

January 1, 2008

**Re: John Smith vs. Worker Company, Inc., Deposition of John Smith**

Date of Deposition: October 15, 2007

WORK HISTORY:

Applicant, Mr. Smith is not working now and no doctor has indicated when he can return to work. He has not done work around his house and he is not working any side jobs. He is getting benefits through his insurance company and he has not received any other money for any other type of work. He has only received vacation pay from his union.

Mr. Smith's last employer was Worker Company and he was hired by them on April 5, 2005 to work as a carpenter. He was the lead man about seven months before the injury. After his injuries he worked modified duties for about 10 weeks and his last day of work was May 16, 2006 because there was no more modified work available. His job duties included screwing in drywall, which would increase his pain.

Mr. Smith also worked for ABC in Berkeley before Worker Company. He was there approximately three years as a carpenter. While there he suffered no injuries and filed no claims for workers compensation benefits. He left the position because he wanted a change. There was only about a day or two between his two jobs.

Mr. Smith has never been terminated from any of his jobs.

INJURY (April 1, 2006):

Mr. Smith was injured when he was hit on the right side of his ear and six inches below that on his neck by a half box header, which is two pieces of metal studs screwed together. The injury happened on April 1, 2006 around 4:00 pm. The half box header fell at least three feet before hitting him. Co-workers were taking the half box header down when it fell. It weighed about 75 pounds. Mr. Smith was standing on the ground when he was hit and he does not recall if he fell but he did lose consciousness. When he came to he was standing up and there were people all around him.

Once he stood up, Mr. Smith reported the injury to Mr. Jones, his foreman. Mr. Smith did not see a doctor that day and also did not continue working because the injury happened at the end of his shift. He was driven home by his carpool friend, Mr. McKay. He had pains on the right side of his face and all of his neck. He took Advil that night and is unable to recall if he slept that night, but he did worry about a concussion. He worked the next day after he went and saw the doctor. Mr. Smith went to the CDA Medical Group and he was released back to work modified duties.

Within the last 30 days, Mr. Smith has felt pain in his head, jaw, neck, shoulder blade, the left-hand side of his spine, his right side, and his lower right back.

His head pain is on the right-hand side of his face and jaw and it feels like migraine headaches that will not go away. He has migraine pain approximately every other day and the pain can last days, but in the last 30 days the pain has lasted between four and five hours. He takes Vicodin for the pain and has taken at least five or six Vicodin in the last 30 days. He has never been diagnosed with migraine headaches. He had not seen a doctor for headache problems before April 2006. Mr. Smith spoke to Dr. Carlo about the pain and did not really get a response.

Mr. Smith also experiences ringing in his ear that started right after the accident. The ringing lasted the whole day and night and then let up to every other week. It was two or three weeks ago when he last had any ringing. He was watching TV when it happened and it lasted for about 30 minutes until it went away on its own.

For the past year and a half, Mr. Smith has been sleeping on the floor with pads because when he last slept on a bed his insides were in so much pain that he was unable to move. He likens the pain to having his insides wrung out like a wet towel. Mr. Smith first experienced this pain about a week post accident.

During drills at his daughter's soccer practice, Mr. Smith's symptoms increase once he demonstrates to them a technique or how to move. His symptoms also increase after being the assistant referee.

Within the last 30 days, Mr. Smith has had sleep problems every day, which includes getting and staying to sleep. His sleeping problem has gotten worse because he is still feeling tired and is unable to sleep. When he notices, it will take him two hours to get to sleep.

He experiences pain in his jaw when he has to open his jaw to brush the back teeth and he has pain when he is getting dressed and bathing himself.

#### PAST HISTORY:

Applicant's full name is John Smith. He was born on November 3, 1970. He is not known by any other names. He lives at 1565 Main Street with his wife and three children. He was driven here today by his wife and the trip was close to 56 miles one-way.

His children are aged 13, 10, and 9. None of his children have any medical or physical disabilities.

His cousin was sentenced to jail about two years ago and his out now. Mr. Smith was not stressed by this event. In the last 10 years, no one else in his family has had to make a criminal court appearance, had any unwanted pregnancies, or been hospitalized for any reason. Mr. Smith has not had anyone in his family pass away within the last five years. Mr. Smith's mother and father are still alive and in good health. He spoke to his mother two weeks ago.

Mr. Smith spends his day taking his kids to school and he used to play basketball, ride his bike, and play video games for hobbies. He has not played on his soccer team since the April 2006 injury. Mr. Smith is the assistant coach on his daughter's soccer team. Once or twice a week, he is assistant referee for ages 10 and under and only covers half the field. Sometimes this involves running, but not often. The games are timed in 15-minute quarters. Children aged 14 and older play on a standard field.

Mr. Smith traveled to Hawaii for five days in July of 2007 for his daughter's soccer games. He snorkeled and attended games. The snorkeling increased his symptoms, but he did not have any injuries during his snorkeling.

Mr. Smith was involved in an automobile accident in 1990. He was rear-ended while stopped.

Mr. Smith is right-handed.

Mr. Smith smokes about a pack every two to three weeks because he is in the process of quitting. However, he has not had a cigarette in the past week and a half.

#### SCHOOL HISTORY:

Mr. Smith's last grade of completion was an associated science degree over 10 years ago. He has taken classes from his union. He is not currently enrolled in school.

#### MILITARY HISTORY:

Mr. Smith has never served in the military.

MARITAL HISTORY:

Mr. Smith has been married to his wife, Mary, for 15 years. This is his first marriage.

DRUG/ALCOHOL USAGE:

Mr. Smith attended Alcoholics Anonymous (AA) meetings. He no longer drinks alcohol. He stopped right after the DUI arrest.

Mr. Smith does not take any drugs that are not prescribed by a doctor.

LEGAL HISTORY:

Mr. Smith met with his attorney about this deposition for approximately a half hour. He has not had his deposition taken before.

Mr. Smith filed a lawsuit as a result of a 1990 automobile accident; however, it was settled out of court. He received between around \$3000 and that included his repair cost.

He has never filed for bankruptcy and he has never been under a court order to provide child support.

He had one DUI from about five years ago. There was no accident involved.

He has not filed a workers' compensation claim before this one.

MEDICAL/SURGICAL HISTORY:

Mr. Smith has not taken any medications in the past 24 hours.

Currently, he is being treated by Dr. Carlo.

His personal doctor is Dr. Williams located in San Francisco. Dr. Williams has been Mr. Smith's personal doctor for about eight years. Mr. Smith has only seen Dr. Williams for his colon and bowel problems. Before the April 2006 injury, Mr. Smith did not see Dr. Williams for any problems with his head, hearing loss, shoulders, jaw, or psychiatric or psychological problems.

Mr. Smith did not have a personal doctor before Dr. Williams. In the last 20 years, Mr. Smith has not been hospitalized or been seen in the emergency room for any reason. He has not been seen in any outpatient clinics or urgent care centers. He also has not had any outpatient surgery in the last 20 years.

In 1990, Mr. Smith was in an automobile accident and injured his neck. He does not remember the name of the doctor that administered his chiropractic treatment. His treatment lasted about five months and he had no pain in his neck since his treatment.

In the last 20 years, Mr. Smith has not had any other injuries nor has he been involved in any other automobile accidents. He has not had any injuries that have required him to see a doctor or healthcare practitioner and he has not had any additional chiropractic or acupuncture sessions other than that pertain to this claim.

Neither Mr. Smith nor anyone in his immediate family has been diagnosed with a terminal illness or life-threatening disease.

He has not taken any medications to help him stop smoking.

Mr. Smith takes medications, such as ibuprofen, to help him sleep depending on if he's in pain or not. The last time he took medicine to help him sleep was about two weeks ago.

PSYCHIATRIC HISTORY:

Mr. Smith did not take any psychiatric medications prior to the April 2006 injury.

He was not subject to any physical or mental abuse when he was growing up.

Before April of 2006, he had never been seen by a psychologist or psychiatrist. He was seeing an alcohol counselor for one year about five years ago. This was a court ordered program for a DUI.

Mr. Smith thinks he is having problems with depression because he is always sad and he also gets angry and feels hopeless. He also admits to becoming antisocial. Prior to April of 2006, Mr. Smith did not have any episodes of depression. Mr. Smith has been speaking to therapist Dr. Thomas. Mr. Smith discussed his feelings and thoughts with Dr. Thomas. In addition to stress from April of 2006, Mr. Smith is also experiencing some stress over his father-in-law's recent diagnosis of incurable stomach cancer. There are no other stressful events in Mr. Smith's life that are not related to the April 2006 injury.