

9-10-2012

# Clark v. Cry Baby Foods, LLC Agency's Record v. 8 Dckt. 40016

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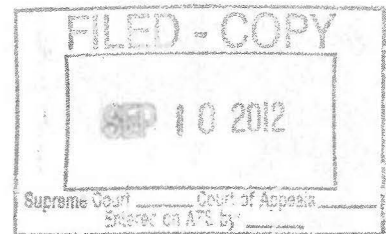
BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

LAW CLERK

JAMES W. CLARK,  
 Claimant-Appellant,  
 v.  
 CRY BABE FOODS, LLC, Employer  
 Defendant,  
 and  
 IDAHO STATE INSURANCE FUND,  
 Surety,  
 Defendant-Respondent.

Supreme Court Docket No. 40016-2012  
 Industrial Commission No. 2008-013505

AGENCY'S RECORD  
 Volume 8



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

Claimant/Appellant Pro Se:	JAMES W. CLARK 3515 HARNEY ST VANCOUVER, WA 98660
Defendant/Respondent:	IDAHO STATE INSURANCE FUND
Attorneys for Defendant/Respondent(s):	ALAN K. HULL RACHAEL O'BAR PO BOX 7426 BOISE ID 83707-7426

AGENCY'S RECORD – Volume 8 (Re: James Clark Docket #40016)

40016

COPY

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Claimant/Appellant Pro Se:

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3515 HARNEY ST  
VANCOUVER, WA 98660

Defendant/Respondent:

IDAHO STATE INSURANCE FUND

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TO BE LODGED WITH THE SUPREME COURT.**

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6. Deposition of Douglas N. Crum, C.D.M.S. taken February 24, 2011
7. Deposition of Richard W. Wilson, M.D. taken March 2, 2011

**Briefs:**

8. Claimant's Post-Hearing Brief, filed March 31, 2011
9. Claimant's Amended Brief, filed April 1, 2011
10. Defendant's Post hearing Brief, filed May 13, 2011
11. Claimant's Brief, (11 pages and 25 pages) filed May 27, 2011
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  - Copy of letter to James Clark from State Insurance Fund, dated July 15, 2008
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  - Letter to IIC from Alan K. Hull, dated August 6, 2008
  - Letter to IIC from Alan Hull, dated August 15, 2008
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  - Copy of letter to James Clark from Rachael M. O'Bar, dated January 21, 2009
  - Copy of letter to James Clark from Rachael M. O'Bar, w/enclosures, dated January 23, 2009
  - Copy of letter to James Clark from Rachael M. O'Bar, dated January 27, 2009
  - Copy of letter to James Clark from Alan Hull, dated February 4, 2009

- Letter to IIC from Rachael M. O'Bar, dated February 11, 2009
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- Letter to IIC from Alan K. Hull, dated October 7, 2010
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- Letter to IIC from Rachael M. O'Bar, dated November 5, 2010
- Letter to IIC from Lynn M. Luker, dated November 5, 2010
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- Letter to IIC from Rachael M. O'Bar, dated December 13, 2010
- Letter to IIC from Rachael M. O'Bar, dated December 14, 2010



- Letter to IIC from Lynn M. Luker, dated December 15, 2010
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- Letter to IIC from Rachael M. O'Bar, dated March 8, 2011
- Copy of letter to James Clark from Rachael M. O'Bar, dated March 21, 2011
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- Letter to Referee from Rachael M. O'Bar, dated February 2, 2012
- Copy of Letter to James Clark from Rachael M. O'Bar, dated March 8, 2012
- Letter to IIC from Luker to IIC, dated May 8, 2012
- Letter to IIC from Rachael M. O'Bar, dated May 23, 2012
- Letter to IIC from Luker to IIC, dated June 7, 2012
- Letter to IIC from Rachael M. O'Bar, dated June 13, 2012

**Other:**

15. Exhibits to Claimant's 9<sup>th</sup> Continuation of Documents and Things, dated and filed February 17, 2011 (found at page 1017 of the Agency's record).
16. Continuation of medical records for consideration on claimant's claim of April 17, 2008, dated and filed March 29, 2011, (found at page 1041 of the Agency's Record).
17. Claimant's Requests for Additional Documents No. 3, 4 and 5 in Notice of Appeal: The Industrial Commission has no knowledge of what release forms and letters were used to obtain particular medical records. Therefore, it is unknown whether this information is included in the Agency's Record.
18. Claimant's Request for Additional Documents No. 6 in the Notice of Appeal: There is no such Complaint in the Agency's Record. Original Complaint was filed July 2, 2008, and is found on page 1 of the Agency's record.
19. Claimant's Request for Additional Documents No. 8 in the Notice of Appeal: Information regarding Dr. Steinberg is located in Joint Exhibit 4.

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

James W Clark

SC Docket no.40016-2012

Claimant, appellant

I.C. No. 2008-013505

v.

MOTION FOR NEW HEARING

.CRYBABY FOODS LLC

IDAHO STATE INSURANCE FUND

BASED ON NEW

Surety,

FINDINGS OF FACTS

Diffidence, Respondents.

The claimant is asking for a new hearing and is asking for liganacy if this motion has been file late due to claimant's ignorance to the rule and time line. The claimant has been overwhelm and is still trying his best to follow the guidelines to the best of my ability that I the injured worker has had to learn from the clear violations of rules on the claimants past attorney Lynn luker and the state fund and the defendants attorneys lies on the clear undue stress that the claimant has had to go through to bring these issues to the court of appeal.

The claimant is requesting based on facts and proof the commission did not let the claimant know what his option was on the commission's decision of there finding of facts and conclusion of laws. With this document from the law office of Goicoechea law Office shows that the statement made in the finding of fact and conclusions of law was infect a lie for claimant's opinion as claimant said in his filing on Jun 27 2012 that that statement was to help, Lynn Luker/Attorney/legislator in regards to claimants two time quitter of an attorney's lien. With the

FILED

JUL - 5 2012

INDUSTRIAL COMMISSION

*Motion for new hearing pg 1*

two documents and other documents sent for reconsideration will allow the claimant to also show the clear act of abuse of authority commented by the commission and all other person other than claimants Doctors statement that must be taken back because of the harm that they have cause my daughter or will cause my daughter with private health records from counseling and physiatrists record that as of July 4 2012 the state fund still have no rights to have. and with new evidence had no right to mention our attack my family that had nothing to do with my claim in any way shape our form and to also allow the state fun lie to the commission in defendants Affidavit in support of motion to compel set 2008 that by law defendant can't get claimants privet health records install claimant sync HIPPA privet release forms and even after claimant inform the commission of this finding that the state fun infect already had these record and infarct did not perfect these records after getting them in the false way they did. The commission continued to let the state fund lie and take advantage and the defendants ate up the fact the commission would not do anything about their clear violations of the RULES professional conduct being done to the claimant and it shows thee clear abouse of authority bye mr donahue to alow it to go on knowing how he was going to tail the altiment fairy tale story of a lie of a claumants life not on fact of finding but on emotions do to clamaint filings through april of 2008 tell my attorney took over on why was he allowing the state fund to tke advantage of claimant.

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LYNN M LUKER/ATTORNEY/LEGISLATOR AND THE IDAHO STATE INSURANCE FUND AND /AND THE LAW OFFICE OF ANDERSON, JULIAN & HULL LLP FROM BOISE IDAHO CLEARLY VIOLATED THE CLAIMANTS DUE PROCESS AND A CLEAR VIOLATION OF RULE 14 ATTORNEY WITHDRAW .

VIOLATION: LYNN M LUKER/ATTORNEY/LEGISLATOR SENT TO THE COMMISSION ON DEC 23 2010 RECOGNITION OF HIS GRANTED WITHDRAW OF ATTORNEY THEN ON DEC 26 CLAIMANT HIRED LYNN M LUKER/ATTORNEY/LEGISLATOR TO FINNISH THE DEPOSITORS OF CLAIMANTS COUNSELOR AND PSYCHE WHO HAVE NOT BEEN DONE YET BUT HAD ALREADY BEEN SET TO DO ON DEC 31 2010. THEN BOTH LAW FIRMS AGAIN TRY TO GET ME TO SETTLE. IT WAS NOT ABOUT MONEY TO ME BUT ONLY TO GET THE HELP I NEED TO DEAL WITH PTSD. THAT IS 100% WORK RELATED.

MR. DOUGLAS DONOHUE THE REFEREE AN AUTHOR OF THE REPORT OF CLAIMANTS FINAL ORDER OF FINDING OF FACTS AND CONCLUSION OF LAW ON MAY 2 2012 FOR YOU TO CHANGE THE WORDING OF A MEDICAL RESPONDENTS TEAM OF APRIL 17 2008 TO HELP THE STATS INSURANCE FUNDS CLAIM THAT MY LIFE FLIGHT TO THE HOSPITAL THAT DAY WAS NOT 100% RELATE TO MY INJURY THAT ALMOST TOOK MY LIFE AND ARM AND I AM VERY BLESSED I AM STILL ALIVE. HOW YOU ARE SAY THE STATE FUND HAS DONE NO WRONG IN THE HANDLING OF CLAIMANTS CLAIM WHEN CLEARLY THE STATE FUND VIOLATED CLAIMANT DOU PROCESS UNDER IDAPA. 17 TITLE 08 CHAPTER 2.

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IDAPA 17.03 GOOD FAITH OFFER, STATE v. MALACH 174 NEB. 190 (1962) THE STATE FUND CLEARLY DID NOT GIVE THE CLAIMANT ANY TIME TO RESPOND TO A REQUEST.

THE STATE FUND CLEARLY DID NOT HAVE A RIGHT TO THE RECORD THAT MS OWEN WITH THE STATE FUND SENT FOR ON AUGUST 1<sup>ST</sup>, 7<sup>TH</sup> & 11 OF 2008 AND RECEIVED AND SENT THOSE PRIVET HEALTH RECORDS TO THERE HIRED DOCTOR MR. DONOHUE THAT AGAIN CLEARLY THE STATE FUND WAS NOT TO HAVE IN THERE PERCUSSION YET.

The clamant has an appeal before the Idaho state court of appeal and Mr. Lynn luker/attorney/legislator who quit twice on the injured worker is a part of claimants appeal off ineffective assistance of counsel and the clear violation of the rules of professional Conduct under the Idaho state Industrial commissions rules of guidelines, and a clear violation set in place by the Idaho state Bar association in claimants opinion. Lynn luker/ Attorney/Legislature lean has \$3,823.88 that the state insurance fund has still not paid that the commission ordered to have set aside tell the lien is settled by briefs IF GRANTED CLAIMANT WOULD LIKE FOR THE COMMISSION DECISION TO BE PUT ON HOLD TELL AFTER APPEAL.

The claimant fills the commissions used a clear act of abuses of authority knowing that the commission cannot be held accountable for their actions our statements our any other abuse of authority that they may commit.

PS<sup>4</sup>

1325

The claimants attorney fee was clearly a part of claimants hearing of nova 18 2010 and fills the commission with the abuse of authority knowing that if uncover that the commission cannot be held accountable for their action. Claimant fills that the commissioner referee Mr. Douglas Donahue made a statement in his final order of finding of fact and conclusion of laws was for the soul purpose to benefited Lynn M luker/attorney/legislator in regard to the attorney lien that Mr. luker filed against the claimant after the first time he quit that sets on the 15set that handles the dealing of the running of the industrial commission witch claimant just found out recently. If knowing that before I rehired Mr. luker back just days after the commission's order granting withdraw the claimant would not have allow Mr. luker to talk his way back in and then to quit again was to keep Lynn M luker name out of a filing of the courts.

In the opinion of the claimant Mr. Donahue should not have allowed the state fund to close the claim and to allow the state fund to write a letter to the claimant stating claimants claim is paid in full when it is not pay in full for the claimant fills the attorney issue is still part of the hearing.

Mr. Donahue did not do his findings of facts based on the true findings of facts and conclusion of law.

Claimants opinion is the Mr. Donahue based his finding of facts on emotions do to the letters of filing the claimant has filed with the way Mr. Donahue was handling my claim.

4

pg 5

1326

Lynn luker has continued to disobey two of commission orders by claimant to produce document requested by way of two extensions of time so claimant can respond properly to attorney lean granted.

Mr. Luker has done nothing over the last couple of months but to cause undue stress brought on why? The claimant requested a couple of receipt based on statements inert in Lynn luker Brief.

As of the 26th day Jun 2012 Lynn luker has still not complied to the commissions order and due to his continue delay and due to the fact the claimant only has tell July 7 2012 to respond claimant has no choice but to ask the commission to set aside their decision tell the outcome of the appellate courts discussion.

The only person that will be affected in this request is the claimant and the hardship that Lynn luker has caused the claimant. In claimant's opinion and the actions the Lynn luker is doing clearly shows that he is not hurting for money for Mr. Luker went back to the legislation.

Due to the time period claimant is requesting an **emergency response** to claimant's **motion**.

pg 6

1327

that commission/referee Donahue was using in his fairy tale story of first impression readers of claimants life that claimant just found out has infect already public record that the state fund final desiccation filed May 2 2012. A copy of this letter was also sent to the party's letter that claimant has sent to show why. Claimant is asking for a emergence hearing on this matter.

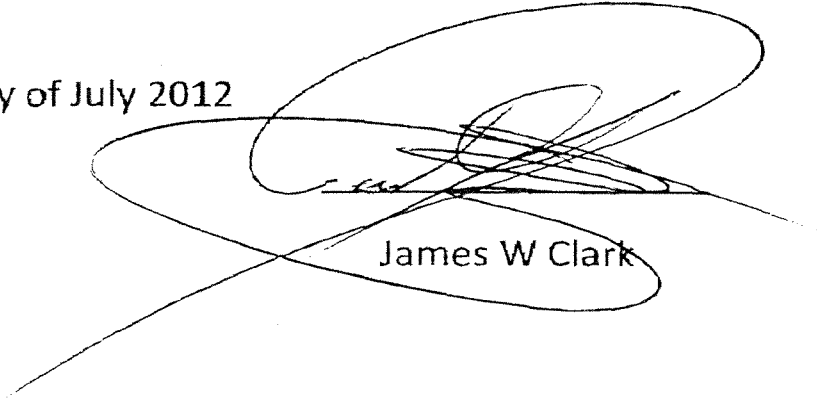
A true and correct copy of this letter has been sent to the following by way of fax.

Lynn m Luker/attorney/legislator 1-208-375-0501

Attorneys for defendant's Rachael O'bar /Mr. hull 1-208-344-5510

Industrial commission; 1-208-332-7558

Syed and dated on the 4<sup>th</sup> day of July 2012

  
James W Clark

7 B ~~88~~

1328



SAIF Corporation  
Jan. 14. 2009 3:27PM

1/18/2008 8:33:28 AM

PAGE

003

No. 8448 P. 2



STATE INSURANCE FUND

*Att Mary  
2 page*

August 7, 2008

SAIF CORPORATION  
400 HIGH ST SE  
SALEM OR 97312

RE: CLAIM #: 200806268  
CLAIMANT: James Walter Clark  
SSN: [REDACTED]  
EMPLOYER: Cry Baby Foods  
DOI: 4/17/08

*1958170*

*Jester*

To Whom It May Concern:

The State Insurance Fund is the workers compensation carrier for Cry Baby Foods at which James Walter Clark has filed an industrial claim.

The State Insurance Fund is a member of the ISO Claim Search (ISO) system. We have received information from ISO that you have also reported workers compensation claims for James Walter Clark on May 9, 2005, February 13, 2006, and August 16, 2005.

Enclosed is a signed and dated medical release authorization. Please forward copies of all past medical records in reference to the claim reported to ISO. Submit this information to the STATE INSURANCE FUND, 1215 WEST STATE STREET, BOX 83720, BOISE, IDAHO 83720-0044.

Thank you for your assistance in this matter. If you have any questions, please contact me directly at (208) 332-2422.

Sincerely,

*Barbara  
majewski*

JEWEL OWEN  
Senior Claims Examiner  
JO:lb-0720.doc

Enclosure

SAIF 08.11.08

*PS*

*Find motion for new hearing*

*1329*

AUG-01-2008 FRI 03:37 PM Idaho State Ins. Fund

FAX NO.



STATE INSURANCE FUND

5408062008003

August 1, 2008

IDAHO DEPARTMENT OF CORRECTION  
MEDICAL RECORDS  
ATTN: ANN OR BRENT PACKER

FAX (208) 327-7444

RE: CLAIM #: 200806268  
CLAIMANT: James Walter Clark  
SSN: [REDACTED]  
EMPLOYER: Cry Baby Foods  
DOI: 4/17/08

To Whom It May Concern

We are the workers compensation carrier for Cry Baby Foods at which James Walter Clark has filed an industrial claim.

In order for us to proceed with James Walter Clark's claim, it is necessary that we obtain copies of all past medical records.

Enclosed is a signed and dated medical release authorization. Please forward copies of all past medical records in reference to any treatment James Walter Clark has received in your facility. Submit this information to the STATE INSURANCE FUND, 1215 WEST STATE STREET, BOX 83720, BOISE, IDAHO 83720-0044.

Thank you for your help in this matter. If you have any questions, please contact me directly at (208) 332-2422.

Sincerely,

JEWEL OWEN  
Senior Claims Examiner  
JO 1b-07055 doc

Enclosure

cc: File  
Alan K. Hull

658  
2093  
Lumen

1215 W STATE STREET - P O. BOX 83720 - BOISE, IDAHO 83720-0044  
PHONE (208) 332-2100 • (800) 334-2370 • WWW.IDAHOSIF.ORG

9-13-08 [Handwritten initials]

1330



Goicoechea Law Offices  
CHARTERED

October 15, 2008

JERRY J. GOICOECHEA  
ROGER L. BROWN\*

James Clark  
10402 Railroad Lane  
Payette, Idaho 83661  
(208) 405-9538 (H)  
(208) 642-2810 (Msg.)

Of Idaho & California Bar

12  
t. Mary's Crossing  
537 W. State Street  
Suite 130  
P.O. Box 6190  
 Boise, ID 83707-6190

Re: *Your Workers' Compensation Claim*  
*Date of Accident: April 17, 2008*

Dear Mr. Clark:

Thank you for contacting Goicoechea Law Offices, Chtd. regarding your workers' compensation claim. Unfortunately, I regret to inform you that our office is unable to represent you in this matter. As Paula mentioned to you this morning via telephone, my associate, Roger Brown, will be leaving our firm. As such, I will be taking over a portion of his current case load and will not have the time necessary to dedicate to your case.

You may wish to contact Idaho State Bar Referral Services at 525 West Jefferson, Boise, Idaho 83702, (208) 334-4500.

Thank you for contacting Goicoechea Law Offices and I wish you the best of luck in pursuing your claim.

Finally, I have enclosed all of the original documents that you provided to our office.

Sincerely,

GOICOECHEA LAW OFFICE, CHTD.

Jerry J. Goicoechea

RLB\psm  
Enclosures

LIMITED LIABILITY  
PARTNERSHIP OFFICES

AHO  
mpa

1310



STATE INSURANCE FUND

8/12/08  
103720  
28263

August 11, 2008

HOLY ROSARY MEDICAL CENTER  
351 SW 9TH ST  
ONTARIO OR 97914

Vendor #: 1004961

Re: Claim Number: 200806268 A /02  
Claimant: JAMES CLARK  
Claimant SSN: [REDACTED]  
DOB: [REDACTED]  
Employer: CRY BABY FOODS LLC  
Injury Date: 04/17/2008

Enclosed is a signed Medical Release for the above named claimant. Please send the following:

All Medical Records prior to: 4-17-08

Please submit to:

State Insurance Fund  
PO Box 990004  
Boise, Idaho 83799-0004

Thank you for your assistance in this matter. We appreciate your prompt response. If you have any questions, please contact this office.

Sincerely,

Jewel Owen  
Claims  
208/332-2422

Enclosure

attached DHS + SOR Hrs 8/12/08

COPIED BY

AUG 15 2008 mt

CHARTONE

pg 11

complete psychosocial and psychiatric history.

30. On September 27, Dr. Hansen noted Claimant's hand was improving in function. He described "objective evidence" of nerve regeneration. He opined Claimant physically could probably do some part-time, light-duty work, but psychologically could not return to Employer because of his anxiety associated with the roller machine. Dr. Hansen opined that light-duty, part-time work would psychologically "be a very good thing for him."

31. In late September, Claimant hired a lawyer, Mr. Brown, to help him with his workers' compensation claim. That relationship was unsatisfactory in Claimant's opinion. He fired the lawyer and continued *pro se* for several months. *not a fact*

32. On October 1, Dr. Heriza had a better understanding of Claimant's then-current medication use. He expressed concern over current narcotic addiction and habituation issues. He noted Claimant's admission of prior IV heroin use as significant when addressing potential then-current narcotic abuse. Dr. Heriza primarily diagnosed "significant substance related issues," ruled out seizures and/or epilepsy as potential contributors, and retained "mild anxiety/[PTSD]" and "Cluster B features" on a list of possible diagnoses.

33. On October 9, psychiatrist Eric Holt, M.D. evaluated Claimant at Surety's request. Psychological testing revealed that Claimant responses showed dramatically that he was "faking bad." He responded positively to 84 of 90 elements of the Symptom Distress Checklist-90-R. Any score over 50 indicates the person is exaggerating for secondary gain. His exaggerations were "off the chart" on six separate scales. As an aside, the Referee notes that Claimant can learn how to respond. He responded on the SCL-90-R "Not at all" to the issue "Having urges to beat, injure, or harm someone"; this response came after two occasions where he expressed such urges to Lifeways counselors; police were directed to his home for

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER - 12

Pg 12



# Saint Alphonse | Life Flight

1055 N. Curtis Road • Boise, ID 83706 • (208) 367-2121

Patient: CLARK, JAMES W  
 MR #: 000739553 Hosp. Serv.: LF - LFA  
 Visit #: 810808378 Date of Service: 04/17/2008  
 Date of Birth: [REDACTED] Admit: 04/17/2008  
 EMPI #: 03814673 Disch:

Diet. MD: RICK WESTERN, EMT-P  
 Att. MD: PO Y. HUANG, MD

Job Number: 1049154 Version: 0

### LIFE FLIGHT

FLIGHT NUMBER: 08-1471.

CHIEF COMPLAINT: Pain in right forearm and right hand.

PAST MEDICAL HISTORY: Petit mal seizures, no medications. Right elbow surgery one year ago, currently using a TENS unit to help alleviate pain.

MEDICATIONS: No medications.

ALLERGIES: DENIES.

HISTORY OF PRESENT ILLNESS: The patient is a 49-year-old who was at work at an onion processing plant. He states he got his arm caught in some sort of a roller assembly that only has about 1/4 inch of space between the rollers, pulled his forearm through and twisted it around. His forearm was stuck in the rollers that were still turning for at least 15 minutes before someone was able to turn the machinery off. He was still stuck in the unit for another 15-20 minutes before paramedics could get him extricated. He complains of associated numbness and tingling in all of his fingers and thumb of the right hand and his right hand area. Paramedics arrived on scene, started an IV, gave the patient 10 mg of morphine, splinted the right forearm. They stated that there is an abrasion/contusion over the mid forearm area with a significant depression where the roller was on both sides of his forearm. Unknown if there are any fractures. They say they did not feel any crepitation but they are suspecting a fracture. They splinted the arm, put a bandage on the abrasion area and awaited Life Flight arrival. Patient denies any other injury. He denies any shortness of breath or any other pain or problems. This was an isolated forearm injury.

REASON FOR AIR MEDICAL TRANSPORT: The patient has significant trauma to his right forearm with potential for compartment syndrome. He already has neurologic deficits below the injury area and some swelling in the hand. This requires a trauma center and trauma surgeon evaluation. Potentially could be limb threatening. Ground transport would be approximately an hour and a half. Air transport is about 20 minutes.

PHYSICAL EXAMINATION:  
 GENERAL:

The patient is found supine on a stretcher in the back of an advanced life support ambulance on scene. Patient is alert and oriented. Able to talk without difficulty. Skin is warm, dry and pink. Other than facial mask of pain, he is in no obvious distress or obvious life threatening situation upon initial exam. We do note that his right forearm has been splinted and bandaged. He has no respiratory issues.

*B 29 motion for new hearing*

1334

510430200

*Life Flight they had been I missed to get all these statements before I leave*

*These two are my witness  
 or it is the person the turn  
 These statement that they  
 or he as she wrote and on  
 3 statements made to them and  
 there eye witness account  
 I fill is enough for them to  
 your telling the Commission  
 that I can not produce a single  
 witness. what was I suppose to do tell*

**LYNN M. LUKER, P.A.**  
**ATTORNEY AT LAW**

December 29, 2010

LYNN M. LUKER

LICENSED IN IDAHO  
AND UTAH

CERTIFIED  
WORKERS COMPENSATION  
SPECIALIST IN IDAHO

MAILING ADDRESS  
P.O. BOX 190929  
BOISE, IDAHO 83719

STREET ADDRESS  
1010 N. ORCHARD STREET #4  
BOISE, IDAHO 83706

TELEPHONE  
(208) 343-0022

FACSIMILE  
(208) 375-0501

E-MAIL:  
lmluker@matndsprng.com

James W. Clark  
P.O. Box 391  
Payette, ID 83661

Re: James W. Clark  
DOI: 4/17/08  
Emp: Cry Baby Foods, LLC  
Surety: State Insurance Fund  
IC No.: 2008-013505

Dear Jim:

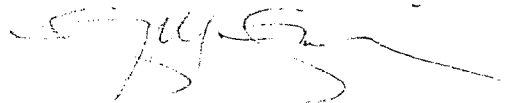
This is just written confirmation that I received your letter of December 27, 2010 asking that I accept the last offer of \$120,000 to close your claim, and I contacted Mr. Hull according to your request.

As we discussed on the phone yesterday, the surety chose to change its offer after your rejection of the prior offer. The offer is still \$120,000, but they now want credit for the impairment previously paid of \$27,531.90. There is also a child support lien outstanding of \$4,372.07 which would have to be paid from the settlement. That would leave a new funds available before attorney fees and costs of \$88,096.03.

You indicated that you were not interested in that offer, and I conveyed that to Mr. Hull. Therefore we are back to the status before your letter of December 27, 2010, where the order of withdrawal is effective, and I am no longer involved in the case. I understand that you did pick up the file from the Industrial Commission. I am sorry that this last attempt to resolve the case did not work out.

Yours truly,

LYNN M. LUKER, P.A.



Lynn M. Luker  
Attorney at Law

Enclosures

*pg 14*

*motion for new hearing*

*1335*

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,  
Defendants.

IC 2008-013505

CERTIFICATE OF SERVICE

FILED

JUL - 5 2012

INDUSTRIAL COMMISSION

I hereby certify that on the 5th day of July, 2012, a true and correct copy of Claimant's faxed Motion for New Hearing Based on New Findings of Facts, (14 pages), filed July 5, 2012; was served by United States first class mail upon the following:

ALAN K. HULL  
RACHAEL O'BAR  
PO BOX 7426  
BOISE ID 83707-7426

LYNN M LUKER  
PO BOX 190929  
BOISE ID 83719-0929

INDUSTRIAL COMMISSION



Marie Wilson  
Assistant Commission Secretary

cc: JAMES W. CLARK  
3515 HARNEY ST  
VANCOUVER, WA 98660

CERTIFICATE OF SERVICE - 1





1 BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

2 James W Clark

I.C.NO. 2008-013505

3 . Claimant

CLAIMANT'S BRIEF ON MOTION

4 v.

TO DENY ATTORNEY'S LIEN

5 CRY BABY FOODS LLC'

6 . Employer,

7 And

8 IDAHO STATE INSURANCE FUND,

9 Surety,

10 Defendants

FILED  
JUL -9 2012  
INDUSTRIAL COMMISSION

11 Clearly claimant has no other option but to respond to claimants  
12 attorney lean after two extinctions by the Industrial commission for  
13 claimant's attorney to produce recites of cost that claimants two times  
14 quitter of an attorney Lynn luker/attorney/legislator still has not  
15 produce to the claimant so claimant can properly respond to attorney  
16 lean.

17 **First violation:**

18 Claimants trust.

19 **Second violation:**

20 **Lynn luker/attorney/legislator** clearly violated the judicial rule 14 (b)  
21 **leave to withdraw** bye rules Lynn m luker/attorney/legislator, the  
22 commission may grant leave to withdraw as counsel of records on a  
23 showing of **a factual base** to establish good cause and on such  
24 conditions will prevent **any delay in determination and disposition of**  
25 **the pending action.** At the time claimants two time quitter of an

1337

26 attorney Lynn luker/attorney/legislator walk out of claimant when  
27 there was to be depositions done on our around Dec 21 2010 and there  
28 was a deposition set for Dec 30 2010 with doc holt doctor for  
29 defendants and finally a doctor for claimant that was also to be done  
30 on Dec 31 2010. Lynn luker/attorney/legislator before claimants  
31 hearing claimant talk to my attorney in deep talk that I am demanding  
32 that my attorney is to call my doctors for claimants hearing and then  
33 after hearing continued pleading to call Doctor Si Steinberg claimants  
34 long term treating psychiatrist for claimant work relegated injury of 4-  
35 17-2008 To dispute the opinion of the Defendants two psychiatrist of  
36 Doctor Holt and Doctor Beaver. Claimant has every right to have had  
37 concerns that my attorney Lynn luker was not going to call to hearing  
38 our take depositions before hearing of any of my doctors. But  
39 continued to allow the state insurance fund to call expert witnesses on  
40 opinion with medical record the state insurance received without  
41 claimant permission and in violations of 17.08.02 chapter 17.03( good  
42 faith offer) STATE v.MAHLOCH 174 NEB 190 (1962). CLAIMANTS  
43 ATTORNEY WOULD NOT SPEND A DIME TO CALL ANYONE ON  
44 CLAIMANTS BEHALF. Claimant ha to beg Lynn luker to help me get to  
45 MS Owen deposition and then Mr. luker/attorney/legislator wrote me a  
46 letter stating that he knows how important it is for me to be at MS  
47 Owens deposition but you must find your own way to the rest.  
48 Claimant had to borrow money so I could be at claimants hearing and  
49 to Dr. Hansen claimants surgeon's deposition an only md attorney  
50 called. Only in the last three week has claimant uncovered the resume.  
51 Claimant only found out a week ago from date of this letter that my  
52 attorney Lynn luker had filed some motion to allow jowl Owens to  
53 testify by phone to answer question in records to privet health records

54 the state fund got on quest 1<sup>st</sup> 7<sup>th</sup> & 11 2008 while lying to the  
55 commission. And then for the claimant to read and look into what  
56 claimants attorney infarct did in the few months before claimants  
57 hearing for Lynn luker actions of not wanting to call anyone to show  
58 what has been said and to help the claimant make the state insurance  
59 fund and sandy basket who works for the vocational rehab of the  
60 industrial commission that our lies to be removed from records.  
61 Claimant only acted upon the lies the claimant was uncovering. for  
62 claimant's attorney to state to the claimant the he Mr. luker claimants  
63 two time quitter of attorney did not know where claimant could get  
64 everywhere claimant had work at in a life time before the hearing. But  
65 the claimant found it just weeks before claimants hearing. Claimant  
66 was also pleading with my two time quitter of an attorney that claimant  
67 needed to have the hearing in my home town to financial hard ship and  
68 it was about 162mils round trip. In claimants opinion was to keep the  
69 claimant from knowing what claimant's attorney allowed the state fun  
70 to do in motions filed prior to claimants hearing. the claimant would  
71 not and I mean would not have allow Lynn luker was aware and so was  
72 the commission referee Donohue and defendants attorney knew the  
73 state fund had violated claimants due process.

74

75 Mr. Lynn m luker will you explain to the claimant and everyone other  
76 than the industrial commission why you would not continue to help  
77 your client the injured worker that the injury of April 17 2008 and that  
78 scope of accident was infarct 100% fault of cry baby foods LLC that  
79 claimant had in fact already been fighting with the industrial  
80 commission and the state fund and there attorney s for almost two  
81 years before hiring Lynn luker.. Mr. Luker due to this action and other

3 | Page

1339

82 actions. Denying helping the claimant has only made the claimant **to**  
 83 **dact upon your statements and actions.** Cry baby foods IIC clearly  
 84 violated

85 17.08.02 Idaho Minimum safety Standard and practices and you Lynn  
 86 luker say that it's a non-Relafen factor. In addition, to barley touch and  
 87 read what you allow the state fund to do just prior to claimants  
 88 hearing. Why because the claimant was wanting you to call someone  
 89 anyone on my behalf to dispute the lies. If you could not have been  
 90 able to properly call any expert witness due to coast then you should  
 91 have not taken my case. Claimant s opinion you don't deserve a dime  
 92 our penny. Lynn luker why don't you put your arm in that machine with  
 93 the bands on the rollers for the ten minutes Like i was and look death in  
 94 the face while for a fact fighting for your life and then have some on tell  
 95 you that this report is a non-relevant factor.

96 **Standard Cited:** 5A0001 *OSH Act General Duty Paragraph*

97 **Violation Items**

Nr: 311577043	Citation: 01001	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 1	Contest Date:	
Abatement Date: 08/08/2008 X	Nr Exposed: 3	Final Order:	
Initial Penalty: 2500.00	REC: C	Emphasis:	
Current Penalty: 1300.00	Gravity: 10	Haz Category: UNAPOPPROC	

98 **Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008	2500.00	08/08/2008	Serious	
Penalty I:	Informal Settlement	08/06/2008	1300.00	08/08/2008	Serious	

99 **Text For Citation:** 01 **Item/Group:** 001 **Hazard:** UNAPOPPROC

Section 5(a)(1) of the Occupational Safety and Health Act of 1970: The employer did not furnish employment and a place of employment which was free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were exposed to the hazard of being caught-in or caught-by the nip points on the conveyor system without an emergency stop device

1340

immediately available and easily identifiable: (a) In the workplace, outside line: On July 2, 2008 and times prior thereto, emergency stop devices were not installed along the conveyor system, including but not limited to, the area near the onion topper. (b) In the workplace, inside line: On July 2, 2008 and times prior thereto, emergency stop devices were not installed along the conveyor system and machinery areas through-out the facility. Note 1) Among other methods, one feasible and acceptable abatement method to correct this hazard is to follow paragraph 5.11.2(c) in the American National Standard developed by the American Society of Mechanical Engineers (ASME) for Conveyors and Related Equipment, ASME B20.1-2000. Notes applicable to ASME B20.1-2000: Note 2) Abatement certification and supporting documentation are required for this item.

100  
101  
102  
103  
104

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U.S. Department of Labor | Occupational Safety & Health Administration | 200 Constitution Ave., NW, Washington, DC 20210  
Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100023 C01 Guarding floor and wall openings and holes.

105

**Violation Items**

Nr: 311577043	Citation: 01002	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 2	Contest Date:	
Abatement Date: 08/08/2008 X	Nr Exposed: 3	Final Order:	
Initial Penalty: 1750.00	REC: C	Emphasis:	
Current Penalty: 875.00	Gravity: 05	Haz Category:	

106

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z: Issued		07/15/2008	1750.00	08/08/2008	Serious	
Penalty I: Informal Settlement		08/06/2008	875.00	08/08/2008	Serious	

107  
108  
109  
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U.S. Department of Labor | Occupational Safety & Health Administration | 200 Constitution Ave., NW, Washington, DC 20210  
Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100132 A General requirements.

112

**Violation Items**

Nr: 311577043	Citation: 01003A	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 1	Contest Date:	
Abatement Date: 08/08/2008 X	Nr Exposed: 1	Final Order:	
Initial Penalty: 750.00	REC: C	Emphasis:	
Current Penalty: 375.00	Gravity: 01	Haz Category:	

113

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z: Issued		07/15/2008	750.00	08/08/2008	Serious	
Penalty I: Informal Settlement		08/06/2008	375.00	08/08/2008	Serious	

114  
115

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1341

134

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008	2500.00	08/08/2008	Serious	
Penalty I:	Informal Settlement	08/06/2008	1275.00	09/01/2008	Serious	

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U.S. Department of Labor | Occupational Safety & Health Administration | 200 Constitution Ave., NW, Washington, DC 20210  
Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100212 A02 General requirements for all machines.

140

**Violation Items**

Nr: 311577043	Citation: 01005B	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 1	Contest Date:	
Abatement Date: 09/01/2008 X	Nr Exposed: 2	Final Order:	
Initial Penalty:	REC: C	Emphasis:	
Current Penalty:	Gravity: 10	Haz Category:	

141

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008		08/08/2008	Serious	
Penalty I:	Informal Settlement	08/06/2008		09/01/2008	Serious	

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[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100212 A03 III General requirements for all machines.

147

**Violation Items**

Nr: 311577043	Citation: 01005C	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 1	Contest Date:	
Abatement Date: 08/08/2008 X	Nr Exposed: 2	Final Order:	
Initial Penalty:	REC: C	Emphasis:	
Current Penalty:	Gravity: 10	Haz Category:	

148

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008		08/08/2008	Serious	
Penalty I:	Informal Settlement	08/06/2008		08/08/2008	Serious	

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[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100219 C02 I Mechanical power-transmission apparatus.

154

1343

**Violation Items**

Nr: 311577043      Citation: 01006A      Issuance: 07/15/2008      ReportingID: 1032500

Viol Type: Serious      NrInstances: 1      Contest Date:

Abatement Date: 08/08/2008 X      Nr Exposed: 10      Final Order:

Initial Penalty: 750.00      REC: C      Emphasis:

Current Penalty: 375.00      Gravity: 01      Haz Category:

155

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008	750.00	08/08/2008	Serious	
Penalty I:	Informal Settlement	08/06/2008	375.00	08/08/2008	Serious	

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Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100219 C04 I *Mechanical power-transmission apparatus.*

161

**Violation Items**

Nr: 311577043      Citation: 01006B      Issuance: 07/15/2008      ReportingID: 1032500

Viol Type: Serious      NrInstances: 1      Contest Date:

Abatement Date: 08/08/2008 X      Nr Exposed: 4      Final Order:

Initial Penalty:      REC: C      Emphasis:

Current Penalty:      Gravity: 01      Haz Category:

162

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008		08/08/2008	Serious	
Penalty I:	Informal Settlement	08/06/2008		08/08/2008	Serious	

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Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

**Standard Cited:** 19100219 E02 I *Mechanical power-transmission apparatus.*

168

**Violation Items**

Nr: 311577043      Citation: 01006C      Issuance: 07/15/2008      ReportingID: 1032500

Viol Type: Serious      NrInstances: 1      Contest Date:

Abatement Date: 08/08/2008 X      Nr Exposed: 2      Final Order:

Initial Penalty:      REC: C      Emphasis:

Current Penalty:      Gravity: 01      Haz Category:

169

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z:	Issued	07/15/2008		08/08/2008	Serious	

1344

Penalty I: Informal Settlement 08/06/2008 08/08/2008 Serious

170  
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Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

www.OSHA.gov

Standard Cited: 19100219 E03 I Mechanical power-transmission apparatus.

175

**Violation Items**

Nr: 311577043	Citation: 01006D	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 1	Contest Date:	
Abatement Date: 08/08/2008 X	Nr Exposed: 2	Final Order:	
Initial Penalty:	REC: C	Emphasis:	
Current Penalty:	Gravity: 01	Haz Category:	

176

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z: Issued		07/15/2008		08/08/2008	Serious	
Penalty I: Informal Settlement	08/06/2008			08/08/2008	Serious	

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Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

www.OSHA.gov

Standard Cited: 19100219 F03 Mechanical power-transmission apparatus.

182

**Violation Items**

Nr: 311577043	Citation: 01007	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Serious	NrInstances: 1	Contest Date:	
Abatement Date: 09/01/2008 X	Nr Exposed: 4	Final Order:	
Initial Penalty: 1000.00	REC: C	Emphasis:	
Current Penalty: 500.00	Gravity: 02	Haz Category:	

183

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z: Issued		07/15/2008	1000.00	08/08/2008	Serious	
Penalty I: Informal Settlement	08/06/2008		500.00	09/01/2008	Serious	

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Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

www.OSHA.gov

Standard Cited: 19040029 A Forms.

189

**Violation Items**

Nr: 311577043	Citation: 02001	Issuance: 07/15/2008	ReportingID: 1032500
Viol Type: Other	NrInstances: 1	Contest Date:	

1345



Abatement Date: 07/21/2008 X	Nr Exposed: 1	Final Order:
Initial Penalty:	REC: C	Emphasis:
Current Penalty:	Gravity: 00	Haz Category:

190

**Penalty and Failure to Abate Event History**

Type	Event	Date	Penalty	abatement	Type	FTA Insp
Penalty Z: Issued		07/15/2008		07/21/2008	Other	
Penalty I: Informal Settlement		08/06/2008		07/21/2008	Other	

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 Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627  
[www.OSHA.gov](http://www.OSHA.gov)

197 M will you explain to the claimant why you did not in your answer on  
 198 the 11<sup>th</sup> day of oct 2010 to **interrogatory no. 8** that claimant was also  
 199 seeing a doctor on behalf of SS based on claimants injury of April 17  
 200 2008. This was also not talk about much in hearing. Moreover, claimant  
 201 was awarded SSD. Is this all so what you considered non relevant for  
 202 claimants hearing? Mr. Luker you don't deserve a peace of lint out of  
 203 my pocket.

204 Mr. Luker or you saying that when MS own on august 1 2008 sent for  
 205 claimant's prison record that also had psychological conversation heath  
 206 records. That claimant had signed for claimant's surgeon to be able to  
 207 release claimant's privet heath records and then lie in her deposition  
 208 that she had used the proper one. Claimant look into it and found out  
 209 that is a lie and MS Owen sent these record to a Dr Holt and lied to the  
 210 commission in their pleadings September 2008 to have claimant sign a  
 211 release so the state fund can get these record. In claimants opinion the  
 212 the state fund has commit fraud in the inducement in the manner of.

213 LYNN M LUKER/ATTORNEY/LEGISLATOR AND THE IDAHO STATE  
 214 INSURANCE FUND AND /AND THE **LAW OFFICE OF ANDERSON, JULIAN**  
 215 **& HULL LLP** FROM BOISE IDAHO CLEARLY VIOLATED THE CLAIMANTS

1346

216 DUE PROCESS AND A CLEAR VIOLATION OF RULE 14 ATTORNEY  
217 WITHDRAW .

218 VIOLATION: LYNN M LUKER/ATTORNEY/LEGISLATOR SENT TO THE  
219 COMMISSION ON DEC 23 2010 RECOGNITION OF HIS GRANTED  
220 WITHDRAW OF ATTORNEY THEN ON DEC 26 CLAIMANT HIRED LYNN M  
221 LUKER/ATTORNEY/LEGISLATOR TO FINNISH THE DEPOSITORS OF  
222 CLAIMANTS COUNSELOR AND PSYCHE WHO HAVE NOT BEEN DONE YET  
223 BUT HAD ALREADY BEEN SET TO DO ON DEC 31 2010. THEN BOTH LAW  
224 FIRMS AGAIN TRY TO GET ME TO SETTLE. IT WAS NOT ABOUT MONEY  
225 TO ME BUT ONLY TO GET THE HELP I NEED TO DEAL WITH PTSD. THAT  
226 IS 100% WORK RELATED. Both law offices have clearly violated  
227 claimant due process by coming back in the cover of darkness  
228 in hopes that the claimant would settle and would not learn  
229 how the rule, act, and laws of the working of the Idaho judicial  
230 rules of the industrial commission works tell it was too late.  
231 Both law firms knows of the rules and for both to come back  
232 clearly shows the intent to cover up the fraud, slander, malice  
233 and the alimnt abuse of

234 n. **the use of deceit or trick to cause someone to act to**  
235 **his/her disadvantage, such as signing an agreement.**  
236 **The heart of this type of fraud is misleading the other**  
237 **party as to the facts upon which he/she will base**  
238 **his/her decision to act. Example: "you don't have to**  
239 **read the rest of the contract-it is just routine legal**  
240 **language.**

241 **Mr. luker for you to continue to cause the claimant**  
242 **undue stress for the past 60day through the**

243 **commission to send claimants request for proof that**  
244 **as of today July 9 2012** you have still not fully comply to  
245 claimant request for proof of out of pocket money you say  
246 in your lean that I owe you unless that also is a lie for like  
247 the lies you put as a reason to with draw and then come  
248 back in violation of claimants due process after an  
249 attorney withdraws of counsel.

250 **One last thing.**

251 **Mr luker/attorney/legestlator** for you to let the state fun  
252 continue at claimants hearing bring up the issue of my  
253 daughter t that had nothing to do with claimant injury and  
254 claimant was not found guilty of that charge. Moreover,  
255 you call yourself attorney. And those who lie thanks that  
256 by butting this out in the open would keep claimant from  
257 show the fact and findings to anyone do to humiliation well  
258 your right to a point . In addition, I well am asking for  
259 damages for the clear act of violation of professional  
260 conduct committed on the claimant. In claimant opinion  
261 you are not entitled to anything for you are a two time  
262 guitar of an attorney and in claimants opinion that people  
263 should know by way of documents that in claimants  
264 opinion Mr. Lynn luker/attorney /legislator that they have a  
265 two time gutter of an attorney in office on the setting of the  
266 judicial rules and that in claimants opinion the you use that  
267 set to take advantage of injured workers that you pick up  
268 on the computer “ like a child molester would do when he  
269 is on line looking for the week, too questions injure  
270 workers ask online about issues related how they are  
271 being treated by the commission and the lawyers and the  
272 defendant

273 A true and correct copy of this letter has been sent to the following by  
274 way of fax.

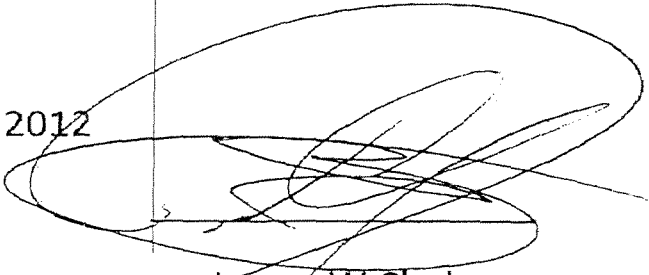
275 Lynn m Luker/attorney/legislator 1-208-375-0501

276 Attorneys for defendant's Rachael O'bar /Mr. hull 1-208-344-5510

277 Industrial commission; 1-208-332-7558

278

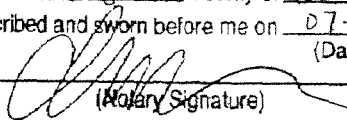
279 Signed  
Signed and dated on the 9<sup>th</sup> day of July 2012



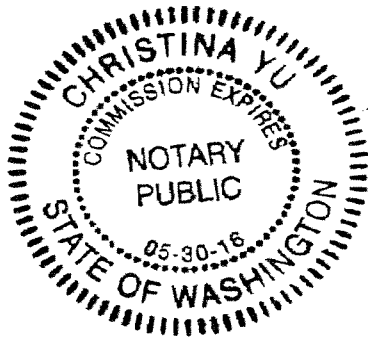
280

State of Washington County of Clark  
Subscribed and sworn before me on 07-09-2012  
(Date)

281

  
(Notary Signature)

James W Clark



1349

**LYNN M. LUKER, P.A.**  
**ATTORNEY AT LAW**

December 29, 2010

LYNN M. LUKER

LICENSED IN IDAHO  
AND UTAH

CERTIFIED  
WORKERS COMPENSATION  
SPECIALIST IN IDAHO

MAILING ADDRESS  
P.O. BOX 190929  
BOISE, IDAHO 83719

STREET ADDRESS  
1010 N. ORCHARD STREET #4  
BOISE, IDAHO 83706

TELEPHONE  
(208) 343-0022

FACSIMILE  
(208) 375-0501

E-MAIL:  
lmluker@mindspring.com

James W. Clark  
P.O. Box 391  
Payette, ID 83661

Re: James W. Clark  
DOI: 4/17/08  
Emp: Cry Baby Foods, LLC  
Surety: State Insurance Fund  
IC No.: 2008-013505

Dear Jim:

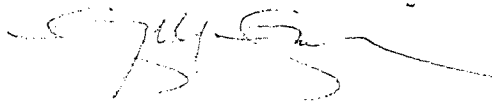
This is just written confirmation that I received your letter of December 27, 2010 asking that I accept the last offer of \$120,000 to close your claim, and I contacted Mr. Hull according to your request.

As we discussed on the phone yesterday, the surety chose to change its offer after your rejection of the prior offer. The offer is still \$120,000, but they now want credit for the impairment previously paid of \$27,531.90. There is also a child support lien outstanding of \$4,372.07 which would have to be paid from the settlement. That would leave a new funds available before attorney fees and costs of \$88,096.03.

You indicated that you were not interested in that offer, and I conveyed that to Mr. Hull. Therefore we are back to the status before your letter of December 27, 2010, where the order of withdrawal is effective, and I am no longer involved in the case. I understand that you did pick up the file from the Industrial Commission. I am sorry that this last attempt to resolve the case did not work out.

Yours truly,

LYNN M. LUKER, P.A.



Lynn M. Luker  
Attorney at Law

Enclosures

*Pg 14*

*motion for new hearing*

*Pg 14*

*1350*



STATE INSURANCE FUND

August 1, 2008

IDAHO DEPARTMENT OF CORRECTION  
MEDICAL RECORDS  
ATTN: ANN OR BRENT PACKER

FAX (208) 327-7444

RE: CLAIM #. 200806268  
CLAIMANT: James Walter Clark  
SSN xxx-xx-8487  
EMPLOYER: Cry Baby Foods  
DOI 4/17/08

To Whom It May Concern

We are the workers compensation carrier for Cry Baby Foods at which James Walter Clark has filed an industrial claim.

In order for us to proceed with James Walter Clark's claim, it is necessary that we obtain copies of all past medical records.

Enclosed is a signed and dated medical release authorization. Please forward copies of all past medical records in reference to any treatment James Walter Clark has received in your facility. Submit this information to the STATE INSURANCE FUND, 1215 WEST STATE STREET, BOX 83720, BOISE, IDAHO 83720-0044.

Thank you for your help in this matter. If you have any questions, please contact me directly at (208) 332-2422.

Sincerely,

JEWEL OWEN  
Senior Claims Examiner  
JO 1b-07055 doc

Enclosure

cc: File  
Alan K. Hull

658  
2093  
Lunes

1215 W STATE STREET • P O. BOX 83720 - BOISE, IDAHO 83720-0044  
PHONE (208) 332-2100 • (800) 334-3370 • WWW.IDAHOSIF.ORG

pg 15

1351

5408062008003

5 3 9 7 4 9 3 0 0 0 4

Patient Name: JAMES CLARK  
Birth Date: 11-10-58  
Address: 10402 Kila Parole Id  
Phone Number: 208 405-9538  
SSN or Case Number: 548-02-8487

(Provider Use Only)  
Medical Record Number: \_\_\_\_\_  
 Pick up Copies  Fax Copies \_\_\_\_\_  
 Mail Copies  
 Conditioned by: \_\_\_\_\_

**AUTHORIZATION FOR DISCLOSURE OF HEALTH INFORMATION**

I hereby authorize Dr. Hansen to disclose health information as specified:  
*Provider Name - must be specific for each provider*

To: \_\_\_\_\_  
*Insurance Company/Third Party Administrator/Self Insured Employer/ISIP, their attorneys or patient's attorney*  
Idaho State Insurance Fund  
Street Address: \_\_\_\_\_  
125 W State Street Boise ID 83720  
City State Zip Code

Purpose or need for data: Hearing  
*(e.g. Worker's Compensation Claim)*

- Information to be disclosed: \_\_\_\_\_ Date(s) of Hospitalization/Care: \_\_\_\_\_
- Discharge Summary
  - History & Physical Exam
  - Consultation Reports
  - Operative Reports
  - Lab
  - Pathology
  - Radiology Reports
  - Birth Record
  - Other: Specify \_\_\_\_\_

I understand that the disclosure may include information relating to (check if applicable):

- AIDS or HIV
- Psychiatric or Mental Health Information
- Drug/Alcohol Abuse Information

I understand that the information to be released may include material that is protected by Federal Law (45 CFR Part 164) and that the information may be subject to redaction by the recipient and no longer be protected by the federal regulations. I understand that this authorization may be revoked in writing at any time by notifying the privacy officer, except that revoking the authorization won't apply to information already released in response to this authorization. I understand that the provider will not condition treatment, payment, enrollment, or eligibility for benefits on my signing this authorization. *Unless otherwise revealed, this authorization will apply upon resolution of worker's compensation claim.* Provider, its employees, officers, copy service contractor, and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized by me on this form and as outlined in the Notice of Privacy. My signature below authorizes release of all information specified in this authorization. Any questions that I have regarding disclosure may be directed to the privacy officer of the Provider specified above.

Signature of Patient: \_\_\_\_\_ Date: 6-30-08

Signature of Legal Representative & Relationship to Patient/Authority to Act: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Witness: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

pg 16

James Clark

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# STATE INSURANCE FUND

8/12/08  
103720  
28263

August 11, 2008

HOLY ROSARY MEDICAL CENTER  
351 SW 9TH ST  
ONTARIO OR 97914

Vendor #: 1004961

Re: Claim Number: 200806268 A /02  
Claimant: JAMES CLARK  
Claimant SSN: XXX-XX-8487  
DOB: 11/10/1958  
Employer: CRY BABY FOODS LLC  
Injury Date: 04/17/2008

Enclosed is a signed Medical Release for the above named claimant. Please send the following:

All Medical Records prior to: 4-17-08

Please submit to:

State Insurance Fund  
PO Box 990004  
Boise, Idaho 83799-0004

Thank you for your assistance in this matter. We appreciate your prompt response. If you have any questions, please contact this office.

Sincerely,

Jewel Owen  
Claims  
208/332-2422

Enclosure

*attached DHS + SOR H&I's 8/12/08*

**COPIED BY**

AUG 15 2008 *mt*

**CHARTONE**

817

1353



Patient Name: JAMES CLARK  
Birth Date: [REDACTED]  
Address: [REDACTED]  
Phone Number: [REDACTED]  
SSN or Case Number: [REDACTED]

(Provider Use Only)  
Medical Record Number: \_\_\_\_\_  
 Pick up Copies  Fax Copies # \_\_\_\_\_  
 Mail Copies  
ID Confirmed by: \_\_\_\_\_

**AUTHORIZATION FOR DISCLOSURE OF HEALTH INFORMATION**

I hereby authorize Dr. Hansen to disclose health information as specified:  
Provider Name - must be specific for each provider

To: \_\_\_\_\_  
Insurance Company/Third Party Administrator/Self Insured Employer/ISIF, their attorneys or patient's attorney  
Idaho State Insurance Fund  
Street Address  
125 W State Street Boise ID 83720  
City State Zip Code

Purpose or need for data: Hearing  
(e.g. Worker's Compensation Claim)

- Information to be disclosed: Date(s) of Hospitalization/Care: \_\_\_\_\_
- Discharge Summary
  - History & Physical Exam
  - Consultation Reports
  - Operative Reports
  - Lab
  - Pathology
  - Radiology Reports
  - Entire Record
  - Other: Specify \_\_\_\_\_

I understand that the disclosure may include information relating to (check if applicable):

- AIDS or HIV
- Psychiatric or Mental Health Information
- Drug/Alcohol Abuse Information

I understand that the information to be released may include material that is protected by Federal Law (45 CFR Part 164) and that the information may be subject to redisclosure by the recipient and no longer be protected by the federal regulations. I understand that this authorization may be revoked in writing at any time by notifying the privacy officer, except that revoking the authorization won't apply to information already released in response to this authorization. I understand that the provider will not condition treatment, payment, enrollment, or eligibility for benefits on my signing this authorization. Unless otherwise revoked, this authorization will expire upon resolution of worker's compensation claim. Provider, its employees, officers, copy service contractor, and physicians are hereby released from any legal responsibility or liability for disclosure of the above information to the extent indicated and authorized by me on this form and as outlined in the Notice of Privacy. My signature below authorizes release of all information specified in this authorization. Any questions that I have regarding disclosure may be directed to the privacy officer of the Provider specified above.

[Signature] Signature of Patient 6-30-08 Date

\_\_\_\_\_  
Signature of Legal Representative & Relationship to Patient/Authority to Act Date

\_\_\_\_\_  
Signature of Witness Title Date

18



# STATE INSURANCE FUND

January 30, 2009

BRAD KILIP CLAIMS ADJUSTER  
SAIF CORP  
400 HIGH ST SE  
SALEM OR 97312

RE: CLAIM#: 200806268  
CLAIMANT: James W. Clark  
EMPLOYER: Crybaby Foods  
DOI: 4-17-08

Dear Mr. Kilip:

This letter is in response to your correspondence dated January 23, 2009 regarding the above-captioned claimant. Enclosed please find the records that were mailed to the State Insurance Fund on or about August 14, 2008. Please be advised the State Insurance Fund has deleted these records from our computer system; therefore, no records from SAIF regarding Mr. Clark are on our system.

Thank you for your attention to this matter. If you have any questions, please call our office at (208) 332-2422.

Sincerely,

JEWEL OWEN  
Senior Claims Examiner

JO:DB-4254  
Enclosure

cc: Alan Hull, Esq. ✓



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1355

**SOCIAL SECURITY ADMINISTRATION  
Office of Disability Adjudication and Review**

**DECISION**

**IN THE CASE OF**

**CLAIM FOR**

James W. Clark  
(Claimant)

Period of Disability and Disability Insurance  
Benefits

(Wage Earner)

[REDACTED]  
(Social Security Number)

**JURISDICTION AND PROCEDURAL HISTORY**

This case is before the undersigned on a request for hearing dated July 20, 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 Ernest Shell, a non-attorney representative.

The claimant is alleging disability since April 17, 2008.

**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, 2009. 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 April 17, 2008, 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

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month

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James W. Clark (548-02-8487)

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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

See Next Page

James W. Clark (548-02-8487)

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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 December 31, 2009.**
2. **The claimant has not engaged in substantial gainful activity since April 17, 2008, the alleged onset date (20 CFR 404.1520(b) and 404.1571 *et seq.*).**
3. **The claimant has the following severe impairments: crush injury of the right upper extremity status-post decompression fasciotomy and excision of the posterior interosseous nerve; chronic regional pain syndrome and osteoarthritis of the right upper extremity; pain disorder associated with psychological factors and medical condition; borderline intellectual functioning; post-traumatic stress disorder, chronic; adjustment disorder with disturbance of mood and conduct; narcissistic and borderline personality disorder traits; antisocial personality traits; methamphetamine abuse, in full sustained remission; marijuana abuse, continuous (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).**

The claimant has the following degree of limitation in the broad areas of functioning set out in the disability regulations for evaluating mental disorders and in the mental disorders listings in 20 CFR, Part 404, Subpart P, Appendix 1: moderate restriction in activities of daily living, moderate-to-marked difficulties in maintaining social functioning, moderate-to-marked difficulties in maintaining concentration, persistence or pace, and one to two episodes of decompensation, each of extended duration.

5. **The claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b) except he is less than occasionally able to lift and/or carry up to 5 pounds with his right upper extremity, is only less-than-occasionally able to push and/or pull (including operation of hand controls) with the right upper extremity, less-than-occasionally able to handle, finger, and feel with the right upper extremity, is never able to crawl, and must avoid even moderate exposure to extreme temperatures and vibration. Due to the claimant's mental impairments, he is limited to unskilled work with minimal interaction with co-workers and supervisors and with no interaction with the public, is limited to work with only rare changes in a routine work environment and with minimal new learning, and he would not be expected to make it through a full workday and/or workweek without interruptions from psychologically-based symptoms.**

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James W. Clark (548-02-8487)

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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.

In terms of the claimant's right upper extremity crush injury which occurred on the claimant's alleged onset date of disability, Dr. Robert G. Hansen, M.D., a long-term and frequent treatment provider for the claimant, noted that post-surgical pathology showed myxoid degeneration in the nerve and nerve sheath and Dr. Hansen stated that the claimant will require long-term, ongoing and intense pain management due to his soft tissue injury on a permanent basis through a pain management provider. While Dr. Hansen believed that part-time light duty work would be good for the claimant psychologically, he stated the claimant could not perform the heavy labor he had performed in his past nor could he likely be expected to work on a full-time basis even at the sedentary level.

Post-crush injury, the claimant also had a drastic decrease in mental stability attributable to a combination of premorbid mental impairments and the aftereffects of his injury with new onset of chronic post-traumatic stress disorder symptoms. The record contains numerous comprehensive and exhaustive reviews of the claimant's medical record via multiple psychiatric, neuropsychological, and physical medical evaluations showing various premorbid mental impairments including, but not limited to, a personality disorder and antisocial personality traits and characteristics with exhibited behavior including impulsiveness, a pattern of unstable and intense interpersonal relationships, suicidal behavior, affective instability, inappropriate and intense anger, frantic efforts to avoid real or imagined abandonment, failure to conform to social norms and lawful behaviors with arrests, impulsiveness, irritability and aggressiveness, reckless disregard for the safety of others and of himself, and apparent lack of remorse.

When considering premorbid factors, including borderline intellectual functioning limiting the claimant to unskilled work, with the new onset of chronic post-traumatic stress disorder symptoms and new onset of a chronic pain disorder due to his crush injury, it is clear that the claimant cannot make the transition to sedentary-to-light work activity. Moreover, even if the claimant has developed some transferrable skills, the combination of his impairments would preclude engaging in full-time, competitive, remunerative work activity at any exertional level.

Evidencing the severity of the claimant's decrease in mental stability, he underwent two post-injury psychiatric admissions: one in September 2009 and another in March 2010. He was admitted to Intermountain Hospital from September 3 through September 7, 2009 – his first psychiatric hospitalization – with serious issues with anger dyscontrol, possible homicidal ideation, extreme hostility and irritability, feelings of worthlessness, persistent insomnia, and with paranoia. Additional symptoms included increasing hopelessness and helplessness and the claimant was having intrusive nightmares and flashbacks and experiencing extreme anger and mood lability. His estimated Global Assessment of Functioning (GAF) on admission was 25 to 30 and he experienced only a marginal improvement by the time of discharge with an estimated GAF of 45.

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See Next Page

James W. Clark (548-02-8487)

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The claimant had similar refractory symptoms during his admission to Intermountain from March 15 through March 24, 2010, with an estimated GAF on discharge of only 40.

In making the above findings, the undersigned has also given significant weight to the medical opinion of Dr. Si Steinberg, M.D., of Lifeways, who opined that the claimant's level of impairment, as of June 1, 2010, was "extremely high" and that he would not be able to work around others due to the overwhelming anxiety symptoms related to his post-traumatic stress disorder. Dr. Steinberg noted that, while post-traumatic stress disorder is treatable, it can take two to five years of effective treatment before an individual reaches a point of permanent medical stability. He stated that, unfortunately, due to the claimant's ongoing legal conflicts and other situational stressors, he has not even begun the recovery process.

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 and psychological consultants' mental assessments are given little weight because other medical opinions are 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.

**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 18-49 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. The claimant's acquired job skills do not transfer to other occupations within the residual functional capacity defined above (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

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See Next Page

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James W. Clark (548-02-8487)

Page 6 of 6

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, considering the claimant's age, education, and work experience, a finding of "not disabled" would be directed by Medical-Vocational Rule 202.21. 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. This conclusion is supported by Social Security Ruling(s) 85-15 and 96-8p.

11. The claimant has been under a disability as defined in the Social Security Act since April 17, 2008, the alleged onset date of disability (20 CFR 404.1520(g)).

DECISION

Based on the application for a period of disability and disability insurance benefits protectively filed on September 23, 2009, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since April 17, 2008.

The workers' compensation offset provisions at 20 CFR, 404.408 may be applicable.

*Dennis Rogers*

Dennis Rogers  
Attorney Advisor

March 28, 2011

Date

~~Pg 27~~

Pg 25

Attorney Lien July 9, 2012

~~Pg 25~~

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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,  
Defendants.

IC 2008-013505

CERTIFICATE OF SERVICE

FILED

JUL - 9 2012

INDUSTRIAL COMMISSION

I hereby certify that on the 9th day of July, 2012, a true and correct copy of Claimant's faxed Brief on Motion to Deny Attorney's Lien, (25 pages), filed July 9, 2012, was served via facsimile machine process upon the following:

ALAN K. HULL  
RACHAEL O'BAR  
FAX # (208) 344-5510

LYNN M LUKER  
FAX # (208) 375-0501

INDUSTRIAL COMMISSION



Marie Wilson  
Assistant Commission Secretary

cc: JAMES W. CLARK (via fax)

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant/Appellant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Defendants/Respondents.

IC 2008-013505

ORDER DISMISSING APPELLANT'S  
MOTION FOR NEW HEARING

FILED

JUL 10 2012

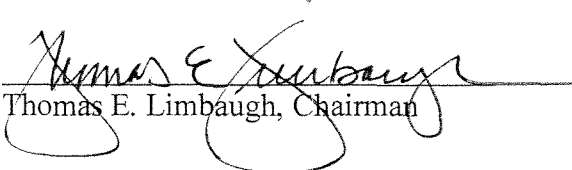
INDUSTRIAL COMMISSION

On July 5, 2012, Claimant/Appellant filed a Motion for New Hearing Based on New Findings of Facts. Claimant has previously filed an appeal with the Idaho Supreme Court on this case. Therefore, the Commission has no jurisdiction to make any ruling on the merits of this case. The Commission DISMISSES Claimant/Appellant's motion for new hearing.


IT IS SO ORDERED.


DATED this 10<sup>th</sup> day of July, 2012.

INDUSTRIAL COMMISSION

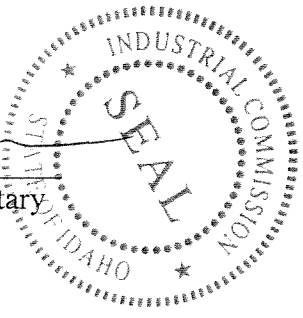
  
Thomas E. Limbaugh, Chairman

ORDER DISMISSING APPELLANT'S MOTION  
FOR NEW HEARING- 1

  
Thomas P. Baskin, Commissioner

  
R.D. Maynard, Commissioner

ATTEST:   
Assistant Commission Secretary

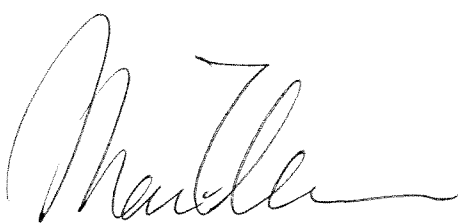


**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of July, 2012 a true and correct copy of the foregoing **ORDER DISMISSING APPELLANT'S MOTION FOR NEW HEARING** was served by *facsimile processing machine* upon each of the following persons:

JAMES W CLARK  
FAX # (360) 258-1619

ALAN HULL  
RACHAEL O'BAR  
FAX # (208) 344-5510

  
\_\_\_\_\_

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant/Appellant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Defendants/Respondents.

IC 2008-013505

ORDER DENYING APPELLANT'S  
MOTION FOR MEDIATION

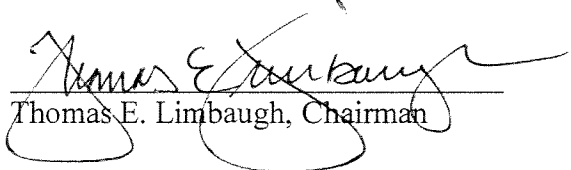
FILED  
JUL 10 2012  
INDUSTRIAL COMMISSION

On June 14, 2012, Claimant/Appellant filed a Motion for a Mediation with Lynn Luker. The Commission's mediation department has contacted Mr. Luker and he has declined the opportunity to mediate. Mediation is a voluntary process which must have the approval of both parties. Therefore, the Commission DENIES Claimant/Appellant's request for mediation.

IT IS SO ORDERED.

DATED this 10<sup>th</sup> day of July, 2012.

INDUSTRIAL COMMISSION

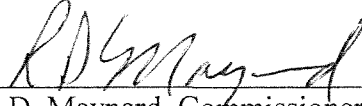
  
Thomas E. Limbaugh, Chairman

ORDER DENYING APPELLANT'S MOTION  
FOR MEDIATION - 1

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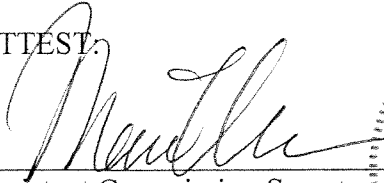


Thomas P. Baskin, Commissioner

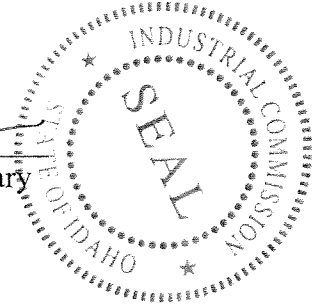


R.D. Maynard, Commissioner

ATTEST:



Assistant Commission Secretary

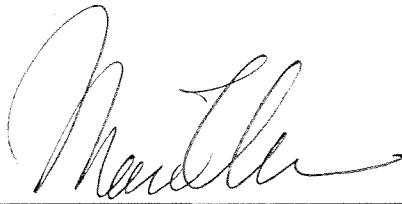


**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of July, 2012 a true and correct copy of the foregoing **ORDER DENYING APPELLANT'S MOTION FOR MEDIATION** was served by *facsimile processing machine* upon each of the following persons:

JAMES W CLARK  
FAX # (360) 258-1619

ALAN HULL  
RACHAEL O'BAR  
FAX # (208) 344-5510



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES CLARK,

Claimant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Defendants.

IC 2008-013505

ORDER GRANTING  
ATTORNEY FEES

FILED

JUL 10 2012

INDUSTRIAL COMMISSION

On May 2, 2012, a decision was issued in the above-captioned case. The decision provided that Claimant's former attorney, Lynn Luker, should file a brief in support of his pending attorney lien within fourteen days. Mr. Luker did so. Claimant, after asking for two extensions of time, filed a reply on July 9, 2012.

Mr. Luker argues that he is entitled to fees of \$2,730.00 and costs of \$691.30 under his attorney fee agreement with Claimant. Mr. Luker was retained by Claimant on January 5, 2010. According to the attorney fee agreement, Claimant was responsible for paying "expenses incurred in the preparation of the case." Furthermore, Claimant agreed that if Mr. Luker were discharged or forced to withdraw from representing Claimant due to Claimant's lack of cooperation, Mr. Luker would then be entitled to costs and fees.

Mr. Luker represented Claimant for almost one year, during which time he took the case to hearing. Post-hearing, Mr. Luker withdrew from the case, after he and Claimant had a "substantial disagreement about how the case should proceed and be presented." Mr. Luker's motion to withdraw was granted by the Commission on December 21, 2010.

In his brief, Mr. Luker argues that he expended much effort in prosecuting this claim. His work included extensive counseling of Claimant, exhibit collection and preparation, discovery, negotiations, mediation, and depositions, as well as representing Claimant at hearing. However, Mr. Luker is requesting fees based only on his actual appearances in the case: mediation, three depositions, and the hearing itself. Together, these combine for twenty-one hours of appearance time. Mr. Luker requests an hourly fee of \$130.00, as provided for in his attorney fee agreement with Claimant. Thus, the total fee requested by Mr. Luker is \$2,730.00. Additionally, Mr. Luker requests \$691.30 in costs, based on out-of-pocket expenses related to the depositions.

Claimant objects to Mr. Luker's request for fees and costs. He characterizes Mr. Luker as a "quitter" who violated Claimant's trust and who failed to represent Claimant adequately. Claimant asserts that Mr. Luker doesn't "deserve a piece [sic] of lint" out of Claimant's pocket.

Claims for attorney fees are subject to Commission approval. Idaho Code § 72-803. A claimant's attorney is entitled to reasonable attorney fees that are consistent with the fee agreement and are to be satisfied from "available funds." Available funds are sums of money to which a charging lien may attach. IDAPA 17.02.08.033.01.c. A charging lien may be asserted by an attorney who demonstrates that: 1) there are compensation benefits available for distribution on equitable principles, 2) the services of the attorney operated primarily or substantially to secure the funds out of which the attorney seeks to be paid, 3) it was agreed that counsel anticipated payment from compensation funds rather than from the client, 4) the claim is limited to costs, fees, or other disbursements incurred in the case through which the fund was raised, and 5) there are equitable considerations that necessitate the recognition and application of the charging lien. IDAPA 17.02.08.033.01.c. In a case in which no hearing on the merits has been held, a fee equal to 25% of available funds shall be presumed to be reasonable; in a case in which a hearing has been held and briefs submitted, a fee equal to 30% of available funds shall be

presumed to be reasonable. IDAPA 17.02.08.033.01.e. Mr. Luker withdrew before submitting a brief in this case.

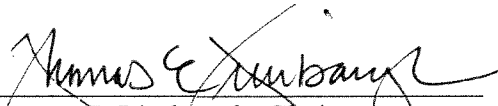
Applying the above to the instant matter, we find that Mr. Luker is entitled to his requested fee. Mr. Luker has demonstrated that there are compensation benefits available for distribution pursuant to the May 2, 2012 decision, which held that Claimant was entitled to total temporary disability, permanent partial impairment, and permanent partial disability benefits. Mr. Luker, through his work on Claimant's behalf, and specifically through his representation of Claimant at hearing, operated primarily or substantially to secure the award. The fee agreement provided that Mr. Luker's fees and costs would be paid via recovered compensation. Mr. Luker's claim is limited to costs and fees incurred in this claim. Finally, equity demands that Mr. Luker be compensated for the substantial work he performed in prosecuting this claim. Mr. Luker's requested fee is less than the 25% presumed reasonable by IDAPA provisions; however, Mr. Luker's request is based on recognition of hardships faced by Claimant, and we find this to be reasonable. We likewise find that Mr. Luker, pursuant to the attorney fee agreement, is entitled to be reimbursed for costs incurred in his representation of Claimant.

Based on the foregoing analysis, IT IS HEREBY ORDERED That:

1. Surety shall pay to Mr. Luker \$2,730.00 in fees and \$691.30 in costs from the amount of the award reserved by the May 2, 2012 decision.
2. The remainder of the reserved amount shall be paid to Claimant.

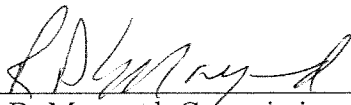
DATED this 16<sup>th</sup> day of July, 2012.

INDUSTRIAL COMMISSION

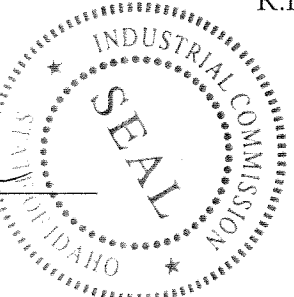
  
Thomas E. Limbaugh, Chairman

  
Thomas P. Baskin, Commissioner



  
\_\_\_\_\_  
R.D. Maynard, Commissioner

ATTEST:  
  
\_\_\_\_\_  
Assistant Commission Secretary



**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of July, 2012, a true and correct copy of the foregoing **ORDER GRANTING ATTORNEY FEES** was served by facsimile upon each of the following:

JAMES W CLARK  
(360) 258-1619

RACHAEL O'BAR  
(208) 344-5510

LYNN M LUKER  
(208) 375-0501

eb

  
\_\_\_\_\_

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,  
Defendants.

IC 2008-013505

CERTIFICATE OF SERVICE

FILED

JUL 10 2012

INDUSTRIAL COMMISSION

I hereby certify that on the 10<sup>th</sup> day of July, 2012, true and correct copies of:


1. Order Denying Appellant's Motion for Mediation, filed July 10, 2012;
2. Order Dismissing Appellant's Motion for New Hearing, filed July 10, 2012;
3. Order Granting Attorney Fees, filed July 10, 2012; and
4. Certificate of Service (Claimant's Brief on Motion to Deny Attorney's Lien), filed July 9, 2012;

filed in the above matter, were served by regular United States Mail upon the following:

JAMES W. CLARK  
3515 HARNEY ST  
VANCOUVER WA 98660

Service of said documents was attempted via facsimile machine process, as indicated in the Certificate of Service within each document; however, said service failed as shown on the facsimile error transmission reports attached.

INDUSTRIAL COMMISSION

  
\_\_\_\_\_  
Marie Wilson  
Assistant Commission Secretary

cc: RACHEL O'BAR  
LYNN M LUKER

CERTIFICATE OF SERVICE - 2

1372

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\*\*\* ERROR TX REPORT \*\*\*  
\*\*\*\*\*

TX FUNCTION WAS NOT COMPLETED

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### IDAHO INDUSTRIAL COMMISSION

P.O. Box 83720  
Boise, Idaho 83720-0041  
(208) 334-6000 FAX (208) 332-7558  
V/TDD 1-800-950-2110

**FAX COVER SHEET**  
**DATE: July 10, 2012**

TO:

<b>NAME: JAMES W. CLARK, Pro Se</b>
<b>COMPANY:</b>
<b>FAX NUMBER: (360) 258-1619</b>

FROM:

<b>NAME: MARIE WILSON</b>
<b>PHONE: 334-6023</b>
<b>TOTAL PAGES, INCLUDING COVER SHEET: 10</b>

<b>DESCRIPTION: CLARK, JAMES Vs. CRY BABY FOODS LLC IC Claim Number: 2008013505</b>
Order Denying Appellant's Motion for Mediation; Order Dismissing Appellant's Motion For New Hearing; Order Granting Attorney Fes; Certificate of Service (filed July 9, 2012)

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\*\*\* ERROR TX REPORT \*\*\*  
\*\*\*\*\*

TX FUNCTION WAS NOT COMPLETED

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**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

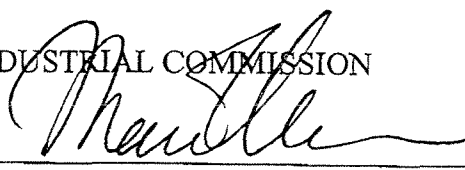
JAMES W. CLARK,  
  
Claimant,  
  
v.  
  
CRY BABY FOODS, LLC,  
  
Employer,  
  
and  
  
IDAHO STATE INSURANCE FUND,  
  
Surety,  
Defendants.

IC 2008-013505  
  
CERTIFICATE OF SERVICE  
  
FILED  
JUL - 9 2012  
INDUSTRIAL COMMISSION

I hereby certify that on the 9th day of July, 2012, a true and correct copy of Claimant's faxed Brief on Motion to Deny Attorney's Lien, (25 pages), filed July 9, 2012, was served via facsimile machine process upon the following:

ALAN K. HULL  
RACHAEL O'BAR  
FAX # (208) 344-5510

LYNN M LUKER  
FAX # (208) 375-0501

INDUSTRIAL COMMISSION  
  
Marie Wilson  
Assistant Commission Secretary

1374

James W Clark  
3515 Harney St.  
Vancouver Wash 98660  
HPh No. 1-360-258-1619  
Fax No. 1-360-719-2581

CLAIMANT

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

James W Clark  
. Claimant  
.CRY BABY FOODS LLC  
. Employer  
IDAHO STATE INSURANCE FUND  
. Surety,  
Defendant.

MOTION  
clarification of  
RULE 14  
ATTORNEY WITHDRAW

INDUSTRIAL COMMISSION

JUL 13 2012

FILED

Question 1)

Can an attorney that was granted to withdraw through the commission based on conflicts based on attorneys fairy tale story on why attorney quit and not on actual facts request to the client that he would come back to finish claimant claim?

1375

Question 2)

Can claimant request to an attorney that quit on claimant and was granted through the commission to withdraw, to come back and finish claimants claim without first contacting the commission.

**Due to claimants deadlines with the court of appeal claimant is requesting a speedy response to claimant's letter to be no later than July 16 2012. CLAIMANT IS REQUESTING A CERTIFICATE OF SERVICES TO BE FAX TO CLAIMANT**

Thank you for your time on this matter.

I hereby certified that on the 13<sup>th</sup> day of July 2012 a true and correct copy of the letter of motion was fax to:

**Anderson, Julian & Hull LLP c/o**

**Lynn luker**

**Mr. Hull & Rachael O'bar**

**Fax# 1-208-375-0501**

**Fax# 1-208-344-5510**

**STATE INDUSTRIAL COMMISSION**

**Fax# 1-208-332-7558**



**James W Clark**

James W Clark  
3515 Harney St.  
Vancouver Wash 98660  
HPH No. 1-360-258-1619  
Fax No. 1-360-719-2581

CLAIMANT

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

James W Clark  
Claimant  
CRY BABY FOODS LLC  
Employer  
IDAHO STATE INSURANCE FUND  
Surety,  
Defendant.

MOTION  
clarification of  
RULE 14  
ATTORNEY WITHDRAW

FILED  
JUL 13 2012  
INDUSTRIAL COMMISSION

Question 1)

Can an attorney that was granted to withdraw through the commission based on conflicts based on attorneys fairy tale story on why attorney quit and not on actual facts request to the client that he would come back to finish claimant claim?

1377



Question 2)

Can claimant request to an attorney that quit on claimant and was granted through the commission to withdraw, to come back and finish claimants claim without first contacting the commission.

**QUESTION 3)**

**WHEN An ATTORNEY FILES A MOTION TO WITHDRAW ON CLAIMANT, DOES THE CLAIMANT NOT GET TO ARGUE BE FOR IT IS GRANTED?**

**Due to claimants deadlines with the court of appeal claimant is requesting a speedy response to claimant's letter to be no later than July 16 2012. CLAIMANT IS REQUESTING A CERTIFICATE OF SERVICES TO BE FAX TO CLAIMANT**

Thank you for your time on this matter.

I hereby certified that on the 13<sup>th</sup> day of July 2012 a true and correct copy of the letter of motion was fax to:

**Anderson, Julian & Hull LLP c/o**

**Lynn luker**

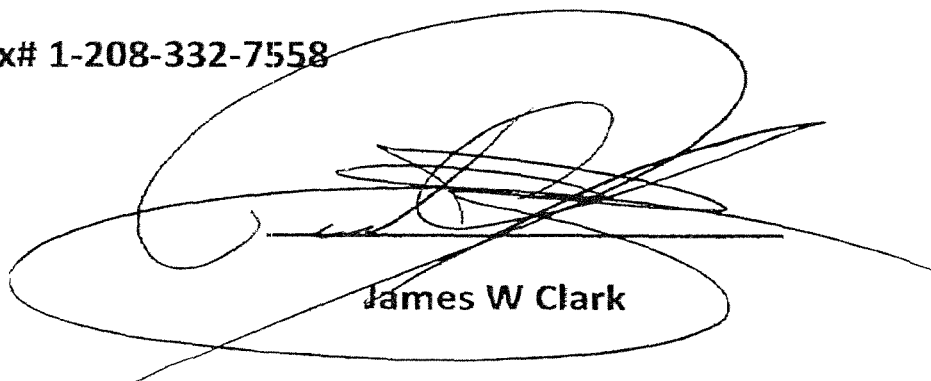
**Mr. Hull & Rachael O'bar**

**Fax# 1-208-375-0501**

**Fax# 1-208-344-5510**

**STATE INDUSTRIAL COMMISSION**

**Fax# 1-208-332-7558**

A large, stylized handwritten signature in black ink, appearing to read 'James W Clark', is written over a horizontal line. The signature is enclosed within a large, irregular oval scribble.

**James W Clark**

1378

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,  
Defendants.

IC 2008-013505

CERTIFICATE OF SERVICE

FILED

JUL 13 2012

INDUSTRIAL COMMISSION

I hereby certify that on the 13<sup>th</sup> day of July, 2012, true and correct copies of Claimant's Motion Clarification of Rule 14 Attorney Withdraw (2 questions, 2 pages), and Motion Clarification of Rule 14 Attorney Withdraw (3 questions, 2 pages) filed in the above matter on July 13, 2012, were served by *facsimile processing machine* upon the following:

RACHEL O'BAR  
FAX # (208) 344-5510

LYNN M LUKER  
FAX # (208) 375-0501

INDUSTRIAL COMMISSION



Marie Wilson  
Assistant Commission Secretary

cc: JAMES W. CLARK  
Via Fax

JAMES W CLARK  
3515 Harney St.  
Vancouver wash 98660  
Home Phone 1-360-258-1619  
fax# 1-360-719-2581

Appellant

BEFOR THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES CLARK,  
Appellant  
v.

CRY BABE FOODS, LLC,  
Employer,

IDAHO STATE INSURANCE FUND

SURETY

DEFENDANTS

NOTICE OF AMENDING

APPEAL

*To include  
granted  
Attorney  
FEE*

FILED

JUL 13 2012

INDUSTRIAL COMMISSION

TO THE IDAHO STATE INSURANCE FUND AND THE PARTY'S  
ATTORNEY'S ANDERSON, JULIAN & HULL LLP AND THE CLERK OF THE  
INDUSTRIAL COMMISSION OF THE STATE OF IDAHO.

1.) NOTICE IS HEREBY GIVEN THAT JAMES W CLARK APPEALS  
AGAINST THE IDAHO STATE INSURANCE FUND TO THE IDAHO SUPREME  
COURT ON THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO'S  
FINNAL OPINION ON THERE FINDINGS OF FACTS, AND CONCLUSIONS

AMEND TO ADD GRANTED ATTORNEY FEE

*1380*

OF LAW. 1.) APPELLANT FAILED TO SHOW HE IS TOTALLY AND PERMANENTLY DISABLED AND/ OR THAT HE QUALIFIES AS ODD-LOT WORKER. 2.) THAT SURETY HAS DEMONSTRATED PROFESSIONAL COMPETEANCE AND REASONABLE PROCESSING OF APPELLANT'S CLAIM. 3.) THE APPELLANT FAILED TO SHOW HE IS INTITLED TO ATTORNEY FEES. 4.) APPELLANT HAD TO PAY HIS ATTORNEY 25% WITCH CAME OUT TO BE 3,823.88 OF THE LITTLE AMOUNT OF BENEFITS APPELENT WAS PAYED 5.) SURETY IS TO RECEIVE CREDIT FOR OVERPAYMANT. 6.) BECAUSE UNAFECTIVE ASSTANCE OF COUNSEL 7.) THE STATEMENT MADE BY MR.DONOHUE THAT THE APPELENT HAD FIRD A ATTORNEY IN LATE SEPTEMBER WITCH IS A LIE AND OTHERE FACTERS. INTERED IN THE ABOVE-ENTITLED ACTION ON THE , 2 DAY OF MAY 2012

2.) THE APPELLANT HAS A RIGHT TO APPEAL TO THE IDAHO SUPREME COURT, AND THE JUDGMENTS OR ORDERS DESCRIBED IN PARAGRAPH 1 ABOVE ARE APPELLABLE ORDERS UNDER AND PURSUANT TO RULE [e.g.(11(a)(2) or (12(a))}] I.A.R.

3.( A PRELIMINARY STATEMENT OF THE ISSUES ON APPEAL:

THE APPELETE WAS IN A WORK RELATED INJURY ON APRIL 17 2008 THAT ALLMOST TOOK HIS LIFE AND ALMOST TOOK FROM THE MID FORARM TO MY FINGER TIPS OFF OF MY RIGHT ARM.( I WAS RIGHT HANDED) ON APRIL 17 2008 MY EMPLOYER CRY BABY FOODS LLC FILED A WORKERS COMPANSATION CLAIM. BETWEEN APRIL 2 AND ARIL 5 2008 APPELETE HAD REGUISTED A REFEREEL FROM THE DOCTOR THAT SEEN ME IN THE HOSPITAL AFTER BEING LIFE FLIGHTED FROM MY HOME TOWN OF WEISER IDAHO TO BOISE HOSPITAL TO A DOCTOR

2  
AMEND TO ADD GRANTED ATTORNEY FEE

1381

THAT WAS IN MY HOME TOWN DO TO THE PAIN MEDICATION I WAS ON AND THE FACT THAT THE APPELETE HAD TO DO HIS OWN DRIVING FOR AT THAT TIME THE STATE FUND WOULD NOT HELP ME WITH TRANSPORTATION AND FOR SAFTY ISSUE OF DRIVING WHILE UNDER THE INFLUEANCE OF A CONTROLLED SUPSTANCE. THEN BETWEEN MAY 5 2008 AND MAY 29 2008 THE APPELETE FOUGHT WITH THE STATE FUND TO SEND MY REFEREL TO MY NEW DOCTOR THAT I HAD SET MY FIRST VISIT FOR ON MAY 30 2008. ON OUR AROUND MAY 23 2008. THEN DEBBIE FROM MY NEW DOCTOR CALLS WANTING TO COUNCILE MY APPOINTMENT DUE TO THEY HAVE NOT RECIEVED MY REFEREL FROM THE STATE FUND. THE APPELETE EXSPLAINED TO DEBBIE TO HOLD OFF AND I WILL WORK ON GETTING THE REFEEREL. EVERYDAY TWO THREE TIMES A DAY I WOULD CALL THE STATE FUND TO FIND OUT WHAT THE HOLD UP IS. AND THEN LATE AFTERNOON ON MAY 29 2008 DEBBIE FROM DOCTOR HANSENS OFFICE CALLS AND TELL ME THAT THEY HAD NOW RECIEVED MY REFERREL TO START SEEING DR. HANSEN. **BY THIS INFORMATION THE APPELETE NOW BELEAVES HE NO LONGER HAS TO DRIVE BACK AND FOURTH TO BOISE FOR MEDICAL APPOINTMENTS. APPELETE SEE'S HIS NEW DOCTER ON MAY 30 2008 AND SETS MY NEXT APPOINTMENT FOR TWO WEEKS.**

ON JUN 5 2008 APPELELE PICKS UP A CERTIFIDE LETTER AT THE POST OFFICE FROM HIS EMPLOYER STATING THE APPELET HAS BEEN RETURNED TO WORK FULL TIME 10 HR. DAY FOUR TO FIVE DAYS A WEEK. I CONTACTED MY EMPLOYER AND I WAS TOLD BY KEN ADAM MY SUPERVISOR THAT HE RECIVED A PHONE CALL ASKING IF I WAS RELEASD BACK TO WORK AT A LIGHT DUTIE RESTICTION ON HAND MOTIFIDE WORK IF HE COULD ACOMODATE IT

AMEND TO ADD GRANTED ATTORNEY FEE

1382

AND HE SAID YES. THEN I CONTACTED THE STATE FUND AND WAS TOLD THAT MY DOCTOR THAT I WAS FIGHTING THE STATE FUND ON TO GET HIS REFEREEL SNVT OVER TO DR.HANSEN SO I CAN CONTINUE MEDICAL TREATMENT WITH HAD RELEASED ME TO GO BACK TO WORK AND IF I DID NOT RETURN TO WORK THAT THEY WOUULD CONSIDER ME AS A NO SHOW . SO I WAS FORCED TO RETURN BACK TO WORK EVEN THOUGH I WAS SEEING DOCTERS 5 DAYS A WEEK DO TO CHANGE THE DRESSING THAT HAD TO BE DONE EVERY DAY BY A DOCTOR DUE TO THE MASIVE SWELLING AND THE DRAINAGE THAT WAS HAPPENING BECAUSE OF THE OPEN WOUND THE COULD NOT CLOSE FOR OTHERE WAS MY ARM WOULD HAVE GOTTEN INFECTED AND SEEING COUNSILORS TO DEAL WITH THE NIGHTMARES I WAS HAVEING OF THE MACHINE THAT ALMOST TOOK MY LIFE.

THE STATE FUND AND SANDY BASKET WITH THE INDUSTRIAL COMMISSION REHAB DIVISSION COMMITTED FRAUD AND EXTRINSIC FRAUD ON MAY 29 2008. THE APPELETE DID NOT UNCOVER THE EXTRINSIC FRAUD TELL JULY 25 2008.

I WAS ASKING THE STATE FUND HOW THEY WHERE ABLE TO GET A DOCTOR TO SYN OFF ON A RETURN TO WORK ORDER CONSIDERING I HAD NOT SEEN HIM FOR ALMOST THREE WEEKS AND DID NOT SEE HIM TO GO OVER ANYTHING . AND THEY WOULD NOT TELL ME ANYTHING BUT THAT HE DID.

ON JULY 9 2008 APPELETE FILED A COMPLAINIT WITH THE INDUSTRIAL COMMISSION AS MR. DONOHUE THE REFEEREE ON" HOW WAS THE STATE FUND ABLE TO GET A DOCTER THAT I HAD NOT SEEN AND WAS NOT GOING TO SEE SYN OFF ON A RETURNE TO WORK ODER AND THE

AMEND TO ADD GRANTED ATTORNEY FEE

318.00 THAT THEY OWED ME FOR THE WEEK I WAS OFF TEEL MY NEW DOCTER TOOK ME BACK OFF WORK AFTER FINDING OUT THAT THE STATE FUND HAD RETURN ME BACK TO WORK. OSHA WAS CONTACTED BY APPELETE IN MID JUN 2008 AND IN MID JULY OSHA FOUND MY COMPANY TO BE IN 21 SIEREOUE VIOLATIONS AND FIND THEM FOR 15 AND FOUND THEM GUILTY OF NOT GIVING THERE EMPLOYEE A SAFE WORK PLACE.

THEN ON JULY 25 2008 APPELETE WAS REVIEWING MEDICALE RECORD THAT THE CLAIMANT REGUSTED AND RECIEVED FROM THE STATE FUND ON JUN 30 2008 BY MAIL. AND THAT SANDY BASKETT WITH THE COMMISSIONS REB DIV HAD ALSO SYN OFF ON THE SAME DOCUMENT THAT THE STATE FUND WAS TELLING ME THEY KNEW NOTHING ABOUT EVEN THOUGH THEY ALSO HAD SYND OFF ON IT.

BECAUSE SANDY BASKETT WORKS IN A FIELD OFFICE IN PAYETTE IDAHO FROM THE BOSIE MAIN OFFICE I TOOK IT APON MYSELF TO FIND OUT WHAT WAS NOT ATTACH TO THE DOCUMENT I WAS READING . I WENT TO SANDY BASKETT OFFICE AND REQUESTED A COPIE OF THIS SO CALLED JOB SITE EVALUATION THAT WAS SUPPOSE TO BE ATTACH TO THE DOCUMENT IN HAND.

SANDY BASKETT AND CAROL GAURLAND AND THE STATE FUND HAD CLEARLY COMMITTED FRAUD AND EXTRINSIC FRAUD BY WITHHOLING A JOBSITE EVALUATION, PREPARED BY MY FORMER TREATING DOCTOR. THIS VALUABLE MEDICAL INFORMATION WAS KEPT FROM MY BOSS KEN ADAM AND ME. THIS CAUSE MY BOSS, KEN ADAM, TO UNKNOWINGLY PUT MY LIFE IN DANGER AND IN JEOPARDY. AFTER REVIEWING WHAT WAS IN THIS REPORT THE APPELETES RESTRICTION

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AMEND TO ADD GRANTED ATTORNEY FEE

WOULD NOT BEEN AVALUABLE TO PERFORM EVEN IF I OR MY BOSS WOULD HAVE HAD IT.

SANDY BASKETT AND THE STATE FUND ALSO COMETTED FRAUD IN THE INDUCEMENT IN MISLEADING THE OTHER PARTY TO THE FACT OPON WHICH HE OR SHE WILL BASE HIS OR HER DICISION TO ACT.

THE STATE FUND HAS MEDICAL RECORDS THAT WAS USED AT APPELETES HEARING OF NOV 18 2010 THAT WAS USED IN THE COMMISSION FINNALL DICCISION ON MAY 2, 2012 THAT THE STATE FUND DID NOT HAVE PROPPER PERMISSION TO USE OR HAVE. Ms.OWN WITH THE STATE FUND LIED UNDER OUTH ABOUT THE MEDICAL RECORDS THAT WAS USED IN THE COMMISSION FINDINGS OF FACTS AND CONCLUSIONS OF LAW. THESE MEDICAL RECORD WHERE RECIVED WITHOUT PERMISSION BY THE APPELETE ON AUG.1 2008, AUG 7 2008, AUG 11, 2008.

LYNN LUKER ATTORNEY FOR THE APPELETE FROM JAN 2010 TO DEC 21, 2010 QUIT TWICE ON THE APPELETE ONCE THROUGH THE COMMISSON WITCH WAS GRANTED ON DEC 21, 2010. AND THE APPELETE REHIRED LYNN LUKER ON DEC 23, 2010. THE ONLY THING THAT MR LUKER WANTED THE APPELETE DO IS TO SETTLE AND THE APPELETE WOULD NOT. THE APPELETE BEG MR.LUKER TO PLEASE HAVE MY DOCTORS TO APPEAR AT APPELETE HEARING BUT WOULD NOT AGAIAN IT WAS ALL ABOUT ME TO TAKE A SETTLMENT FROM THE STATE FUND. MR LUKER REFUSED TO HAVE ALL MY DOCTOERS DEPOSITION WITH IN THE 14 DAYS AFTER MY HEARING. AGAINE IT WAS ALL ABOUT SETTLEING. AND IT WAS ALL ABOUT GETTING THE HELP I NEEDED TO HELP WITH UNDERSTANDING HOW TO DEAL WITH LIFE

AMEND TO ADD GRANTED ATTORNEY FEE



WITH OUT BEING ABLE TO DO THE KIND OF WORK I DID TO MAKE A LIVING. AND THAT MY RIGHT ARM WILL NEVER LOOK THE SAME AND EVERY DAY I LOOK AT IT IT'S A REMINDER OF ME FIGHTING FOR MY LIFE FOR TEN MINUTE. THIS IS MY LIFE THAT WAS ALMOST TAKEN. MR. LUKER WOULD NOT DO ANYTHING ABOUT THE STTATE FUNDS ACTIONS THE APPELETE HAD ALREADY HAD FILED WITH THE COMMISSION ABOUT HOW THE STATE FUND CAME INTO PERSSION OF APPELETES OLD MEDICAL RECORDS THAT HAD NOTHING TO DO WITH THE ACCIDENT OF APRIL 17 2008. THE APPELETE SYN UP FOR SOCIAL SECURITY DISABILITY ON JULY 20 2010 FOR MR. LUKER ALSO BELEAVED THAT THE APPELETE WAS DISABLED UNDER THE ODD-LOT RULE AND SENT THE STATE FUND A SETTLEMENT OFFER OF 476.000 ON JUN 1 2020. BUT DID NOT WANT THE APPELETE TO FOLLOW THROUGH WITH SSD TELL AFTER THE COMMISSION DECISSION. THE APPELETE WAS UPSET FOR I WAS LOSEING EVERTHING DO TO THE HARDSHIP THAT THIS WORK ACCIDEND HAD DONE. THEN AFTER MR LUKER QUIT THE SECOND TIME THE APPELETE FOLLOWED THROUGH WITH SSD AND WAS AWARDED SSD DO TO MY INJURY AND WITH THE SAME MEDICAL REPORTS THE COMMISSION USED. AND SSD FOUND THAT MY DISABILITY STATED APRIL 17 2008 TO THE PRECENT. I DID CONTACT MS. O'BAR THE ATTORNY FOR THE STATE FUND ABOUT THE FINDINGS. AND THEN MR.LUKER, ATTORNY, LEGISLATOR, WANTS EVERYONE TO BELEAVE THAT I WAS THE PROPLEM WHY HE QUIT SO UNTRUE.

**THE APPELETE REQUEST THE FOLLOWING DOCUMENTS TO BE INCLUDED IN THE COMMISSIONS RECORD IN ADDITION TO THOSE AUTOMATICALLY INCLUDED UNDER RULE 28 I.A.R.**

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AMEND TO ADD GRANTED ATTORNEY FEE

**IN ADDITION TO WHAT APPELLANT ALREADED REQUESTED,  
APPELLANT WANTS TO ENCLUED:**

- 1) ORDER GRANTING ATTORNEY FEES, FILED JULY 10 2012**
- 2) ATTORNEY AND CLAIMANTS FEE AGREEMENT THAT ATTORNEY  
WAS TO FILE TIME OF APERANCE ON BEHALF OF CLAIMANT JAN  
5 2010.**
- 3) ALL MOTIONS FILED ON ATTORNEY LEAN & FEES.**
- 4) FULL TRANSCRIPTS OF ALL DEPOSITIONS AND HEARINGS  
PERFORMED BY THE LAW FIRM OF ANDERSON JULIAN &HULL  
ON BEHALF OF THE STATE FUND**
- 5) FULL TRANSCRIPT OF APPELLANTS HEARING OF NOV 17 OR 18  
2010**
- 6) ALL COMUNECATIONS BY ALL PARTYS BYE WAY OF  
FAX,SCAN,MAILED, CONNECTED TO CLAIMANTS CLAIM IN ANY  
COMPASITY IS TO BE FORWARDED**
- 7) FULL TRANSCRIPTS OF ALL HEARINGS AND DEPOSITIONS DONE BY  
CLAIMANTS ATTORNEY BETWEEN JAN 5 2010 THROUGH DEC 31  
2012 OR MOTIONS**
- 8) ALL DOCUMENTS USED IN THE INDUSTRIALS COMMISSIONS  
FINDINGS OF FACTS FOR THE STATEMENT TO BE USED AS A  
FINDINGS OF FACT**

**1.) MS. OWN HELD ON DEC 9 2010/REPORTERS NAME, DEAN WILLIS**

8  
AMEND TO ADD GRANTED ATTORNEY FEE

CSR 95

2.) ALL MOTIONS AND ORDERS FILED WITH THE COMMISSION BY THE STATE FUND BETWEEN AUGUST 15 2008 THROUGH OCT 10 2008 IN REGURDS TO THE APPELETE SYNING MEDICAL RELEASES FOR APPELETE OLD MEDICAL RECORDS THAT DID NOT HAVE ANYTHING TO DO WITH THE ACCIDENT.

3.) THE MEDICAL RELEASE FORM AND THE LETTER THE STATE FUND USED TO RECIEVE APPELETE PRIVITE HEALTH RECORDS ALONG WITH THE LETTER THAT WAS SENT WITH THE RELEASE FORM USED ON DEC 1 2008 TO GET APPELETES MEDICAL RECORDS FOM THE IDAHO DEPARTMENT OF CORRECTION.

4.) THE MEDICAL RELEASE FORM AND THE LETTER THE STATE FUND USED TO RECIEVE THE APPELETES PRIVIT HEALTH RECORD FROM SAIF INSURANCE OUT OF OREGON ON AUG, 7 2008.

5.) THE MEDICAL RELEASE FORM ALONG WITH THE LETTER THAT THE STATE FUND USED ON AUG II 2008 TO RECIEVE THE APPELETES PRIVITE HEATH RECORDS FROM HOLY ROSERY HOSPITAL IN ONTERIO OR.

THANK YOU FOR YOUR TIME.

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9  
AMEND TO ADD GRANTED ATTORNEY FEE

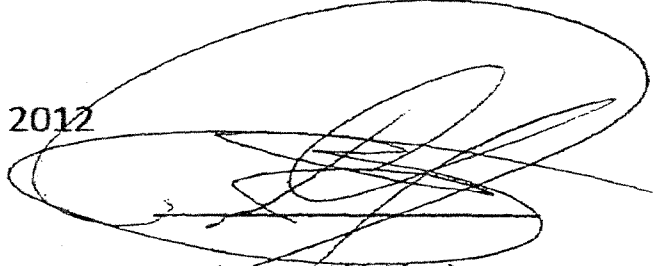
A true and correct copy of this letter has been sent to the following by way of fax.

Lynn m Luker/attorney/legislator 1-208-375-0501

Attorneys for defendant's Rachael O'bar /Mr. hull 1-208-344-5510

Industrial commission; 1-208-332-7558

Sign and dated on the 13 day of July 2012



James W Clark

Please Sent claimant  
Certificate of Service

1389

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant,

v.

CRY BABY FOODS, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,  
Defendants.

IC 2008-013505

CERTIFICATE OF SERVICE

FILED

JUL 13 2012

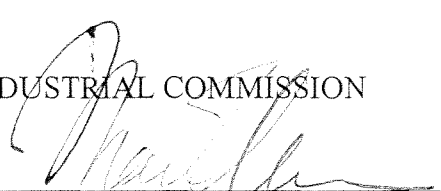
INDUSTRIAL COMMISSION

I hereby certify that on the 13th day of July, 2012, a true and correct copy of Claimant's **Notice of Amending Appeal to Include Granted Attorney Fee** (10 pages), filed in the above matter on July 13, 2012, was served by facsimile process machine upon the following:

ALAN HULL  
RACHAEL O'BAR  
FAX # (208) 344-5510

LYNN M LUKER  
FAX # (208) 375-0501

INDUSTRIAL COMMISSION

  
Marie Wilson  
Assistant Commission Secretary

cc: JAMES W. CLARK  
via Fax

CERTIFICATE OF SERVICE - 1

1390

CERTIFICATION

I, Marie Wilson, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Amending Appeal to Include Granted Attorney Fee; and the whole thereof, in IC case number 2008-013505 for James W. Clark.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Commission this 16<sup>th</sup> day of July, 2012.

  
Assistant Commission Secretary



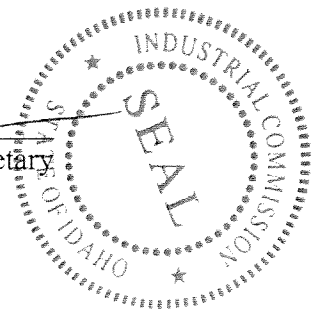
**CERTIFICATION OF RECORD**

I, Marie Wilson, the undersigned Assistant Commission Secretary of the Industrial Commission, do hereby certify that the foregoing record contains true and correct copies of all pleadings, documents, and papers designated to be included in the Agency's Record Supreme Court No. 40016-2012 on appeal by Rule 28(b)(3) of the Idaho Appellate Rules and by the Notice of Appeal, Notice of Amended Appeal to Include Granted Attorney Fee and Defendants' Request for Additional Records, pursuant to the provisions of Rule 28(c).

I further certify that all exhibits offered or admitted in this proceeding, if any, are correctly listed in the List of Exhibits. Said exhibits will be lodged with the Supreme Court upon settlement of the Reporter's Transcript and Agency's Record herein.

DATED this 18<sup>th</sup> day of July, 2012.

  
Assistant Commission Secretary



BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

JAMES W. CLARK,

Claimant-Appellant,

v.

CRY BABE FOODS, LLC, Employer

Defendant,

and

IDAHO STATE INSURANCE FUND,  
Surety,

Defendant-Respondent.

Supreme Court Docket No. 40016-2012  
Industrial Commission No. 2008-013505

NOTICE OF COMPLETION

TO: STEPHEN KENYON, Clerk of the Courts; and  
JAMES W. CLARK, Pro Se Claimant/Appellant; and  
ALAN K. HULL and RACHAEL M. O'BAR, for the Defendant(s) Employer &  
Surety-Respondent.

YOU ARE HEREBY NOTIFIED that the Agency's Record was completed on this date,  
and, pursuant to Rule 24(a) and Rule 27(a), Idaho Appellate Rules, copies of the same have been  
served by regular U.S. mail upon:

JAMES W. CLARK  
3515 HARNEY ST  
VANCOUVER, WA 98660

And by personal delivery upon:

ALAN K. HULL  
RACHAEL M. O'BAR  
250 S 5<sup>th</sup> St, Ste 700  
BOISE ID 83707

YOU ARE FURTHER NOTIFIED that, pursuant to Rule 29(a), Idaho Appellate Rules,  
all parties have twenty-eight days from this date in which to file objections to the Agency's  
**NOTICE OF COMPLETION (docket # 40016-2012 Re: James W. Clark) - 1**



Record, including requests for corrections, additions or deletions. In the event no objections to the Agency's Record are filed within the twenty-eight day period, the Reporter's Transcript and Agency's Record shall be deemed settled.

DATED this 10<sup>th</sup> day of July, 2012.

  
Marie Wilson  
Assistant Commission Secretary

