Poulson
Social Security Administration
Human Resource Specialist
Staffing and Classification

Outlook Header Information

Conversation Topic: Huntington Paralegal Selection
Subject: RE: Huntington Paralegal Selection
From: Andrus, Charlie Paul
Sender Name: Andrus, Charlie Paul
To: Taylor, Patricia D.; Hall, Gregory ODAR Huntington HO
Delivery Time: 11/19/2010 9:56:00 AM
Creation Time: 11/19/[illegible]

Homeland Security & Governmental Affairs Committee
EXHIBIT #83

[redacted]

From: Moreland, Vickie
Sent: Wednesday, July 06, 2011 3:05 PM
To: Campbell, Bridgette
Subject: RE: Shredders

OK THANKS

Vickie Moreland
Administrative Assistant
Office of Disability Adjudication and Review/SSA
Huntington, West Virginia 25701
866-592-1607 ext. 19923
vickie.moreland@ssa.gov

From: Campbell, Bridgette
Sent: Wednesday, July 06, 2011 2:47 PM
To: Moreland, Vickie
Subject: Shredders

Hi,

The shredders will have to be purchased using your supply funding.

Homeland Security & Governmental Affairs
Committee
EXHIBIT #84

[redacted]

From: ODOnline@OfficeDepot.com
Sent: Saturday, July 09, 2011 10:10 AM
To: Stanley, Shawna
Subject: Ship Confirm #570768078-001

Office DEPOT

[redacted]

Shipment Confirmation

Thank you again for shopping with Office Depot.

We thought you would like to know that your Office Depot order has shipped, and this completes your order. We value your business and look forward to serving you again soon.

For your reference, below is a summary of your order shipment:

Expected delivery date: **07.11.2011 8:30 AM - 5:00 PM.**

Order Number:	570768078-001	Status:	Shipped
Order Date:	07.08.2011	Tracking:	See below
Ordered By:	SHAWNA.STANLEY@SSA.GOV		
Last Modified By:	SHAWNA.STANLEY@SSA.GOV		
Customer Name:	SOCIAL SECURITY ADMIN	Shipping to:	SOCIAL SECURITY ADMINISTRATION
Customer number:	27690487		301 9TH ST FL 2
Payment Info:	Credit Card		
PO Number:	1031-11-048		HUNTINGTON, WV 25701-1475
Contact:	SHAWNA STANLEY		
CC:			
BLDG/RM:	2ND FLOOR		
Release:			
LOC:	1170: Third Party		
Comments:			

Carton 1 - Shipped on 07.08.2011 - Carrier: - Tracking number: See Order History

ITEM DESCRIPTION	QTY
0	

Carton 2 - Shipped on 07.08.2011 - Carrier: UPSG - Tracking number: 1Z4708410368032504

Homeland Security & Governmental Affairs Committee
EXHIBIT #85

ITEM DESCRIPTION	QTY
Great Star 6-Piece Dual-End Precision Screw Driver (9707478) Not on GSA Contract	1
Casio® SL-300SV Handheld Display Calculator (0736152) Not on GSA Contract	30

You can now track delivery of your order online. Enter the order number shown in this email, or go to Order Tracking at OfficeDepot.com/BSD and log in to track delivery of your order by entering your order number.

Questions? We are taking care of business every day, and we are ready to help. Call 888.263.3423 or email us for prompt answers to all your questions.

[boilerplate committee roster]

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

July 28, 2011

VIA U.S. MAIL & EMAIL (suzanne.payne@ssa.gov)

The Honorable Michael J. Astrue
Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Commissioner Astrue:

Pursuant to its authority under Senate Resolution 81, Section 12(e), 112th Congress, the United States Senate Permanent Subcommittee on Investigations (the "Subcommittee") is examining issues related to the Social Security Administration ("SSA") Social Security Disability Insurance ("SSDI") and Supplemental Security Income ("SSI") programs. As part of that investigation, the Subcommittee has also previously requested that the SSA Office of Inspector General provide the Subcommittee with information regarding allegations made against Administrative Law Judges from 2006 to 2011.

It has come to our attention that some SSA staff in the Huntington, West Virginia Office of Disability and Review Field Office may be engaged in the destruction of records related to this investigation, possibly in violation of several statutes, including the Federal Records Act and 18 U.S.C. § 1505 relating to obstruction of an investigation by a Congressional Committee. The Subcommittee takes very seriously the preservation of records by Federal agencies, and we respectfully request that you provide confirmation that you have taken appropriate steps to ensure the preservation of these documents at all SSA offices. In addition, we request that you ensure no documents are shredded at the Huntington Field Office outside the normal document retention policies and procedures. Please confirm by August 1, 2011 that SSA has taken or is taking steps to ensure the preservation of all documents related to this Subcommittee's investigation and to any pending law enforcement investigations that may be underway, including, but not limited to documents related to the processing and adjudication of SSDI and SSI cases and documents related to the management and review of SSA employees.

We greatly appreciate your assistance in this matter. Should you have additional concerns or questions, please have your staff contact Anthony Cotto (Senator Coburn) at 202/224-7496 or Laura Stuber (Senator Levin) at 202/224-9579.

Sincerely,

Tom Coburn, M.D.
Ranking Minority Member
Permanent Subcommittee on Investigations

Carl Levin
Chairman
Permanent Subcommittee on Investigations

cc: The Honorable Patrick P. O'Carroll
Inspector General
Social Security Administration

Homeland Security & Governmental Affairs Committee
EXHIBIT #86

SSA #65

SOCIAL SECURITY
The Commissioner

August 1, 2011

The Honorable Carl Levin
Chairman, Permanent Subcommittee
on Investigations
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter of July 28, 2011, expressing your concerns about document retention and the recent acquisition of shredders in our Huntington, WV Hearing Office. As we discussed on Friday, July 29, I have directed that all documents, of any type and regardless of our other policies, be preserved in the Huntington Hearing Office and that any shredders immediately be moved out of the building to another Social Security facility until further notice. I also asked our Office of Inspector General (OIG) to immediately investigate the allegations that you raised.

I have learned that Huntington management obtained shredders to properly dispose of personnel records that we are required to timely purge, and OIG reports that the office was not inappropriately destroying records.

Safeguarding sensitive information has been an important issue ever since the creation of Social Security. In 1937, the first regulation adopted by the Social Security Board outlined the rules regarding privacy and disclosure of Social Security records. Through the years, other regulations and the Privacy Act have further defined our responsibilities to ensure the confidentiality of the information we collect and hold. Nearly all of our work is electronic. Even if an employee prints a document, including material from a claim, and later shreds it, its content likely exists in one of our systems.

We generally have two types of sensitive records in our hearing offices—documents containing personal information about beneficiaries and claimants, and employee personnel documents. Regulations issued by the Archivist of the United States require us to properly and definitively dispose of paper records containing privacy-related information by shredding, burning, or pulping. Any contracts for pulping or destruction of privacy-related information must meet standards appropriate for the material.

With respect to claimant information, offices place this information in locked shredder bins until the contractor picks the material up for shredding. Managers generally shred personnel records to prevent other employees, who may have access to contractor shredding bins, from retrieving information about their peers.

Homeland Security & Governmental Affairs
Committee
EXHIBIT #87

Following the temporary reassignment of Hearing Office Chief Administrative Law Judge Charlie P. Andrus on June 8, we have called upon a series of experienced managers from outside the Philadelphia Region to help the Huntington Hearing Office conform to national policy and best demonstrated practices. It was one of these managers who identified shortcomings in the office; thus, the office purchased a scanner, atomic clocks for timekeeping, and shredders to correctly dispose of personnel documents.

On July 29, an OIG criminal investigator entered the Huntington Hearing Office and secured all shredders, locked bins, and bagged shredded material. Inspector General Patrick P. O'Carroll, Jr. reported that the agent's review of the material has found that the records were appropriate for destruction.

I appreciate your interest in ensuring that our offices operate with the utmost integrity and I hope this information is helpful in addressing your concerns. We are sending a similar letter to Senator Coburn. I am happy to discuss this matter further, or your staff may contact Scott Frey, Deputy Commissioner, Office of Legislation and Congressional Affairs, at (202) 358-6030.

Sincerely,

Michael J. Astrue

cc:
Patrick P. O'Carroll, Jr.

From: [NAME REDACTED] [mailto:xxxxx.xxxx@ssa.gov]
Sent: Tuesday, August 02, 2011 10:14 AM
Subject: RE: Ltr from Perm. Sub. Invest. (SSA and SSA-OIG)

Chris,

With cross cut shredders, it is impossible to actually review the shredded material by piecing it together and determine what was shredded.

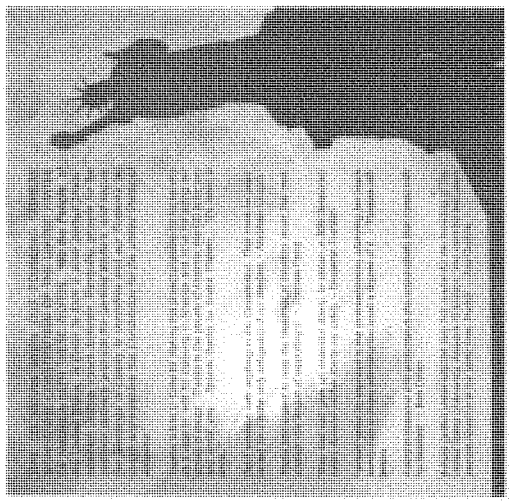
We do know based on the agent's observations and information gathered that the shredders were being used to destroy copies of personnel records for which electronic or other hard copies existed. The documents included personnel information which contained PII and medical information of employees within the office and 7b (personnel file) content, which is authorized for destruction every year. We understand that the management authorized the shredders because there was some concern with placing this type of information in the office shred bins that were accessible to administrative personnel.

We have no concerns that anything of evidentiary value was shredded as relates to our investigation.

I also left you a voicemail, but let me know if you have questions.

Thanks,
[NAME REDACTED]


Homeland Security & Governmental Affairs
Committee
EXHIBIT #9




RECORDING

AOC-491.1 Rev. 9-03 Page 1 of 2	Doc. Code: COPG 09/3/2013 01:52 pm Ver. 1.01	COMMONWEALTH'S OFFER ON A PLEA OF GUILTY	Case No. 13-CR-00251
Commonwealth of Kentucky Court of Justice	www.kycourts.net		Court Circuit County Franklin

COMMONWEALTH OF KENTUCKY — PLAINTIFF

VS. — DEFENDANT

Eric C. Conn

FILED
SEP 09 2013
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

1. ***Charges and Penalties:***

Charge Making a Gift of Money to Another Person to Contribute to a UOR Code 60410
Penalty Candidate on His Behalf Class D Felony
Charge UOR Code
Penalty
Charge UOR Code
Penalty
Charge UOR Code
Penalty
Charge UOR Code
Penalty
Charge UOR Code
Penalty

2. ***Amended Charges (if any):***

Amended Charge Criminal Attempt to Make a Gift to Another Person to UOR Code 60410
Penalty Contribute to a Candidate on His Behalf Class A Misdemeanor (KRS 506.010)
Amended Charge UOR Code
Penalty
Amended Charge UOR Code
Penalty
Amended Charge UOR Code
Penalty
Amended Charge UOR Code
Penalty
Amended Charge UOR Code
Penalty

AOC-491.1
Rev. 9-03
Page 2 of 2

3. Reason(s) for amended charge(s) and UOR Code(s) (if applicable):

Agreement of the parties.

4. Facts of the Case:

On February 8-9, 2013, the defendant attempted to make a gift of money to another person to contribute to a candidate for the Kentucky Supreme Court on his behalf.

5. Recommendations on a Plea of Guilty (Plea Agreement):

Twelve (12) months, conditionally discharged for two (2) years. The defendant shall make restitution in the amount of $5,600.00 to the Office of the Attorney General for investigative costs.

6. Offered this 5th ***day of*** September, 2013.

Commonwealth's Attorney or
Assistant Commonwealth's Attorney

Defendant

Defense Attorney

Prosecuting Witness

Police Officer

Prosecuting Witness

Police Officer

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION NO. II
CASE NO. 13-CR-00231

FILED
SEP 09 2013
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY PLAINTIFF

VS. WAIVER OF STATUTE OF LIMITATIONS

ERIC C. CONN DEFENDANT

* * * * * * * * * *

The undersigned, ERIC C. CONN, hereby states to the Court that he has reached a plea agreement with the Commonwealth that calls for the amendment of the charge in the Information to Criminal Attempt to Make a Gift of Money to Another Person to Contribute to a Candidate on His Behalf, a Class A Misdemeanor, and hereby acknowledges that his attorney, the Hon. Scott White, has explained to him and he understands that pursuant to KRS 500.050(2), the prosecution of a misdemeanor must be commenced within one (1) year after it is committed. With that understanding, and pursuant to the terms of the plea agreement, the undersigned hereby knowingly and voluntarily waives his right to be prosecuted within one (1) year after the amended charge was committed.

DEFENDANT

Sept 9 2013
DATE

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION NO. II
CASE NO. 13-CR-00231

FILED
SEP 09 2013
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY — PLAINTIFF

VS. WAIVER OF INDICTMENT

ERIC C. CONN — DEFENDANT

* * * * * * * * * *

The undersigned, ERIC C. CONN, hereby states to the Court that he has been held to answer in this Court for the following offense: Making a Gift of Money to Another Person to Contribute to a Candidate on His Behalf (D Felony), and hereby acknowledges that his attorney, the Hon. Scott White, has explained to him and he understands that Section 12 of the Kentucky Constitution requires that the aforesaid offense be prosecuted by indictment unless the undersigned waives Indictment by notice in writing to the Court, in which event the offenses may be prosecuted by Information. With that understanding and pursuant to RCr. 6.02, the undersigned hereby knowingly and voluntarily waives his right to be prosecuted by indictment and allows the aforementioned offense to be prosecuted forthwith by information filed by the Attorney for the Commonwealth.

DEFENDANT

Sept 5 2013
DATE

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION NO. II
CASE NO. 13-CR-00231

FILED
SEP 09 2013
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY — PLAINTIFF

VS. — INFORMATION — KRS 121.150(12)
KRS 121.990(3)
CLASS D FELONY
UOR 60410

ERIC C. CONN
[redacted]
DEFENDANT

* * * * * * * * * *

Upon information and belief, the Attorneys for the Commonwealth, Shawna Virgin Kincer and Thom A. Marshall, Assistant Attorneys General, pursuant to RCr 6.04, charge that between February 8-9, 2013, in Franklin County, Kentucky, the above-named defendant made a gift of money to another person to contribute to a candidate on his behalf.

Against the peace and dignity of the Commonwealth of Kentucky.

Shawna Virgin Kincer
SHAWNA VIRGIN KINCER
ASSISTANT ATTORNEY GENERAL

Thom A. Marshall
THOM A. MARSHALL
ASSISTANT ATTORNEY GENERAL

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

[redacted]
(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance Benefits

[redacted]
(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

This case is before the undersigned on a request for hearing dated March 24, 2010 (20 CFR 404.929 *et seq.*). The evidence of record supports a fully favorable decision; therefore no hearing has been held (20 CFR 404.948(a)). The claimant is represented by Eric C Conn, an attorney.

The claimant has amended the alleged onset date of disability to August 25, 2009.

ISSUES

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant s earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through March 31, 2013. Thus, the claimant must establish disability on or before that date in order to be entitled to a period of disability and disability insurance benefits.

After careful review of the entire record, the undersigned finds that the claimant has been disabled from August 25, 2009, through the date of this decision. The undersigned also finds that the insured status requirements of the Social Security Act were met as of the date disability is established.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the

See Next Page

claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, or work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is severe or a combination of impairments that is severe (20 CFR 404.1520(c)). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant s impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant s impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant s residual functional capacity (20 CFR 404.1520(e)). An individual s residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant s impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f)). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other

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work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant s date last insured is March 31, 2013.

2. The claimant has not engaged in substantial gainful activity since August 25, 2009, the amended alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).

3. The claimant has the following severe impairments: sciatica, disc herniation and diabetes (20 CFR 404.1520(c)).

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525 and 404.1526).

5. The claimant has the residual functional capacity to lift 8-10 pounds occasionally and 5 pounds frequently, stand/walk 2 hours per work day, sit 4-5 hours per work day and only occasionally balance and never climb or crawl.

In making this finding, the undersigned considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-6p and 06-3p.

Having considered all of the evidence, I am satisfied that the information provided by Dr. Huffnagle most accurately reflects the claimant s impairments and limitations. Therefore, the claimant is limited to less than sedentary work at best.

After considering the evidence of record, the undersigned finds that the claimant s medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the claimant s statements concerning the intensity, persistence and limiting effects of these symptoms are generally credible.

The State agency medical consultants physical assessments are given little weight because another medical opinion is more consistent with the record as a whole and evidence received at

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the hearing level shows that the claimant is more limited than determined by the State agency consultants.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The demands of the claimant s past relevant work exceed the residual functional capacity.

7. The claimant was a younger individual age 18-44 on the established disability onset date (20 CFR 404.1563).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).

9. Transferability of job skills is not an issue in this case because the claimant's past relevant work is unskilled (20 CFR 404.1568).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are no jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1560(c) and 404.1566).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of disabled without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of sedentary work, considering the claimant s age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 201.27. However, the additional limitations so narrow the range of work the claimant might otherwise perform that a finding of disabled is appropriate under the framework of this rule.

11. The claimant has been under a disability as defined in the Social Security Act since August 25, 2009, the amended alleged onset date of disability (20 CFR 404.1520(g)).

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DECISION

Based on the application for a period of disability and disability insurance benefits filed on August 31, 2009, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since August 25, 2009.

/s/ David B. Daugherty
David B. Daugherty
Administrative Law Judge

June 1, 2010
Date

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

DECISION

IN THE CASE OF

[redacted]
(Claimant)

(Wage Earner)

CLAIM FOR

Period of Disability and Disability Insurance Benefits

[redacted]
(Social Security Number)

JURISDICTION AND PROCEDURAL HISTORY

On September 28, 2007, the claimant filed a Title II application for a period of disability and disability insurance benefits, alleging disability beginning July 29, 2007. The claim was denied initially on December 17, 2007, and upon reconsideration on January 23, 2008. Thereafter, the claimant filed a written request for hearing on February 6, 2008 (20 CFR 404.929 *et seq.*). The claimant appeared and testified at a hearing held on June 9, 2009, in Prestonsburg, KY. [redacted] an impartial vocational expert, also appeared and testified at the hearing. The claimant is represented by [redacted] an attorney.

ISSUES

The issue is whether the claimant is disabled under sections 216(i) and 223(d) of the Social Security Act. Disability is defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months.

There is an additional issue whether the insured status requirements of sections 216(i) and 223 of the Social Security Act are met. The claimant's earnings record shows that the claimant has acquired sufficient quarters of coverage to remain insured through December 31, 2011.

After careful consideration of all the evidence, the undersigned concludes the claimant has not been under a disability within the meaning of the Social Security Act from July 29, 2007 through the date of this decision.

APPLICABLE LAW

Under the authority of the Social Security Act, the Social Security Administration has established a five-step sequential evaluation process for determining whether an individual is disabled (20 CFR 404.1520(a)). The steps are followed in order. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

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At step one, the undersigned must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he has demonstrated the ability to engage in SGA (20 CFR 404.1574 and 404.1575). If an individual engages in SGA, he is not disabled regardless of how severe his physical or mental impairments are and regardless of his age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the undersigned must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, he is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

At step three, the undersigned must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, and 404.1526). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the undersigned must first determine the claimant's residual functional capacity (20 CFR 404.1520(e)). An individual's residual functional capacity is his ability to do physical and mental work activities on a sustained basis despite limitations from his impairments. In making this finding, the undersigned must consider all of the claimant's impairments, including impairments that are not severe (20 CFR 404.1520(e) and 404.1545; SSR 96-8p).

Next, the undersigned must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his past relevant work (20 CFR 404.1520(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b) and 404.1565). If the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

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At the last step of the sequential evaluation process (20 CFR 404.1520(g)), the undersigned must determine whether the claimant is able to do any other work considering his residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he is not disabled. If the claimant is not able to do other work and meets the duration requirement, he is disabled. Although the claimant generally continues to have the burden of proving disability at this step, a limited burden of going forward with the evidence shifts to the Social Security Administration. In order to support a finding that an individual is not disabled at this step, the Social Security Administration is responsible for providing evidence that demonstrates that other work exists in significant numbers in the national economy that the claimant can do, given the residual functional capacity, age, education, and work experience (20 CFR 404.1512(g) and 404.1560(c)).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, the undersigned makes the following findings:

1. The claimant meets the insured status requirements of the Social Security Act through December 31, 2011.

2. The claimant has not engaged in substantial gainful activity since July 29, 2007, the alleged onset date (20 CFR 404.1571 *et seq.*).

3. The claimant has the following severe impairments: obesity and degenerative disc disease of lumbar spine (20 CFR 404.1520(c)).

The claimant weighs is 5'7" and weighs 250 pounds (Exhibit 5F). The undersigned finds the claimant's obesity constitutes a severe impairment.

The claimant was diagnosed with degenerative disc disease of the lumbar spine (Exhibit 7F). The claimant takes prescription medications for his back impairment. Therefore, the undersigned finds the claimant's back impairment is severe.

The claimant alleged disability based upon diabetes (Exhibit 5E). The medical evidence shows the claimant was diagnosed with non-insulin dependent diabetes mellitus about 10 years ago (Exhibit 7F). The claimant checks his blood sugar once a day; takes Actos and Janumet for his diabetes; and eats a special diet. The evidence shows the claimant's diabetes is controlled with his medication (Exhibit 33F). Therefore, the undersigned finds the claimant's diabetes does not constitute severe impairment.

The claimant alleged disability based upon his hypertension (Exhibit 5E). The medical evidence shows the claimant was diagnosed with hypertension in about 2005 (Exhibit 7F). He takes Toprol and Altace for his high blood pressure. The evidence shows the claimant's hypertension is controlled with medication (Exhibits 5F, 7F). As such, the undersigned finds the claimant's hypertension does not constitute a severe impairment.

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The claimant testified he suffers from headaches about once a week. His headaches start in his neck and move up his head into his eyes. The claimant testified his headaches are relieved by taking pain medication. The undersigned finds the claimant's headaches do not constitute a severe impairment as they are controlled by medication and do not significantly limit a work related function.

The claimant alleged disability based upon tendonitis in his right foot (Exhibit 5E). The medical evidence shows the claimant received treatment for right foot pain in 2005 (Exhibit 23F). The claimant was diagnosed with achilles tendonitis (Exhibit 23F). The claimant's doctor prescribed pain medication and placed him on light duty; however, by March 2006, the claimant was released from work restrictions (Exhibit 23F). There is no evidence of the claimant receiving further treatment for his right foot. In addition, the claimant did not mention his right foot during the hearing. Therefore, the undersigned finds the claimant's tendonitis of the right foot does not constitute a severe impairment.

The alleged disability based upon depression and anxiety (Exhibit 5E). In 2008, the claimant reported feeling depressed because of his physical limitations (Exhibit 33F). The claimant's treating physician prescribed the claimant Cymbalta (Exhibit 33F). However, the record does not contain any evidence of the claimant continuing to receive medication for his mental impairments after 2008. In addition, the claimant has never received psychological treatment (Exhibit 24F). The claimant was examined by consultative psychologist [redacted] in February 2009 (Exhibit 24F). The claimant reported he was injured in a [redacted]cident in June 2007 (Exhibit 24F). Since the accident he has experienced symptoms of anxiety, such as worrying and feeling agitated when reminded of the accident (Exhibit 24F). In addition, the claimant reported symptoms of depression, such as gaining weight, being more emotional, and feeling useless (Exhibit 24F). The consultative psychologist's mental status exam showed a normal range of emotional expression and a low mood (Exhibit 24F). The consultative psychologist diagnosed the claimant with adjustment disorder, chronic with depressive and anxious features; pain disorder associated with medical condition and psychological factors (Exhibit 24F).

The claimant's medically determinable mental impairments of Depression; Adjustment Disorder; Pain Disorder Associated with Medical Condition and Psychological Factors, considered singly and in combination, do not cause more than minimal limitation in the claimant's ability to perform basic mental work activities and are therefore nonsevere.

In making this finding, the undersigned has considered the four broad functional areas set out in the disability regulations for evaluating mental disorders and in section 12.00C of the Listing of Impairments (20 CFR, Part 404, Subpart P, Appendix 1). These four broad functional areas are known as the "paragraph B" criteria.

The first functional area is activities of daily living. The claimant is able to attend to his personal care needs. He watches television and goes grocery shopping with his wife once a week (Exhibit 3E). The claimant does not have any restriction in this area.

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The next functional area is social functioning. In this area, the claimant has no limitation. The claimant testified he regularly visits his brother and sister. In addition, he attends church about once a month and has no problem socializing after the service. The undersigned finds the claimant has no limitation in this area.

The third functional area is concentration, persistence or pace. In this area, the claimant has mild limitation. The claimant reported trouble completing tasks and concentrating (Exhibit 3E). The undersigned finds the overall medical record demonstrates the claimant has mild limitation in this area.

The fourth functional area is episodes of decompensation. In this area, the claimant has experienced no episodes of decompensation which have been of extended duration.

Because the claimant's medically determinable mental impairments cause no more than "mild" limitation in any of the first three functional areas and "no" episodes of decompensation which have been of extended duration in the fourth area, they are nonsevere (20 CFR 404.1520a(d)(1)).

The limitations identified in the "paragraph B" criteria are not a residual functional capacity assessment but are used to rate the severity of mental impairments at steps 2 and 3 of the sequential evaluation process. The mental residual functional capacity assessment used at steps 4 and 5 of the sequential evaluation process requires a more detailed assessment by itemizing various functions contained in the broad categories found in paragraph B of the adult mental disorders listings in 12.00 of the Listing of Impairments (SSR 96-8p). Therefore, the following residual functional capacity assessment reflects the degree of limitation the undersigned has found in the "paragraph B" mental function analysis.

4. The claimant does not have an impairment or combination of impairments that meets or medically equals one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1525 and 404.1526).

Pursuant to Social Security Ruling 02-1p, I have considered the claimant's obesity and the combined effect of his impairments. Although the claimant's obesity may increase the severity of coexisting and related impairments, the evidence does not establish presumptive disability.

With regard to Section 1.00 dealing with the musculoskeletal system, the examining and treating physicians' reports show the neurological deficits required for Section 1.04A are not present (Exhibits 7F, 5F). Furthermore, after reviewing all of the evidence, including the medical records, and considering the interactive and cumulative effects of all medically determinable impairments, including any impairments that are "severe" and/or "non-severe," the undersigned finds that the claimant does not have a combination of impairments that meet or medically equal any listed impairment in Appendix 1 to Subpart P of Regulations No. 4.

5. After careful consideration of the entire record, the undersigned finds that the claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b) except he only occasionally climb stoop, kneel, crouch, and crawl with no repetitive bending or squatting; and needs the option to sit and stand.

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In making this finding, the undersigned has considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 404.1529 and SSRs 96-4p and 96-7p. The undersigned has also considered opinion evidence in accordance with the requirements of 20 CFR 404.1527 and SSRs 96-2p, 96-5p, 96-6p and 06-3p.

In considering the claimant's symptoms, the undersigned must follow a two-step process in which it must first be determined whether there is an underlying medically determinable physical or mental impairment(s)--i.e., an impairment(s) that can be shown by medically acceptable clinical and laboratory diagnostic techniques--that could reasonably be expected to produce the claimant's pain or other symptoms.

Second, once an underlying physical or mental impairment(s) that could reasonably be expected to produce the claimant's pain or other symptoms has been shown, the undersigned must evaluate the intensity, persistence, and limiting effects of the claimant's symptoms to determine the extent to which they limit the claimant's ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, the undersigned must make a finding on the credibility of the statements based on a consideration of the entire case record.

The claimant testified he is [redacted]ears old and lives with his wife. He graduated from high school with a fair ability to read and perform math, but poor ability to write. The claimant testified he is 5'7" and weighs about 250 pounds. He has a lot of pain in his low back that prevents him from sitting or standing very long. His back pain is aggravated by bending, lifting, walking, and performing yard work. He can lift about 10 pounds; sit for 10 to 15 minutes before needing to rest; and stand and walk for 5 to 10 minutes before needing to rest. He received physical therapy and found it somewhat helpful. The claimant wears a back brace when he walks and takes Lorcet, Lyrica, Ultram, Flexeril, and Celebrex for his back impairment and finds them helpful. He relieves his pain by taking his pain medication and lying down with a heating pad.

The medical evidence shows the claimant is 5'7" and weighs about 250 pounds (Exhibits 3F, 5F, 7F, 16F, 29F). The medical evidence also demonstrates the claimant injured his back in a [redacted] accident on June 5, 2007 (Exhibit 1F). The claimant reported neck and low back pain; examination showed spasm in both the cervical and lumbar spine and decreased range of motion (Exhibit 3F). He was initially diagnosed with whiplash and lumbar strain (Exhibit 3F). The claimant was treated with Lortab, Flexeril, and Celebrex (Exhibit 3F).

The claimant continued to report pain in his low back that radiated down his left thigh (Exhibits 3F, 16F). X-rays of the cervical and lumbar spine were within normal limits (Exhibit 3F). An MRI of the lumbar spine from 2007 showed small central degenerative disc protrusion at the L4-L5 disc level with small posterior annular rent (Exhibit 3F). An MRI from 2008 showed degenerative change at L4-L5 with desiccation and annular cleft in midline (Exhibit 31F). Physical examination showed muscle spasm in the lumbar spine; decreased range of motion; and severe pain with palpation of the paraspinal muscles (Exhibit 3F). He was diagnosed with herniated nucleus pulposus; severe low back pain; and degenerative disc disease (Exhibit 3F).

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The claimant received physical therapy for four months and reported it somewhat helpful (Exhibits 3F).

Neurologist, [redacted] examination revealed tenderness in the occipital area and left L5 area; motor strength of 5/5 throughout with pain limitations; and negative straight leg raising test (Exhibit 5F). The neurologist opined the claimant would not benefit from surgery and recommended lumbar epidural steroid injections (Exhibit 5F). The claimant received several lumbar epidural steroid injections and several selective nerve root injections (Exhibit 32F). He reported minimal results from the injections, but rated his pain at only a five (Exhibit 32F). The claimant's doctor gave him a back brace to wear; by February 2009, the claimant reported relief with the back brace along with the analgesics and coanalgesics (Exhibit 32F).

The claimant was examined by consultative examiner, [redacted] (Exhibit 7F). [redacted] found the claimant had diminished range of motion in the lumbar spine; difficulty squatting; no sensory deficits; and normal motor strength and gait (Exhibit 7F). The claimant was also examined by [redacted] (Exhibit 29F). [redacted] found thoracolumbar spine flexion of 40 degrees with low back; extension of 20 degrees with back pain; negative right straight leg raising tests in the sitting and supine positions; positive left straight leg raising test in the sitting and supine positions; no sensory deficits; and normal gait (Exhibit 29F). The claimant told [redacted] the neurologist recommended neurosurgery for his back (Exhibit 29F).

After careful consideration of the evidence, the undersigned finds that the claimant's medically determinable impairments could reasonably be expected to cause the alleged symptoms; however, the claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are not credible to the extent they are inconsistent with the above residual functional capacity assessment.

The claimant testified his back impairment prevents him from working; however, he also said his medications relieve his back pain. The claimant told Dr. Herr the neurologist recommended neurosurgery for his back impairment; however, the evidence shows the neurologist recommended pain management instead (Exhibit 5F).

Pursuant to 96-6p, the undersigned has given consideration to the reports of the state agency medical consultants as well as to other treating, examining and non-examining medical sources. Consultative examiner [redacted] opined the claimant is able to sit, stand, and move about; would have difficulty with repetitive bending or squatting; able to ambulate without the use of an assistive device; and able to grossly and finely manipulate objects (Exhibit 7F). The undersigned gives significant weight to [redacted] assessment as it is consistent with the overall medical record.

The state agency medical consultants opined the claimant can lift and carry 20 pounds occasionally, 10 pounds frequently; stand and walk about 6 hours in an 8 hour workday; sit about 6 hours in an 8 hour workday; unlimited ability to push and pull; occasionally climb ramps, stairs, ladders, ropes, and scaffolds; stoop, kneel, crouch, and crawl; and should avoid concentrated exposure to vibration (Exhibits 8F, 15F). The undersigned gives great weight to the state agency assessments because they are consistent with the overall medical record.

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Examiner, Dr. David Herr opined the claimant can lift and carry 15 pounds occasionally, 10 pounds frequently; stand and walk for a total of 4 hours in an 8 hour workday, for 45 minutes without interruption; sit for a total of 3 hours in an 8 hour workday, for 30 minutes without interruption; never climb, crouch, kneel, and crawl; occasionally balance and stoop; never push and pull; occasionally reach; frequently handle; never work at or around heights, moving machinery, or vibration; occasionally work around temperature extremes, chemicals, dust, fumes, and humidity (Exhibit 29F). The undersigned gives little weight to Dr. Herr's assessment because it is not supported by the overall evidence of record and he was not furnished the whole file.

Therefore, the undersigned finds the claimant retains the residual functional capacity to perform light work except he only occasionally climb stoop, kneel, crouch, and crawl with no repetitive bending or squatting; and needs the option to sit and stand.

6. The claimant is unable to perform any past relevant work (20 CFR 404.1565).

The claimant has past relevant work as a [redacted] and [redacted] The vocational expert testified the claimant's work as a [redacted] is classified as heavy and semiskilled; his work as a [redacted] and [redacted] classified as medium and unskilled; and as a [redacted] is classified as heavy and unskilled. The claimant residual functional capacity to perform at the light level prevents him from performing his past relevant work.

7. The claimant was born on [redacted] and was [redacted] years old, which is defined as a younger individual age 18-49, on the alleged disability onset date. (20 CFR 404.1563).

8. The claimant has at least a high school education and is able to communicate in English (20 CFR 404.1564).

9. Transferability of job skills is not material to the determination of disability because using the Medical-Vocational Rules as a framework supports a finding that the claimant is "not disabled," whether or not the claimant has transferable job skills (See SSR 82-41 and 20 CFR Part 404, Subpart P, Appendix 2).

10. Considering the claimant's age, education, work experience, and residual functional capacity, there are jobs that exist in significant numbers in the national economy that the claimant can perform (20 CFR 404.1569 and 404.1569a).

In determining whether a successful adjustment to other work can be made, the undersigned must consider the claimant's residual functional capacity, age, education, and work experience in conjunction with the Medical-Vocational Guidelines, 20 CFR Part 404, Subpart P, Appendix 2. If the claimant can perform all or substantially all of the exertional demands at a given level of exertion, the medical-vocational rules direct a conclusion of either "disabled" or "not disabled" depending upon the claimant's specific vocational profile (SSR 83-11). When the claimant

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cannot perform substantially all of the exertional demands of work at a given level of exertion and/or has nonexertional limitations, the medical-vocational rules are used as a framework for decisionmaking unless there is a rule that directs a conclusion of "disabled" without considering the additional exertional and/or nonexertional limitations (SSRs 83-12 and 83-14). If the claimant has solely nonexertional limitations, section 204.00 in the Medical-Vocational Guidelines provides a framework for decisionmaking (SSR 85-15).

If the claimant had the residual functional capacity to perform the full range of light work, a finding of "not disabled" would be directed by Medical-Vocational Rule 202.21. However, the claimant's ability to perform all or substantially all of the requirements of this level of work has been impeded by additional limitations. To determine the extent to which these limitations erode the unskilled light occupational base, the Administrative Law Judge asked the vocational expert whether jobs exist in the national economy for an individual with the claimant's age, education, work experience, and residual functional capacity. The vocational expert testified that given all of these factors the individual would be able to perform the requirements of representative occupations nationally/regionally at the light level: as Officer Messenger, 577,000/9,900; Unarmed Night Watchman, 700,000/7,500; and House Sitter, 550,000/2,500. The vocational expert testified that given all of these factors the individual would be able to perform the requirements of representative occupations nationally/regionally at the sedentary level: as Bench Worker, 745,000/4,200; Grader Sorter, 783,000/9,500; and Weighter Measurer, 830,000/1,500.

Pursuant to SSR 00-4p, the vocational expert's testimony is consistent with the information contained in the Dictionary of Occupational Titles.

Based on the testimony of the vocational expert, the undersigned concludes that, considering the claimant's age, education, work experience, and residual functional capacity, the claimant is capable of making a successful adjustment to other work that exists in significant numbers in the national economy. A finding of "not disabled" is therefore appropriate under the framework of the above-cited rule.

11. The claimant has not been under a disability, as defined in the Social Security Act, from July 29, 2007 through the date of this decision (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits filed on September 28, 2007, the claimant is not disabled under sections 216(i) and 223(d) of the Social Security Act.

/s/ Andrew J. Chwalibog
Andrew J. Chwalibog
Administrative Law Judge

August 27, 2009
Date

SEP-01-2009 15:42 SSA PRESTONSBURG 6068866671 P.004

Social Security Administration
Please read the instructions before completing this form.

Form Approved
OMB No. 0960-0527

Name (Claimant) (Print or Type)	Social Security Number
[redacted]	[redacted]
Wage Earner (If Different)	**Social Security Number**
	– –

Part I **APPOINTMENT OF REPRESENTATIVE**

I appoint this person, Eric C Conn, Eric C Conn Law Complex, PO Box 308, Stanville, Kentucky 41659
(Name and Address)

to act as my representative in connection with my claim(s) or asserted right(s) under:

☒ Title II (RSDI) ☒ Title XVI (SSI) ☐ Title XVIII (Medicare Coverage) ☐ Title VIII (SVB)

This person may, entirely in my place, make any request or give any notice; give or draw out evidence or information; get information; and receive any notice in connection with my pending claim(s) or asserted right(s).

☒ I authorize the Social Security Administration to release information about my pending claim(s) or asserted right(s) to designated associates who perform administrative duties (e.g. clerks), partners, and/or parties under contractual arrangements (e.g. copying services) for or with my representative.

☐ I appoint, or I now have, more than one representative. My main representative is _____
(Name of Principal Representative)

Signature (Claimant)	Address
[redacted]	[redacted]
Telephone Number (with Area Code)	**Fax Number (with Area Code)** / **Date**
[redacted]	( ) – / 8/31/09

Part II **ACCEPTANCE OF APPOINTMENT**

I, Eric C Conn, hereby accept the above appointment. I certify that I have not been suspended or prohibited from practice before the Social Security Administration; that I am not disqualified from representing the claimant as a current or former officer or employee of the United States; and that I will not charge or collect any fee for the representation, even if a third party will pay the fee, unless it has been approved in accordance with the laws and rules referred to on the reverse side of the representative's copy of this form. If I decide not to charge or collect a fee for the representation, I will notify the Social Security Administration. (Completion of Part III satisfies this requirement.)

Check one: ☒ I am an attorney. ☐ I am a non-attorney who is participating in the direct fee payment demonstration project.

☐ I am a non-attorney. I am not participating in the direct fee payment demonstration project.

I have been disbarred or suspended from a court or bar to which I was previously admitted to practice as an attorney. ☐ Yes ☒ No

I have been disqualified from participating in or appearing before a Federal program or agency. ☐ Yes ☒ No

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge.

Signature (Representative)	Address
Eric C Conn	Eric C Conn Law Complex, PO Box 308, Stanville, Kentucky 41659
Telephone Number (with Area Code)	**Fax Number (with Area Code)** / **Date**
(606) 478 – 5100	(606) 478 – 5109 / 8/31/09

Part III (Optional) **WAIVER OF FEE**

I waive my right to charge and collect a fee under sections 206 and 1631(d)(2) of the Social Security Act. I release my client (the claimant) from any obligations, contractual or otherwise, which may be owed to me for services I have provided in connection with my client's claim(s) or asserted right(s).

Signature (Representative)	Date

Part IV (Optional) **WAIVER OF DIRECT PAYMENT**
by Attorney or Non-Attorney Eligible to Receive Direct Payment

I waive only my right to direct payment of a fee from the withheld past-due retirement, survivors, disability insurance or supplemental security income benefits of my client (the claimant). I do not waive my right to request fee approval and to collect a fee directly from my client or a third party.

Signature (Representative Waiving Direct Payment)	Date

Homeland Security & Governmental Affairs
Committee
EXHIBIT A – 3

FEE CONTRACT

I hereby hire Attorney Eric C. Conn to represent me in my claims for Social Security benefits.

If I do NOT get Social Security benefits, I will NOT have to pay any attorney fee, but I will have to reimburse my Attorney for any costs he has in representing me, such as costs for getting medical records or reports.

If the Social Security Administration favorably decides the claim, the attorney fee will be the lesser of 25 percent of my past-due benefits o[redacted](or such higher amount as prescribed by the Commissioner of Social Security pursuant to section 406(a)(2)(A) of the Social Security Act.) I will also have to reimburse my Attorney for any costs he has in representing me, such as costs of getting medical records or reports.

The back benefits (past-due benefits) out of which the attorney fee will come include all back benefits going to me and my family under regular Social Security and Supplemental Security Income (SSI).

I promise that as soon as I receive any money from Social Security I will let my Attorney know as soon as possible and that I will pay my Attorney his fee out of my back benefits as soon as I receive any money.

This attorney fee contract covers only fees for representation before the Social Security Administration. If Social Security denies my claim and I want to appeal my case to Federal Court, my Attorneys and I will have to make a further agreement concerning attorney fees for that representation.

This the 31st day of August ; 2009.

[redacted]
Client's Signature

[redacted]
Printed Name

[redacted]
Social Security Number

[redacted]
Address

[redacted]
(City, State, Zip)

Attorney Representative's Signature
Eric C Conn
12407 South U.S. 23
P.O. Box 308
Stanville, KY 41659
Phone: (606) 478-5100

DISABILITY REPORT - ADULT - Form SSA-3368

(3368) Section 1 - Information About the Disabled Person

A. Name: [redacted]

B. Social Security Number: [redacted]

C. Daytime Telephone Number (If you do not have a number where we can reach you, give us a daytime number where we can leave a message.):

[redacted]**ur number**

D. Give the name of a friend or a relative that we can contact (other than your doctors) who knows about your illnesses, injuries, or conditions and can help you with your claim.

Name:	[redacted]
Relationship:	**Spouse**
Address:	[redacted]
Daytime Phone:	

E. What is your height without shoes? [redacted]

F. What is your weight without shoes? **250 lbs.**

G. Do you have a medical assistance card? **No**

If "YES", show the number here:

H. Can you speak and understand English? **Yes**

If "NO", what is your preferred language?

NOTE: If you cannot speak and understand English, we will provide an interpreter, free of charge.

If you cannot speak and understand English, is there someone we may contact who speaks and understands English and will give you messages?

(If "YES", is this the same person as in "D" above? If it is, show "SAME" below, if not complete below.)

I. Can you read and understand English? **Yes**

J. Can you write more than your name in English? **Yes**

(3368) Section 2 - Your Illnesses, Injuries, or Conditions and How They Affect You

A. What are the illnesses, injuries, or conditions that limit your ability to work?

type 2 diabetes, back pain, neck pain, herniated discs in back, muscle spasms, fatigue, depression, anxiety, nervousness, trouble sleeping, tendonitis in right foot and hypertension.

B. How do your illnesses, injuries, or conditions limit your ability to work?

Due to my pain I have difficulty sitting,standing and walking for any long period of time. I have difficulty reaching, lifting, bending, carrying things and most basic daily tasks are painful. I have hypertension which makes daily life difficult. I also have trouble sleeping and tendionitis in my right foot. I have trouble sleeping and have fatigue due to my pain. I also have depression, nervousness and anxiety due to my pain.

C. Do your illnesses, injuries, or conditions cause you pain or other symptoms? **Yes**

D. When did your illnesses, injuries, or conditions first interfere with your ability to work? **07/29/2007**

E. When did you become unable to work because of your illnesses, injuries, or conditions?

07/29/2007

F. Have you ever worked? **Yes**

G. Did you work at any time after the date your illnesses, injuries, or conditions first interfered with your ability to work? **No**

H. If "Yes," did your illnesses, injuries, or conditions cause you to:

work fewer hours?

change your job duties?

make any job-related changes such as your attendance, help needed, or employers?

Explain:

I. Are you working now? **No**

If "NO," when did you stop working? **07/29/2007**

J. Why did you stop working?

Because of my condition

(3368) Section 3 - Information About Your Work

A. List all the jobs that you had in the 15 years before you became unable to work because of your illnesses, injuries, or conditions.

* = Longest Job Held

Longest Job Held	Job Title	Type of Business	Dates Worked (From-To)	Hours Per Day	Days Per Week	Rate of Pay/Per
	[redacted]	[redacted]	**1992 - 1995**	**8**	**5**	[redacted]
*	[redacted]	[redacted]	**2000 - 7/29/2007**	**8**	**5**	[redacted]
	[redacted]	[redacted]	**1997 - 2000**	**8**	**5**	[redacted]

B. Which job did you do the longest?
[redacted]

C. Describe this job. What did you do all day? (If you need more space, write in the "Remarks" section.):

I worked as [redacted]

D. In this job, did you:

Use machines, tools, or equipment? **Yes**

Use technical knowledge or skills? **No**

Do any writing, complete reports, or perform duties like this? **No**

E. In this job, how many total hours each day did you:

Walk? **8**

Stand? **8**

Sit? **1**

Climb? **0**

Stoop? (Bend down & forward at waist.): **0.5**

Kneel? (Bend legs to rest on knees.): **0**

Crouch? (Bend legs & back down & forward.): **0.5**

Crawl? (Move on hands & knees.): **0**

Handle, grab or grasp big objects? **8**

Reach? **8**

Write, type or handle small objects? **8**

F. Lifting and Carrying (Explain what you lifted, how far you carried it, and how often you did this.):

I would lift and carry [redacted] **and other safety equipment that was attached to my** [redacted]
I had to carry keys to every department in the [redacted]

G. Heaviest weight lifted: **20 lbs.**

H. Weight you frequently lifted (By frequently, we mean from 1/3 to 2/3 of the workday.):
10 lbs.

I. Did you supervise other people in this job? **No**

How many people did you supervise?

What part of your time was spent supervising people?

Did you hire and fire employees? **No**

J. Were you a lead worker? **No**

(3368) Section 4 - Information About Your Medical Records

A. Have you been seen by a doctor/hospital/clinic or anyone else for the illnesses, injuries, or conditions that limit your ability to work?
Yes

B. Have you been seen by a doctor/hospital/clinic or anyone else for emotional or mental problems that limit your ability to work?
No

C. List other names you have used on your medical records:

Tell us who may have medical records or other information about your illnesses, injuries, or conditions.

D. List each Doctor/HMO/Therapist. Include your next appointment:

Name: [redacted]			
Address: [redacted]		Date First Visit:	05/[redacted]/2008
Pikeville, KY 41501		Date Last Visit:	05/[redacted]/2008
Phone: [redacted]	atient ID # :	Next Appointment:	none

Reasons for Visits:
consultation while in hospital
What treatment was received?
consultation and testing

Name: [redacted]			
Address: [redacted]		Date First Visit:	01/2008
Pikeville, KY 41501		Date Last Visit:	07/2009
Phone: [redacted]	Patient ID # :	Next Appointment:	None

Reasons for Visits:
pain management
What treatment was received?
examination, medication and testing

Name: [redacted]			
Address: [redacted]		Date First Visit:	fall 2007
Lexington, KY 40536		Date Last Visit:	fall 2007
Phone: [redacted]	Patient ID # :	Next Appointment:	none

Reasons for Visits:
Neurologist
What treatment was received?
examination and consultation

Name: [redacted]			
Address: [redacted]		Date First Visit:	2002
Martin, KY 41649		Date Last Visit:	08/[redacted]/2009
Phone: [redacted]	Patient ID # :	Next Appointment:	11/2009

Reasons for Visits:
family doctor
What treatment was received?
examinations, medication and testing

E. List each Hospital/Clinic. Include your next appointment:

Name:	[redacted]		
Address:			
	Pikeville, KY 41501		
Phone:	**606-218-3500**		
Inpatient Date In 1:	**05/[redacted]2008**	Inpatient Date Out 1:	**05/[redacted]2008**
Inpatient Date In 2:		Inpatient Date Out 2:	
Inpatient Date In 3:		Inpatient Date Out 3:	
Outpatient Date First Visit:	**2002**	Outpatient Date Last Visit:	**07/2009**

Emergency Room Dates of Visits:
Next Appointment: **none**
Your Hospital/Clinic Number:
Reasons for Visits:
I1 chest pain,, O1 pain management clinic
What treatment did you receive?
I1 examinations, O1 examinations, medication and testing
What doctors do you see at this hospital/clinic on a regular basis?

F. Does anyone else have medical records or information about your illnesses, injuries, or conditions (for example, Workers' Compensation, insurance companies, prisons, attorneys, or welfare agency), or are you scheduled to see anyone else?
Yes

Name:	**Eric Conn, Eric C Conn Law Office**		
Address:	**PO Box 308**	Date First Visit:	**08/31/2009**
	Stanville, KY 41635	Date Last Visit:	**08/31/2009**
Phone:	**606-478-5100**	Next Appointment:	**NONE**

Claim Number: [redacted]
Reasons for Visits:
Attorney

(3368) Section 5 - Medications

Do you currently take any prescription or non-prescription medications for your condition(s)? **Yes**

If "YES," please tell us the following: (Look at your medication containers, if necessary.)

Name of Medication	Prescribed By (Name of Doctor)	Reason for Medication	Side Effects You Have
Actos	[redacted]	**diabetes**	**none**
Altace		**blood pressure**	**none**
Flexeril		**muscle spasms**	**none**
Janumet		**diabetes**	**none**
Lidoderm		**pain patches**	**none**
Lorcet 10		**pain**	**none**
Lyrica		**pain**	**none**
Ultram		**pain**	**none**

(3368) Section 6 - Tests

Have you had, or will you have, any medical tests for your illnesses, injuries, or conditions?

Yes

If "YES," please tell us the following: (Give approximate dates, if necessary.)

Kind of Test	When Was/Will Test Be Done? (Month, day, year)	Where Done	Who Sent You For This Test
CT Scan kidneys	**03/2009**	**Pikeville Medical Center**	[redacted]
EKG (Heart Test)	**05/[redacted]2008**	**Pikeville Medical Center**	[redacted]
MRI/CT Scan spine, head	**11[redacted]2008**	**Pikeville Medical Center**	[redacted]
Treadmill (Exercise Test)	**05[redacted]2008**	**Pikeville Medical Center**	[redacted]
X-Ray chest	**11/[redacted]008**	**Pikeville Medical Center**	[redacted]

(3368) Section 7 - Education/Training Information

A. Highest grade of school completed: **12th grade**

Approximate date completed: [redacted]

B. Did you attend special education classes? **No**

If "YES",

C. Have you completed any type of special job training, trade or vocational school?

No

If "YES", what type?

Approximate date completed:

(3368) Section 8 - Vocational Rehabilitation, Employment Services, Other Support Services, and Individualized Education Programs

Have you participated, or are you participating in any program providing vocational rehabilitation, employment services, or other support services to help you go to work or in:

- An individual work plan with an employment network under the Ticket to Work Program;
- An individualized plan for employment with a vocational rehabilitation agency or any other organization;
- A Plan to Achieve Self-Support; or
- An individualized education program through an educational institution (if a student age 18-21)?

No

(3368) Section 9 - Remarks

Use this section for any additional information you did not show in earlier parts of this form. When you are done with this section (or if you don't have anything to add), be sure to go to the next page and complete the blocks there.

This report was completed on the Internet using i3368PRO by: Organization Name: Eric C Conn Law Office, Organization Type: Law Firm/Attorney, Contact Name: [redacted] Organization Address: PO Box 308 Stanville KY 41635, Contact Phone Number: (606)478-5100, Special Contact Instructions: Attorney*Internet medical form initiated on: [redacted]

Attorney has filed request for AC review.

Name of person completing this form:	Date Form Completed (Month, day, year):

Address (Number and street, City, State, Zip Code):

[redacted]

e-mail address (optional):

REQUEST FOR MEDICAL ADVICE

Date Referred: 10/05/2009

Social Security Number: [redacted]

To: Review by specialist(s) in

MENTAL DISORDERS - ADULT [redacted] 21 DIB

From:

[redacted]

Examiner Name: [redacted]

Examiner Telephone Number: [redacted]

Reviewer Name:

Reviewer Telephone Number: ( ) -

Claimant Name: [redacted]

Sex: ☒ M ☐ F

Birth Date (mo, da, yr): [redacted]

Application Date (mo, da, yr): 08/31/2009

Type of Claim: ☒ DIB ☐ DAC ☐ DWB ☐ SSI ADULT ☐ SSI CHILD ☐ BLINDNESS

Case History ☒ INITIAL ☐ RECON ☐ ALJ ☐ DHO ☐ TERI

☐ Congressional or Controlled Inquiry

☐ Reopening of Prior Decision

☐ Prior ALJ, AC, Court Decision

☐ Prior Disability Established _____ to _____

☐ CDR Involved

CPD Date _____

Cess. Date _____

☐ Age 18 Redetermination

☐ Other

Date Last Insured or Prescribed Period:

Alleged Onset: 07/29/2007

Please Review the Medical Evidence and Respond to the following:

☒ Please provide an assessment of the individual's current residual functional capacities. ☐ Physical ☒ Mental

☐ SSI Childhood - Please prepare SSA-538

☐ Please provide an assessment of whether there has been medical improvement (MI) in the individual's impairment(s) since CPD. If MI has occurred, a decision is needed as to whether MI is related to the individual's ability to work.

☐ CPD was based on meeting/equaling listing _____

☐ RFC Comparison Needed.

☐ Specific problems or questions:

Allegations:
diabetes, back problems, neck problems, muscle spasms, fatigue, depression, anxiety, trouble sleeping, tendonitis, and hypertension
DandD applies, ALJ decision in the file.

MENTAL ALLEGATIONS WERE ADDRESSED IN THE ALJ DECISION THAT WAS MADE ON 08/27/09. THERE IS A PSYCH EVALUATION IN THE FILE FROM 02/2009. THERE ARE NO ADDITIONAL PSYCH RECORDS TO REVIEW. PLEASE REVIEW AND ADVISE. THANK YOU.

Homeland Security & Governmental Affairs Committee
EXHIBIT A – 5

☐ Continued on Attached Sheet

Form SSA-449 (5-2004) ef (10-2004) Destroy Prior Editions

FORM APPROVED
OMB NO. 0960-0431

PHYSICAL RESIDUAL FUNCTIONAL CAPACITY ASSESSMENT

CLAIMANT: [redacted]	SOCIAL SECURITY NUMBER:
NUMBERHOLDER (IF CDB OR DWB CLAIM):	[redacted]

PRIMARY DIAGNOSIS:	RFC ASSESSMENT IS FOR:
DDD L SPINE	☒ Current Evaluation ☐ Date 12 Months After Onset:
SECONDARY DIAGNOSIS: DIABETES	☐ Date Last Insured: _____ (Date) _____ (Date)
OTHER ALLEGED IMPAIRMENTS: HYTERTENSION	☐ Other (Specify):

PRIVACY ACT NOTICE: The information requested on this form is authorized by Section 223 and Section 1633 of the Social Security Act. The information provided will be used in making a decision on this claim. Failure to complete this form may result in a delay in processing the claim. Information furnished on this form may be disclosed by the Social Security Administration to another person or governmental agency only with respect to Social Security programs and to comply with Federal laws requiring the exchange of information between Social Security and other agencies.

PAPERWORK REDUCTION ACT: This information collection meets the requirements of 44 U.S.C. § 3507, as amended by Section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget control number. We estimate that it will take about 20 minutes to read the instructions, gather the facts, and answer the questions. *You may send comments on our time estimate above to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401. Send only comments relating to our time estimate to this address, not the completed form.*

I. LIMITATIONS:

For Each Section A - F

- Base your conclusions on **all evidence** in file (clinical and laboratory findings; symptoms; observations, lay evidence; reports of daily activities; etc.).
- Check the blocks which reflect your **reasoned judgment**.
- Describe how the **evidence substantiates your conclusions** (Cite specific clinical and laboratory findings, observations, lay evidence, etc.).
- Ensure that you have:
  - Requested appropriate medical source statements regarding the individual's capacities (DI 22505.000ff. and DI 22510.000ff.) and that you have given appropriate **weight to treating source conclusions** (See Section III.).
  - Considered and responded to **any alleged limitations imposed by symptoms** (pain, fatigue, etc.) attributable, in your judgment, to a medically determinable impairment. Discuss your assessment of symptom-related limitations in the explanation for your conclusions in A - F below (See also Section II.).
  - Responded to all allegations of physical limitations or factors which can cause physical limitations.
- **Frequently** means occurring one-third to two-thirds of an 8-hour workday (cumulative, not continuous). **Occasionally** means occurring from very little up to one-third of an 8-hour workday (cumulative, not continuous).

Homeland Security & Governmental Affairs
Committee
EXHIBIT A – 6

Continued on Page 2

A. EXERTIONAL LIMITATIONS

☐ None established. (Proceed to section B.)

1. **Occasionally** lift and/or carry (including upward pulling)
(maximum) - when less than one-third of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

   ☐ less than 10 pounds
   ☐ 10 pounds
   ☒ 20 pounds
   ☐ 50 pounds
   ☐ 100 pounds or more

2. **Frequently** lift and/or carry (including upward pulling)
(maximum) - when less than two-thirds of the time or less than 10 pounds, explain the amount (time/pounds) in item 6.

   ☐ less than 10 pounds
   ☒ 10 pounds
   ☐ 25 pounds
   ☐ 50 pounds or more

3. Stand and/or walk (with normal breaks) for a total of -

   ☐ less than 2 hours in an 8-hour workday
   ☐ at least 2 hours in an 8-hour workday
   ☒ about 6 hours in an 8-hour workday
   ☐ medically required hand-held assistive device is necessary for ambulation

4. Sit (with normal breaks) for a total of -

   ☐ less than about 6 hours in an 8-hour workday
   ☒ about 6 hours in an 8-hour workday
   ☒ must periodically alternate sitting and standing to relieve pain or discomfort. (If checked, explain in 6.)

5. Push and/or pull (including operation of hand and/or foot controls) -

   ☒ unlimited, other than as shown for lift and/or carry
   ☐ limited in upper extremities (describe nature and degree)
   ☐ limited in lower extremities (describe nature and degree)

6. Explain how and why the evidence supports your conclusions in item 1 through 5.
Cite the specific facts upon which your conclusions are based.
LUMBAR SPONDYLOSIS W/O MYELOPATHY, MRI IN FILE SHOWS DDD, LEFT SACROILITIS AND LEFT LUMBAR RADICULOPATHY. LIMITED ROM IN BACK, TX BY PAIN MANAGEMENT

D & D CASE- ALJ DECISION OF 8/27/09 REVIEWED AND IS ADOPTED- NO MATERIAL MER SINCE DECISION.

Continued on Page 3

6. Continue (NOTE: MAKE ADDITIONAL COMMENTS IN SECTION IV)

B. POSTURAL LIMITATIONS

☐ None established. (Proceed to section C.)

	Frequently	Occasionally	Never
1. Climbing - ramp/stairs	☐	☒	☐
- ladder/rope/scaffolds	☐	☒	☐
2. Balancing	☐	☐	☐
3. Stooping	☐	☒	☐
4. Kneeling	☐	☒	☐
5. Crouching	☐	☒	☐
6. Crawling	☐	☒	☐

7. When less than two-thirds of the time for frequently or less than one-third for occasionally, fully describe and explain. Also explain how and why the evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based.

C/O BACK AND NECK PAIN, TENDONITIS IN RIGHT FOOT AND DDD
UNMARKED ITEMS NOT MARKED

Continued on Page 4

C. MANIPULATIVE LIMITATIONS

☒ None established. (Proceed to section D.)

	LIMITED	UNLIMITED
1. Reaching all directions (including overhead)	☐	☐
2. Handling (gross manipulation)	☐	☐
3. Fingering (fine manipulation)	☐	☐
4. Feeling (skin receptors)	☐	☐

5. Describe how the activities checked "limited" are impaired. Also, explain how and why the evidence supports your conclusions in item 1 through 4. Cite the specific facts upon which your conclusions are based.

D. VISUAL LIMITATIONS

☒ None established. (Proceed to section E.)

	LIMITED	UNLIMITED
1. Near acuity	☐	☐
2. Far acuity	☐	☐
3. Depth perception	☐	☐
4. Accommodation	☐	☐
5. Color vision	☐	☐
6. Field of vision	☐	☐

7. Describe how the faculties checked "limited" are impaired. Also explain how and why the evidence supports your conclusions in items 1 through 6. Cite the specific facts upon which your conclusions are based.

Continued on Page 5

E. COMMUNICATIVE LIMITATIONS

☒ None established. (Proceed to section F.)

	LIMITED	UNLIMITED
1. Hearing	☐	☐
2. Speaking	☐	☐

3. Describe how the faculties checked "limited" are impaired. Also, explain how and why the evidence supports your conclusions in items 1 and 2. Cite the specific facts upon which your conclusions are based.

F. ENVIRONMENTAL LIMITATIONS

☐ None established. (Proceed to section II.)

	UNLIMITED	AVOID CONCENTRATED EXPOSURE	AVOID EVEN MODERATE EXPOSURE	AVOID ALL EXPOSURE
1. Extreme cold	☒	☐	☐	☐
2. Extreme heat	☒	☐	☐	☐
3. Wetness	☒	☐	☐	☐
4. Humidity	☒	☐	☐	☐
5. Noise	☒	☐	☐	☐
6. Vibration	☐	☒	☐	☐
7. Fumes, odors, dusts, gases, poor ventilation, etc.	☒	☐	☐	☐
8. Hazards (machinery, heights, etc.)	☒	☐	☐	☐

9. Describe how these environmental factors impair activities and identify hazards to be avoided. Also, explain how and why the evidence supports your conclusions in items 1through 8. Cite the specific facts upon which your conclusions are based.

Continued on Page 6

9. Continue (NOTE: MAKE ADDITIONAL COMMENTS IN SECTION IV)

II. SYMPTOMS

For symptoms alleged by the claimant to produce physical limitations, and for which the following have not previously been addressed in section I, discuss whether:

A. The symptom(s) is attributable, in your judgment, to a medically determinable impairment.

B. The severity or duration of the symptom(s), in your judgment, is disproportionate to the expected severity or expected duration on the basis of the claimant's medically determinable impairment(s).

C. The severity of the symptom(s) and its alleged effect on function is consistent, in your judgment, with the total medical and nonmedical evidence, including statements by the claimant and others, observations regarding activities of daily living, and alterations of usual behavior or habits.
CLMT ALLEGES LIMITATIONS WITH SITTING, STANDING, BENDING, REACHING, LIFTING, CARRYING THINGS, SQUATTING AND KNEELING.

BASED ON THE MEDICAL EVIDENCE CLMT WOULD BE LIMITED TO OCCASIONAL BENDING, SQUATTING, KNEELING AND LIGHT LIFTING. THEREROE THESE ALLEGATIONS ARE CONSIDERED CREDIBLE. HOWEVER THE ALLEGATIONS ADDRESSING LIMITATIONS IN SITTING, STANDING, CARRYING THINGS AND REACHING ARE NOT CREDIBLE BECAUSE THEY ARE NOT CONSISTENT WITH THE MEDICALL FINDINGS.

PAIN WAS CONSIDERED IN THE ASSESSMENT OF FUNCTIONAL CAPACITY.

Continued on Page 7

III. MEDICAL SOURCE STATEMENT(S)

A. Is a medical source statement(s) regarding the claimant's physical capacities in file?

☐ Yes

☒ No (Includes situations in which there was no source or when the source(s) did not provide a statement regarding the claimant's physical capacities.)

B. If yes, are there medical source conclusions about the claimant's limitations or restrictions which are significantly different from your findings?

☐ Yes ☐ No

C. If yes, explain why those conclusions are not supported by the evidence in file. Cite the source's name and the statement date.

Continued on Page 8

IV. ADDITIONAL COMMENTS:
NONE

V. SIGNATURE

A. Signatory's Role

☒ Medical Consultant **(MC)**

OR

☐ Single Decisionmaker **(SDM)**

B. MC's Statement

The MC does **not** check this block when the MC's assessment is preliminary, advisory or partial.

☐ THESE FINDINGS COMPLETE THE MEDICAL PORTION OF THE DISABILITY DETERMINATION.

SIGNATURE:	MEDICAL CONSULTANT'S CODE:	DATE:
[redacted]	37	03/05/2010

DuPlEx

SOCIAL SECURITY ADMINISTRATION
RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE
Notice of Disapproved Claim

DATE: November 10, 2009
Claim Number: [redacted]

[redacted]

We are writing about your claim for Social Security disability benefits. Based on a review of your health problems you do not qualify for benefits on this claim. This is because you are not disabled under our rules.

THE DECISION ON YOUR CASE
The following reports were used to decide this claim:

[redacted]esponse received 10/01/2009
MD response received 09/18/2009
[redacted]response received 09/11/2009

Additional information was considered from other people who know about your health. This information was obtained on 09/14/2009.

Additional reports were not obtainable, however, the ones shown had enough information to evaluate this claim.

You said that you became disabled on [redacted]2007 because of diabetes, back problems, neck problems, muscle spasms, fatigue, depression, anxiety, trouble sleeping, tendonitis, and hypertension.
The medical evidence shows that you have received evaluation and treatment for your conditions. Although you may feel anxious and depressed at times, you are still able to think act and communicate in your own best interest. Your medical records do show that you have problems with your back. Your medical records also show that your blood pressure and blood sugar are higher than normal at times. Your overall condition does cause you to have limitations in your ability to perform some types of basic work related activities.
We realize that your condition prevents you from doing any of your past work, but it does not prevent you from doing work which is less demanding and requires less physical effort.

Based on your age [redacted] and your education (12), you can do some types of work.

We have determined that your condition is not severe enough to keep you from working. We considered the medical and other information, your age, education, training, and work experience in determining how your condition affects your ability to work.

[redacted]

If your condition gets worse and keeps you from working, write, call or visit any Social Security office about filing another application.

ABOUT THE DECISION

Doctors and other trained staff looked at this case and made this decision. They work for the state but used our rules.

Please remember that there are many types of disability programs, both government and private, which use different rules. A person may be receiving benefits under another program and still not be entitled under our rules. This may be true in this case.

RULES FOR SOCIAL SECURITY DISABILITY

You must meet certain rules to qualify for disabled worker's Social Security benefits. You must have the required work credits and your health problems must:

- keep you from doing any kind of substantial work (described below), and
- last, or be expected to last, for at least 12 months in a row, or result in death.

INFORMATION ABOUT SUBSTANTIAL WORK

Generally, substantial work is physical or mental work a person is paid to do. Work can be substantial even if it is part-time. To decide if a person's work is substantial, we consider the nature of the job duties, the skills and experience needed to do the job, and how much the person actually earns.

Usually, we find that work is substantial if gross earnings average over $980 per month after we deduct allowable amounts. This monthly amount is higher for Social Security disability benefits due to blindness.

A person's work may be different than before his/her health problems began. It may not be as hard to do and the pay may be less. However, we may still find that the work is substantial under our rules.

If a person is self-employed, we consider the kind and value of his/her work, including his/her part in the management of the business, as well as income, to decide if the work is substantial.

IF YOU DISAGREE WITH THE DETERMINATION

If you disagree with this determination, you have the right to appeal. We will review your case and consider any new facts you have. A person who did not make the first decision will decide your case.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to complete a form SSA-561-U2, called. "Request for Reconsideration". You may contact one of our

[redacted]

offices or call 1-800-772-1213 to request this form. Or you may complete this form online at http://www.socialsecurity.gov/disability/appeal. Contact one of our offices if you want help.

- In addition, you should complete a "Disability Report - Appeal" to tell us about your medical condition since you filed your claim. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete this report online after you complete the online Request for Reconsideration.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim." It contains more information about the appeal.

NEW APPLICATION

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

IF YOU WANT HELP WITH YOUR APPEAL

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past due Social Security benefits to pay toward the fee.

OTHER INFORMATION

In addition, you are not entitled to any other benefits based on this application. If you have applied for other benefits, you will receive a separate notice when a decision is made on that claim.

INFORMATION ABOUT VOCATIONAL REHABILITATION

You may be eligible for Vocational Rehabilitation Services. The Kentucky Department of Vocational Rehabilitation Program provides a variety of services to assist individuals with disabilities to become employed. If you are interested in becoming employed, you may contact the Kentucky Department of Vocational Rehabilitation at 1-800-372-7172 Voice/TTY for a referral to an office in your area.

IF YOU HAVE ANY QUESTIONS

If you have any questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at (606) 886-8525. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY ADMINISTRATION

[redacted]

1897 KY RT 321
PRESTONSBURG, KY 41653

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly.

Paul Barnes
Regional Commissioner

Enclosure: SSA Pub. No. 05-10058

AFH/bhu/0001

B24SiMpLeX

CC: ERIC CONN

[redacted]

Simplified Vocational Rationale

CLAIMANT INFORMATION:

[redacted]

SSN: [redacted]

This claimant has a residual functional capacity for light work, is a younger individual, has a high school education, and work experience as a [redacted]. The current RFC does not permit the claimant to perform past work in the manner in which it was performed in the past or as typically performed within the national economy.

There are a significant number of occupations for which this claimant qualifies. Examples of these occupations include table worker, button reclaimer, and dowel inspector. According to the Kentucky Occupational Outlook, 483,020 persons are performing similar work in Kentucky in the Inspectors, Testers, Sorters, Samplers, and Weighers industry. Based on these figures, it can be reasonably inferred that the cited occupations exist as individual jobs in significant numbers not only in Kentucky, but also through the national economy. This vocational profile is similar to that described in vocational rule # 202.21 from the Vocational Regulations.

Since the claimant has the capacity to perform other work, disability is not established.

[redacted]

[redacted]

DuPlEx
SOCIAL SECURITY
NOTICE OF RECONSIDERATION

From: Social Security Administration

DATE:
Claim Number: [redacted]
Claim for: Disability Insurance Benefits

[redacted]

Upon receipt of your request for reconsideration we had your claim independently reviewed by a physician and disability examiner in the State agency which works with us in making disability determinations. The evidence in your case has been thoroughly evaluated; this includes the medical evidence and the additional information received since the original decision. We find that the previous determination denying your claim was proper under the law.

THE DECISION ON YOUR CASE
The following report was used to decide this claim in addition to those listed on our previous notice:

[redacted] response received 12/31/2009

Additional reports were not obtainable, however, the ones shown had enough information to evaluate this claim.

You said that you became disabled on [redacted] 2007 because of diabetes, neck pain, herniated discs in your back, muscle spasms, fatigue, tendonitis in your right foot, hypertension, depression and anxiety.
The medical evidence shows that, although you may be depressed and anxious at times, you are able to think, communicate and act in your best interest. You are able to adjust to emotional stresses and to get along with others. You are able to do your usual activities and to remember and follow basic instructions. Although your blood pressure is higher than normal at times, the evidence shows that this condition has not caused any significant damage to your eyes, heart, liver or kidneys. Your diabetes has not caused any problems with your vision or any major organ in your body. Although you have discomfort, you are able to move about in a satisfactory manner. There are no significant restrictions in your ability to stand and walk. Your condition will limit your ability to do jobs that require heavy lifting and carrying; however, you can do lighter, less strenuous types of work. In our prior notice to you, we stated that you could not return to your past work. However, after another review of your claim, we find that you can return to your past work as [redacted]
Based on your description of your past work as [redacted] we have concluded that you have the ability to perform this job.

To be considered disabled, a person must be unable to do any substantial gainful work

[redacted]

due to a medical condition which has lasted or is expected to last for at least 12 months in a row. The condition must be severe enough to keep a person from working not only in his or her usual job, but in any other substantial gainful work. We look at the person's age, education, training and work experience when we decide whether he or she can work.

The determination on your claim was made by an agency of the State. It was not made by your own doctor or by other people or agencies writing reports about you. However, any evidence they gave us was used in making this determination. Doctors and other people in the State agency who are trained in disability evaluation reviewed the evidence and made the determination based on Social Security law and regulations.

IF YOU DISAGREE WITH THE DETERMINATION

If you believe that the reconsideration determination is not correct, you may request a hearing before an administrative law judge of the Office of Disability Adjudication and Review. If you want a hearing you must request it not later than 60 days from the date you receive this notice. You may make your request through any Social Security office or on the Internet at http://www.socialsecurity.gov/disability/appeal. As part of the appeal process, you also need to tell us about your current medical condition. We provide a form for doing that, the Disability Report - Appeal. You may contact one of our offices or call 1-800-772-1213 to request this form. Or, you may complete the report online after you complete the online Request for Hearing by Administrative Law Judge. (Title II) Read the enclosed leaflet for a full explanation of your right to appeal. (Title XVI) Read the enclosed leaflet and the reverse of this notice for a full explanation of your right to appeal.

IF YOU WANT HELP WITH YOUR HEARING

You can have a friend, lawyer, or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your appeal.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it. And if you hire a lawyer, we will withhold up to 25 percent of any past-due benefits to pay toward the fee.

NEW APPLICATION

You have the right to file a new application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing:

- you might lose some benefits, or not qualify for any benefits, and
- we could deny the new application using this decision, if the facts and issues are the same.

So, if you disagree with this decision, you should ask for an appeal within 60 days.

OTHER INFORMATION

This decision refers only to your claim for benefits under the Social Security Disability Insurance Program. If you applied for other benefits, you will receive a separate notice when a decision is made on that claim(s).

[redacted]

INFORMATION ABOUT VOCATIONAL REHABILITATION

You may be eligible for Vocational Rehabilitation Services. The Kentucky Department of Vocational Rehabilitation Program provides a variety of services to assist individuals with disabilities to become employed. If you are interested in becoming employed, you may contact the Kentucky Department of Vocational Rehabilitation at 1-800-372-7172 Voice/TTY for a referral to an office in your area.

IF YOU HAVE ANY QUESTIONS

If you have any questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at (606) 886-8525. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY ADMINISTRATION
1897 KY RT 321
PRESTONSBURG, KY 41653

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly.

Paul Barnes
Regional Commissioner

Enclosure: SSA Pub. No. 70-10281

SAD/sad/0088
SiMpLeX
CC: ERIC CHRISTOPHER CONN

B24

[redacted]

March 25, 2010, 12:09
PAGE 1

NH [redacted]

UNIT: APLAPL

[redacted]

REQUEST FOR HEARING BY ADMINISTRATIVE LAW JUDGE

On March 24, 2010, we talked with you and completed your REQUEST FOR HEARING for SOCIAL SECURITY BENEFITS. We stored your REQUEST FOR HEARING information electronically in our records and attached a summary of your statements.

What You Need To Do

- Review your REQUEST FOR HEARING to ensure we recorded your statements correctly.
- If you agree with all your statements, you may retain the REQUEST FOR HEARING for your records.
- If you disagree with any of your statements, you should contact us within 10 days after the date of this notice to let us know.

MY NAME IS [redacted]

MY SOCIAL SECURITY NUMBER IS [redacted]

I REQUEST A HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE. I DISAGREE WITH THE DETERMINATION MADE ON MY CLAIM FOR DISABILITY-WORKER OR CHILD BENEFITS BECAUSE I AM TOTALLY DISABLED FOR ANY SUBSTANTIAL GAINFUL A CTIVITY.

I HAVE NO ADDITIONAL EVIDENCE TO SUBMIT.

I WISH TO APPEAR AT A HEARING. I UNDERSTAND THAT AN ADMINISTRATIVE LAW JUDGE OF THE OFFICE OF DISABILITY ADJUDICATION AND REVIEW WILL BE APPOINTED TO CONDUCT THE HEARING OR OTHER PROCEEDINGS IN MY CASE. I ALSO UNDERSTAND THAT THE ADMINISTRATIVE LAW JUDGE WILL SEND ME NOTICE OF THE TIME AND PLACE OF A HEARING AT LEAST 20 DAYS BEFORE THE DATE SET FOR A HEARING.

IT COULD BE ESPECIALLY USEFUL IN MY CASE SINCE THE ADMINISTRATIVE LAW JUDGE WOULD HAVE AN OPPORTUNITY TO HEAR AN EXPLANATION AS TO HOW MY IMPAIRMENTS PREVENT ME FROM WORKING AND RESTRICT MY ACTIVITIES.

NH [redacted]

I AM REPRESENTED BY ERIC C CONN, WHO IS AN ATTORNEY.

MY PHONE NUMBER IS [redacted]

DATE March 24, 2010.

DB OTR LIST (MAY)

CLIENT'S	NAME	SS#	FILE #	CASE TYPE	EV.S.G.	CALLED ?	PHONE #
[redacted]	[redacted]	[redacted]	23170	SSD/SSI	YES		
			25656	SSD/SSI	YES	YES	[redacted]
			25869	SSD	NO		
			27579	SSD	NO		
			25538	SSD	NO		
			26958	SSD	NO		
			27344	SSD/SSI	YES	YES	
			25672	SSI	YES	YES	[redacted]
			26794	SSD/SSI	YES	YES	
			27056	SSD/SSI	YES	YES	
			25632				
			25093	SSD/SSI	YES	YES	[redacted]
			25940				
			26093	SSD	NO		
			25400	SSD/SSI	YES	DECEASED	
			25054	SSD/SSI	YES	YES	
			25216	SSD/SSI	YES	YES	[redacted]
			26869	SSI	YES	YES	
			27520	SSI	YES		
			25355				
			27089	SSD	NO		
			26904	SSD	NO		
			26635	SSD	NO		
			26062	SSD	NO		
			25321	SSD	NO		
			26037	SSD	NO		
			26541	SSD	NO		
			25585	SSD/SSI	YES	YES	[redacted]
			26575	SSD	NO		
			25295	SSD/SSI	YES	YES	[redacted]
			27712	SSD/SSI	YES	YES	
			25172	SSD	NO		
			25200	SSD	NO		
			27723	SSI	YES	YES	[redacted]
			26589	SSD	NO		
			27376	SSI	YES	YES	[redacted]
			26811	SSD	NO		
			26953	SSD	NO		
			26809	SSD	NO		
			26138	SSD	NO		

FREDERIC T. HUFFNAGLE, M.D.
Board Certified Orthopedic Surgeon

SOCIAL SECURITY DISABILITY
MEDICAL ASSESSMENT

Frederic T. Huffnagle, M.D.
720 Chestnut Street
Suite 102
Bowling Green, KY 42101

PATIENT INFORMATION:
Date of Evaluation: 04/27/2010
Name: [redacted]
Date of Birth: [redacted]
Social Security Number: [redacted]

CURRENT MEDICAL SYMPTOMS OR PROBLEMS: This man has low back pain with left hip pain.

HISTORY OF PRESENT ILLNESS: This man's pain came on gradually over time. He had been involved in a [redacted] accident in 2007. His work history is significant in that he worked in [redacted] for 12 years [redacted], which contributed to his back pain.

PREVIOUS TREATMENT: He has had physical therapy and injections.

GENERAL MEDICAL HISTORY: This man has type 2 diabetes. He has gastric reflux. He also has high blood pressure and high cholesterol. He has a history of a previous fracture of the left elbow and a right ankle dislocation. He is suffering with anxiety and depression. He has a history of gout.

PAST SURGICAL HISTORY: He has had injections on six different occasions in the lumbar spine done at [redacted] in Pikeville, Kentucky by [redacted] in 2008. He has had his tonsils out and has had an anal fistula removed. He has had 14 kidney stones, which were treated with lithotripsy, and three of them have been treated surgically. These were done at [redacted] in Lexington, Kentucky. He had a right ankle dislocation done at the Pikeville Medical Center in 1983.

FREDERIC T. HUFFNAGLE, M.D.
Board Certified Orthopedic Surgeon

April 27, 2010
RE: [redacted]
Page Two

MEDICATIONS:

1. Altace 5 mg one time a day.
2. Actos 45 mg one time a day.
3. Vytorin 10/20 one time a day.
4. Janumet 50/1000 mg twice a day.
5. Toprol XL 25 once a day.
6. Lyrica 150 mg three times a day.
7. Cyclobenzaprine 10 mg twice a day.
8. Hydrocodone 10 mg twice a day.
9. Nexium 40 mg once a day.
10. Mobic 15 mg once a day.
11. Lidoderm patch.

He is being treated by his family physician who is [redacted] in [redacted] Kentucky.

SOCIAL HISTORY: He is married. He does not smoke. He has last finished the twelfth grade.

WORK STATUS: He last worked on 07/29/07. He had previously worked in [redacted] a heavy equipment operator for 12 years and has also worked at the [redacted] as a [redacted] for 10 years.

REVIEW OF SYSTEMS:

General	**Skin**
Recent Weight Loss – Negative	Rash – Negative
Recent Weight Gain – Positive, +20 pounds	Open Sores – Negative
Fever – Negative	New Moles – Negative
Chills – Negative	Poor Healing – Negative
Night Sweats – Negative	Skin Infection – Negative

FREDERIC T. HUFFNAGLE, M.D.
Board Certified Orthopedic Surgeon

April 27, 2010
RE: [redacted]
Page Three

Head / Neck
Eye Problem – Negative
Sore Throat – Negative
Swollen Neck, Glands – Negative

Cardiovascular
Chest Pain – Negative
Irregular Heartbeat – Negative
Leg / Feet Swelling – Negative
Leg / Foot Ulcer – Negative

Respiratory
Wheezing – Negative
Pneumonia – Negative
Cough – Negative
Shortness of Breath – Negative
Sleep Apnea – Negative

Gastrointestinal
Abdominal Pain – Negative
Nausea / Vomiting – Negative
Diarrhea – Negative
Black Tar-Like or Blood Stools – Negative

Endocrine
Heart or Cold Intolerance – Negative

Hematologic / Oncologic
Anemia – Negative
Easy Bleeding or Bruising – Negative
Recent Blood Transfusion – Negative

Bone / Joints
Joint Swelling – Positive
Joint Pain – Positive
Pain in Multiple Joints – Positive for low back pain and left leg pain
Weakness - Negative

Genitourinary
Bladder Infection – Negative
Pain with Urination – Negative
Frequent Urination – Negative
Difficulty with Urination – Negative

Neurological
Anxiety / Depression – Positive
Headaches – Negative
Tremors – Negative
Speech Problems – Negative
Changes in Vision – Negative
Feeling of Hopelessness – Negative
Sleep Disturbance – Negative

PREVIOUS TESTS: This man has no recent tests.

PHYSICAL EXAMINATION: In the lumbar spine his flexion is 20 degrees and extension 0 degrees. He has right lateral bending of 5 degrees and left lateral bending of 8 degrees. He cannot walk on his heels or toes. He has a normal gait.

FREDERIC T. HUFFNAGLE, M.D.
Board Certified Orthopedic Surgeon

April 27, 2010
RE: [redacted]
Page Four

His knee reflexes are 0 on the right and 2+ on the left. His ankle reflexes are 0 on the right and 0 on the left. His right calf measures 16-1/4 and the left calf measures 15-1/4. His Jamar test is 40 kg on the right and 30 kg on the left.

IMPRESSION:
1. Sciatica.
2. Possible L4-L5 disc herniation.
3. Diabetes mellitus.

DISCUSSION: This man has had a failure of epidural treatment. His back pain has increased with time and he needs further studies and treatment for this. His prognosis for the future is guarded.

The opinions rendered in this case are the opinions of the evaluator. These opinions are based upon reasonable medical probability. This evaluation has been conducted on the basis of the medical examination and documentation as provided with the assumption that the material is true and correct. If more information becomes available at a later date, an additional service/report/reconsideration may be requested. Such information may or may not change the opinions rendered in this evaluation. This opinion is based on a clinical assessment, examination, and documentation. This opinion does not constitute, per se, a recommendation for specific claims or administrative functions to be made or enforced.

If additional information is needed in this case, please do not hesitate to contact me.

Sincerely,

Frederic T. Huffnagle, M.D.
Diplomate, American Board of Orthopaedic Surgeons
Fellow, North American Spine Society

FTH/kb

PHYSICAL MEDICAL ASSESSMENT

Printed Name of Individual	Social Security Number
[redacted]	[redacted]

Instructions on completion of this form: The purpose of this form is to determine the above individual's ability to do work-related activities on a day-to-day basis in a regular work setting. Therefore, please give provide using this form an assessment that is based on your examination of the above individual of how the above individual's physical capabilities are affected by the impairment(s) that he or she may have. In rendering your assessment you should consider the above individual's medical history, the chronicity or lack of chronicity of findings, and the expected duration of any work-related limitations, but do not consider in rendering this assessment the above individual's age, sex, or work experience.

For each activity shown below:

(1) Please check the appropriate block;
(2) Respond to the questions concerning the individual's ability to perform the activities; and
(3) Identify the particular medical findings (i.e., physical exam findings, laboratory test results, history, symptoms including pain) which support your assessment of any limitations that the above individual may have. If the above individual does not have any limitations in a category or categories please indicate this as well.

Note: It is important that you relate any particular findings to any assessed limitation(s) in the above individual's capacity. In fact, the usefulness of your assessment depends in large part on the extent to which you do this.

I. Are LIFTING/CARRYING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide the number of pounds the individual can lift and/or carry:

Maximum occasionally is defined as from very little up to 1/3 of an 8-hour work day. **8-10 pound**
Maximum frequently is defined as from 1/3 to 2/3 of an 8-hour work day. **5 pounds**

II. Are STANDING/WALKING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" please provide how many hours in an 8-hour work day can the individual stand and/or walk:

Total in an 8-hour work day: **2 hours**
Without interruption: **20 minutes**

III. Is SITTING affected by impairment(s)? NO ( ) YES (**X**)

If the answer is "Yes" how many hours in an 8-hour work day can the individual sit:

Total in an 8-hour work day: **4-5 hours**

Without interruption: **15-30 minutes**

IV. How often can the above individual perform the following POSTURAL ACTIVITIES?

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Climbing	X			
Balancing		X		
Stooping			X	
Crouching			X	
Kneeling			X	
Crawling	X			

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity condition which exists 2/3 or more of the time.

V. How <u>often</u> can the above individual perform the following PHYSICAL/COMMUNICATIVE FUNCTIONS?

Please indicate your responses with a checkmark in the appropriate spaces below:

PHYSICAL FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Reaching		X		
Handling			X	
Feeling			X	
Pushing/Pulling			X	

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

COMMUNICATIVE FUNCTIONS

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Seeing				X
Hearing				X
Speaking				X

"Never" is defined as not ever.
"Occasionally" is defined as an activity which exists up to 1/3 of the time.
"Frequently" is defined as an activity which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity which exists 2/3 or more of the time.

VI. Indicate how <u>often</u> the above individual can be exposed to the following ENVIRONMENTAL ACTIVITIES/CONDITIONS

Please indicate your responses with a checkmark in the appropriate spaces below:

ACTIVITY	NEVER	OCCASIONALLY	FREQUENTLY	CONSTANTLY
Heights		X		
Moving Machinery		X		
Temperature Extremes			X	
Chemicals			X	
Dust			X	
Noise			X	
Fumes				X
Humidity			X	
Vibration		X		

"Never" is defined as not ever.
"Occasionally" is defined as an activity or condition which exists up to 1/3 of the time.
"Frequently" is defined as an activity or condition which exists from 1/3 to 2/3 of the time.
"Constantly" is defined as an activity or condition which exists 2/3 or more of the time.

VII. Please discuss any other work-related activities which are affected by the individual's impairment(s), and indicate how the activities are affected. Please provide any additional medical findings that support this assessment. Please provide any additional comment(s) here.

Please see my attached orthopedic evaluation report for supporting explanation.

4/22/10
Date

FREDERIC T. HUFFNAGLE, M.D.
BOARD CERTIFIED ORTHOPEDIC SURGEON