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Gibson v. Ada County Sheriff's Office Clerk's Record v. 1 Dckt. 34368

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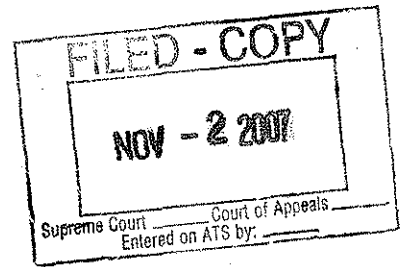
Vol. 1 of 9

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant-Appellant,)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE, Employer,)
 and IDAHO STATE INSURANCE FUND, Surety,)
)
 Defendants-Respondents.)

SUPREME COURT NO. 34368

AGENCY'S RECORD
 VOLUME 1



BEFORE THE INDUSTRIAL COMMISSION
STATE OF IDAHO

CLAIMANT: STACY A. GIBSON

BY: Vernon K. Smith
 1900 West Main Street
 Boise, ID 83702

DEFENDANTS: ADA COUNTY SHERIFF'S OFFICE, Employer and
IDAHO STATE INSURANCE FUND, Surety

BY: Jon M. Bauman
 P.O. Box 1539
 Boise, ID 83701

34368

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STACY A. GIBSON,)
)
 Claimant-Appellant,) **SUPREME COURT NO. 34368**
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 and IDAHO STATE INSURANCE FUND, Surety,) **VOLUME 1**
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Defendants' Response to Claimant's Motion for Reconsideration....filed 5/11/2005	V-5...974
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Defendants' faxed letter to Referee Donohue dated 5/26/2005 & attachments....filed 5/26/2005	V-5...1104
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Defendants' Motion to Compel Attendance at Taking of Electroencephalogram (EEG)....filed 7/8/2005.....	V-6...1140
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Defendants' Motion to Require Supplementation of Discovery Responses & affidavit & exhibits....filed 9/8/2005	V-7...1379
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Defendants' Response to Claimant's Motion to Reestablish Briefing Schedule....filed 10/14/2005.....	V-7...1466
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Defendants' Response to Motion to Strike Deposition Transcript of Cynthia Brownsmith, Ph.D. taken 7/14/2006 & Motion to Strike Reference to Deposition Testimony in Defendants' Post-Hearing Brief & affidavit & exhibits filed 12/13/2006.....	V-8...1597
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LIST OF EXHIBITS

REPORTER'S TRANSCRIPT: Taken SEPTEMBER 12, 2005,
to be lodged with the Supreme Court.

CLAIMANT'S EXHIBITS 1-87:

1. Idaho Supreme Court Decision, Gibson v. Ada County Sheriff's Department, 139 Idaho 5, 72 P .3d 845 (2003).
2. January 30, 2003 Affidavit of Sharon M. Ullman.
3. May 6, 2002 Affidavit of Vernon K. Smith.
4. Vernon K. Smith's September 14, 2001 letter to Jewel Roberts, Senior Claims Examiner, State Insurance Fund.
5. The Idaho Industrial Commission's August 7, 2001 Certification of Service with copies of two (2) letters attached.
6. Stacy A. Gibson's July 9, 2001 letter to Gary Stivers, Director, Idaho Industrial Commission.
7. Gary Stivers June 8, 2001 letter to Vernon K. Smith.
8. Vernon K. Smith's May 15, 2001 letter to Gary Stivers, Director, Idaho Industrial Commission.
9. February 12, 2001 letter with five (5) attachments from Theodore E. Argyle, Chief Civil Deputy Prosecutor for Ada County, to the Ada County Board of Commissioners.
10. R. Monte MacConnell's January 28, 2000 letter to the Idaho State Board of Medicine.
11. Dr. Charles D. Steuart's January 2000 letter to the Idaho State Board of Medicine.
12. A copy of the transcript concerning Claimant's separation hearing before the Ada County Personnel Hearing Officer on January 25th and 26th, 2000.
13. A copy of the handwritten diary John M. Gibson kept from July 20, 1999 through January 12, 2000, detailing his observations of his wife, Stacy Gibson.
14. Legal Advisor to Sheriff Killeen, R. Monte MacConnell's November 3, 1999 letter to Vernon K. Smith.
15. John A. Christensen's August 20, 1999 letter to Greg Bower.
16. Ada County Prosecutor, Greg Bower's August 9, 1999 letter to John A. Christensen, Chief Criminal Deputy Prosecutor, Canyon County, Idaho.
17. Copy of the August 3, 1999 Case Status Report that Detective Arville Glenn forwarded to the Ada County Prosecutor's Office.
18. Transcribed copies of the interrogation of Claimant conducted by Detective Arville Glenn on July 20, 1999.

19. Transcribed copies of the interrogation of Claimant conducted by Detective Scott Johnson on July 20, 1999.
20. A copy of the Ada County Sheriff's Case Log No. !A 99-008, initiated on July 19, 1999.
21. Merrily Wilfong's (Ada County Payroll Technician) July 19, 1999 facsimile transmission to Kelli Bolicek, Ada County Sheriff's Office Budget Director, concerning nine (9) Sheriff's Office employees who County Payroll determined were owed back wages for overtime from October 1998 through June 1999.
22. May 3, 1999 e-mail from Lieutenant Dale Woodcock concerning his search for a non-commissioned officer (white shirt) to undertake advanced training in computers; this position is one of several Claimant, Stacy Gibson, had submitted her name for, so she could receive additional training.
23. Copies of Claimant's Ada County Sheriff's Office Employee Training History concerning additional and correspondence courses she completed from March 22, 1998 through June 17, 1999.
24. Copies of Claimant's Monthly Evaluation Reports from January 16, 1999 through June 1999.
25. Claimant's July 29, 1998 request to Sergeant Gary Rouse for permission to undertake additional off-duty training.
26. Sergeant Gary Rouse's July 2, 1998 response to Claimant's request for additional off-duty training.
27. A copy of Claimant's July 1998 Performance Review Report.
28. Copies of Claimant's Monthly Evaluation Reports from July 19, 1997 through May 19, 1998.
29. Sergeant Gary Rouse's October 24, 1997 response to Claimant's Memorandum regarding payroll errors she had discovered in her wages and benefits.
30. The December 23, 1997 memo from the Legal Advisor to the Ada County Sheriff, confirming the ineligibility of the "white shirt" staff members of the Sheriff's Office to the FLSA "7k exemption" as a means of compensating those employees, as such staff members were not considered "law enforcement" personnel under the provisions of the federal enactment (FLSA).

Dr. Stephen E. Spencer, M.D.

31. R. Monte MacConnell's August 2, 2001 letter to Dr. Stephen E. Spencer, M.D.
32. Dr. Spencer's August 7, 2001 letter to R. Monte MacConnell.
33. R. Monte MacConnell's August 2, 2001 letter to Dr. Stephen E. Spencer, M.D.
34. Dr. Spencer's February 3, 2000 letter to the Idaho State Board of Medicine.
35. Dr. Spencer's November 12, 1999 letter.
36. Dr. Spencer's August 20, 1999 Progress Notes of Claimant, Stacy Gibson.
37. Dr. Spencer's August 20, 1999 letter.
38. Dr. Spencer's letter dated August 5, 1999.

39. Dr. Spencer's July 23, 1999 Progress Notes of Claimant, Stacy Gibson.

Dr. F. LaMarr Heyrend, M.D.

40. Curriculum Vitae of Dr. F. LaMarr Heyrend, M.D. Clinical Psychiatrist.

41. Dr. F. LaMarr Heyrend's September 1, 2005 Affidavit.

42. Dr. F. LaMarr Heyrend's June 23, 2005 Evaluation and diagnosis, prognosis and medial opinion of Claimant's mental health condition, addressing his diagnosis and prognosis of Claimant's Post-Traumatic Stress Disorder (PTSD) and the consequences of her mental and physical disability and impairment, and any resulting condition as a consequence of her workplace injury, described as constituting an accidental psychological "mental-physical" injury under the Worker's Compensation Laws of Idaho.

43. Dr. F. LaMarr Heyrend's May 10, 2005 Affidavit.

44. Dr. F. LaMarr Heyrend's May 6, 2005 letter (and enclosures) to Claimant's counsel, concerning his medical opinion as to the effects and injury of Claimant's mental, emotional and physical health, due to the re-victimizing consequences of more examinations of Claimant by Defendants' medical advocates for Ada County and the State Insurance Fund.

45. The non-scientific graphical representations and portrayal of Claimant's mental, emotional, physical health, behavioral state and her course of conduct from 1994 through April 2005, as prepared by Mr. Gibson, as on April 4, 2005, Dr. Heyrend requested Claimant's husband, John Gibson, reduce to writing a graphically formatted representation of his observations of Claimant as he has recorded them to assist Dr. Heyrend objectively demonstrate how events physically affect a PTSD impaired individual.

46. Dr. Heyrend's April 15, 2005 SPECIAL CORE EVALUATION OF Claimant.

47. Dr. Heyrend's April 4, 2005 two (2) page EEG/EVOKED POTENTIAL REVIEW of Claimant.

48. Dr. F. LaMarr Heyrend's March 31, 2005 auditory, visual evoked- potential and EEG performed on Claimant, Stacy A. Gibson. A complete copy (42 pages) of the data collected and the graphical representations of the electroencephalogram (EEG) brain activity testing Dr. Heyrend performed on Claimant on March 31, 2005.

49. Seven pages from the "Military Veterans PTSD Reference Manual" Dr. Heyrend provided to Defendants and their counsel.

50. Quantitative Electroencephalography Certification Board certification of Dr. F. LaMarr Heyrend's Quantitative EEG Technologist, Mr. Rick Tillery, Certificate No. 76, administered and approved on August 29, 2000.

51. Dr. F. LaMarr Heyrend's March 24, 2005 letter to Vernon K. Smith.

52. Dr. Heyrend's October 24, 2003 Progress Note of Claimant, Stacy Gibson.

53. Dr. Heyrend's October 22, 2003 Progress Note of Claimant, Stacy Gibson.

54. Dr. Heyrend's April 21, 2003 letter to Vernon K. Smith.

55. Dr. Heyrend's December 3, 2002 letter to Dr. Craig Beavers, Ph.D.

56. Dr. Heyrend's December 3, 2002 letter to Vernon K. Smith.

Dr. Joe A. Lipetzky, Psy. D.

57. Curriculum Vitae of Dr. Joe A. Lipetzky, Psy. D., Licensed Psychologist.

58. Dr. Joe A. Lipetzky's April 29, 2004 Evaluation Report, concerning his evaluation, diagnosis and opinions concerning the mental status of Claimant, Stacy Gibson.

Dr. Cynthia Brownsmith, Ph.D.

59. Curriculum vitae of Dr. Cynthia Brownsmith provided to Claimant by Defense counsel on February 20, 2003, prior to Dr. Brownsmith's examination or appointment with Claimant which was to occur on June 20, 2003.

60. Curriculum vitae of Dr. Cynthia Brownsmith obtained by Claimant on April 14, 2005.

61. VHS Video Tape recording of Dr. Brownsmith's April 14, 2005 examination of Claimant, previously submitted to the Commission on June 15, 2005 with Claimant's Memorandum in Support of Petition for Declaratory Ruling, as Exhibit 11.

62. Dr. Cynthia Brownsmith's August 27, 2003 evaluation report concerning her evaluation, diagnosis and opinions on the mental status and physical condition of Claimant, Stacy Gibson.

63. Vernon K. Smith's October 29, 2003 letter to Dr. Cynthia Brownsmith, Ph.D., including attachments and the rebuttal narrative to her August 27, 2003 Evaluation Report of Claimant, Stacy Gibson.

Dr. Richard W. Wilson, M.D.

64. Curriculum vitae of Dr. Richard W. Wilson, M.D.

65. Dr. Richard W. Wilson's evaluation report pertaining to his June 28, 2005 examination, anticipated to address his diagnosis and prognosis of Claimant's Post-Traumatic Stress Disorder (PTSD) and the consequences of her mental and physical disability and impairment, and any resulting condition as a consequence of her workplace injury, described as constituting an accidental psychological "mental-physical" injury under the Worker's Compensation Laws of Idaho.

66. Billing statement from Dr. Richard Wilson, M.D., to Claimant, Stacy A. Gibson, for the sum of \$1,266.00 for an alleged "no show for IME".

State Insurance Fund

67. August 16, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled an EEG appointment for Claimant at St. Alphonsus Regional Medical Center on August 23, 2005, at 10:00 a.m.

68. July 26, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, requesting Claimant choose either August 9, 2005, at 10:00 a.m. or August 11, 2005, at 1:00 p.m. for an EEG appointment at St. Alphonsus Regional Medical Center, with said dates being unilaterally chosen by Ms. Owen and no accommodation given to Claimant or her primary care psychiatrist.

69. June 30, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled an EEG appointment for Claimant at St. Alphonsus Regional Medical Center on July 11, 2005, at 9:30 a.m.
70. June 29, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, requesting Claimant sign and date a Medical Release Authorization form and complete the attached Prior Records form, listing the names and addresses of all doctors seen in the past ten years.
71. May 27, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, requesting Claimant choose June 3, 2005, at 9:00 a.m., June 7, 2005, at 10:00 a.m., June 28, 2005, at 9:00 a.m., or July 1, 2005, at 9:00 a.m. for an EEG appointment at St. Alphonsus Regional Medical Center, with said dates being unilaterally chosen by Ms. Owen and no accommodation given to Claimant or her primary care psychiatrist.
72. May 24, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating the appointment Ms. Owen had unilaterally scheduled for Claimant to be examined by Dr. Richard Wilson on May 26, 2005, at 8:00 a.m. had been cancelled.
73. May 18, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled Claimant to be examined by Dr. Richard W. Wilson, M.D. on May 26, 2005, at 8:00 a.m.
74. April 28, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled Claimant to be examined by Dr. Richard W. Wilson, M.D. on May 11, 2005, at 10:00 a.m.

Pharmaceutical Receipts

75. Claimant's August 23, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
76. Claimant's August 23, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
77. Claimant's July 23, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
78. Claimant's July 23, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
79. Claimant's June 21, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
80. Claimant's June 21, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
81. Claimant's May 17, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
82. Claimant's May 17, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
83. Claimant's April 18, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
84. Claimant's April 6, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
85. Rite Aid Pharmacy Customer History Report for Claimant, Stacy Gibson, generated May 3, 2004, for prescribed medications dispensed to Claimant during the period of January 1, 1998 through May 3, 2004.
86. A copy of Plaintiffs August 8, 1994 Proposed Findings of Fact, Conclusions of Law and Order, from Fourth District Court Case No. 95957, Woodbridge and Perkins v. Ada County and Ada County Sheriff. Vaughn Killeen.

87. Saint Alphonsus Regional Medical Center Electronencephalography Report 8/23/2005

DEFENDANTS' EXHIBITS 1-47:

1. Claimant's First Report of Injury or illness, prepared July 5, 2001.
2. Claimant's Answer to Surety Defendant's First Request for Production of Documents and Interrogatories, dated February 12, 2002.
3. Claimant's Supplemental Responses to Defendants' Request for Production of Documents and Interrogatories, dated December 2, 2002.
4. Claimant's Response to Defendants' Second Set of Interrogatories and Second Request for Production of Documents to Claimant dated June 12, 2003.
5. Claimant's Second Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated July 2, 2003.
6. Claimant's Third Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated August 28, 2003.
7. Tape recording of Arville "Butch" Glenn's interview of Stacy Gibson on July 20, 1999 (Claimant's counsel has a copy and therefore this tape has not been produced herewith).
8. Tape recording of Scott Johnson's interview of Stacy Gibson on July 20, 1999 (Claimant's counsel has a copy and therefore this tape has not been produced I herewith).
9. Transcription of Arville "Butch" Glenn's interview of Stacy Gibson on July 20, 1999.
10. Transcription of Scott Johnson's interview of Stacy Gibson on July 20, 1999.
11. Medical records of Stacy Gibson from Stephen E. Spencer, M.D., Bates labeled 01001-01028.
12. Medical records of Stacy Gibson from John L. Hendricks, M.D., Bates labeled 02001.
13. Medical records of Stacy Gibson from Charles Steuart, M.D., Jail Medical Unit, Ada County Sheriff's office, 03001-03004.
14. Independent Medical Evaluation of Cynthia Brownsmith, Ph.D., dated August 27, 2003, Bates labeled 04001-04024.
15. Medical records of Dr. Wendell Wells, Bates labeled 05001-05014.
16. DSMV-IV-TR Diagnostic Criteria for 309.81 Posttraumatic Stress Disorder.
17. Deposition transcript of LaMarr Heyrend, M.D., taken on October 15, 2003 (Claimant's counsel has a copy and therefore this document has not been produced herewith).
18. Deposition transcript of LaMarr Heyrend, M.D., taken on May 5, 2005 (Claimant's counsel has a copy and therefore this document has not been produced herewith).
19. Deposition transcript of Stacy Gibson (Claimant's counsel has a copy and therefore this document has not been produced herewith).

20. Representative samples of pay vouchers of Stacy Gibson, dated October 22, 1998 and May 20, 1999.
21. Claimant's Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, and Response to Defendants' Fourth Request for Production of Documents and Interrogatories to Claimant, received November 25, 2003.
22. Claimant's Fifth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, received May 3, 2004.
23. Claimant's Sixth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated November 14, 2004.
24. Claimant's Seventh Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated May 6, 2005.
25. Claimant's Eighth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated June 24, 2005.
26. Claimant's Ninth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated July 8, 2005.
27. Claimant's Tenth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated August 18, 2005.
28. Claimant's Response to Defendants' Fourth Request for Production of Documents, dated August 19, 2005.
29. Claimant's Eleventh Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated August 25, 2005.
30. Curriculum vitae of Cynthia Brownsmith, Ph.D., pgs. 1-9.
31. Practice Guideline for the Treatment of Patients with Acute Stress Disorder and PostTraumatic Stress Disorder, pgs. 1-57.
32. A Multidimensional Meta-Analysis of Psychotherapy for PTSD, pgs. 214-227; 33. Blue Cross/Blue Shield, Medical Records Standards, pgs. 1-2.
34. Psychiatrist's Malpractice Record Keeping Guidelines, pgs. 1-2.
35. PostTraumatic Stress Disorder, The Courtroom Diagnosis, pgs. 1-2.
36. Treating Patients with Acute Stress Disorder and PostTraumatic Stress Disorder, pgs. I-21.
37. PTSD, the Traumatic Principle and Lawsuits, pgs. 1-7.
38. Forensic Validity of a PTSD Diagnosis, pgs. 1-4.
39. Assessment of digital BEG, quantitative BEG, and EEG brain mapping: report of the American Academy of Neurology and the American Clinical Neurophysiology Society, pgs. 1-3;

40. Assessment of Digital EEG, Quantitive EEG, and EEG Brain Mapping, pgs. 1-23.
41. Diagnostic Criteria for PTSD.
42. Commonplace Anger, pgs. 1-2.
43. Curriculum Vitae of Dr. Richard Wilson.
44. Diagnostic Criteria for Dissociative Fugue, 300.13. Diagnostic and Statistical Manual IV -T -R.

DEPOSITIONS:

1. Stacy A. Gibson taken January 28, 2003
2. F. LaMarr Heyrend, M.D., taken October 15, 2003
3. F. LaMarr Heyrend, M.D., taken May 5, 2005
4. Joseph A. Lipetzky, Psy.D., taken September 26, 2005
5. F. LaMarr Heyrend, M.D., taken November 17, 2005
6. F. LaMarr Heyrend, M.D., taken January 19, 2006
7. Richard W. Wilson, M.D., taken January 25, 2006
8. Richard W. Wilson, M.D., taken March 26, 2006
9. Cynthia Brownsmith, Ph.D., taken July 14, 2006

ADDITIONAL DOCUMENTS - BRIEFS:

1. Claimant Opening Brief filed July 5, 2006
2. Claimant Opening Brief filed October 2, 2006
3. Defendants' Post-Hearing Brief filed October 27, 2006
4. Claimant's Reply Brief filed December 8, 2006

ADDITIONAL DOCUMENTS - PETITIONS DECLARATORY RULING:

1. Claimant's Petition for Entry of Declaratory Ruling with supporting memo filed June 15, 2005, includes Ex. 11 video (2 tapes) Dr. Brownsmith interview of Stacy A. Gibson and John Gibson on April 14, 2005
2. Defendants' Response to Petition for Entry Declaratory Ruling filed June 29, 2005
3. Claimant's Reply to Defendants' Response to Petition for Entry of Declaratory Ruling filed July 15, 2005
4. Industrial Commission's Order Dismissing Petition for Declaratory Ruling filed August 15, 2005

5. Claimant Motion to Reconsider Idaho Industrial Commission's Interlocutory Order Entered August 15, 2005, and Motion to Clarify the Language and Meaning Contained in that Order with memo filed August 31, 2005
6. Claimant's Petition for Declaratory Ruling on Construction and Application of Idaho's Worker's Compensation Lay, Under §72-451 and §72-102, Idaho Code , with memo filed September 1, 2005
7. Industrial Commission's Notice of Intent to Rule on Motion filed September 1, 2005
8. Defendants' Response to Claimant Motion to Reconsider Idaho Industrial Commission's Interlocutory Order [SIC] Entered August 15, 2005, and Motion to Clarify the Language and Meaning Contained in that Order filed August 31, 2005
9. Industrial Commission's Order Denying Motion to Reconsider filed September 2, 2005
10. Industrial Commission's Order Dismissing Petition for Declaratory Ruling filed September 2, 2005
11. Defendants' Response Claimant's Petition for Declaratory Ruling on Construction and Application of Idaho's Worker's Compensation Lay, Under §72-451 and §72-102, Idaho Code filed September 1, 2005

ADDITIONAL DOCUMENTS - ATTORNEY FEES:

1. Claimant's Motion to Compel Payment of Medical Bill with exhibits filed July 13, 2007
2. Defendants' Response to Claimant Motion to Compel Payment of Medical Bill filed July 27, 2007
3. Claimant's Objection to Defendant's Response to Claimant's motion to Compel Payment of Medical Bill filed August 1, 2007
4. Industrial Commission's Order to Compel Payment filed August 2, 2007
5. Claimant's Affidavit of Vernon K. Smith for Attorney Fees filed August 10, 2007
6. Industrial Commission's Order on Attorney Fees filed August 23, 2007
7. Defendants' Motion to Enforce Order Compelling Payment of Fees to Medical Provider filed September 7, 2007
8. Pending Claimant's Response
9. Pending Industrial Commission's Order Regarding Defendants' Motion to Compel Payment

AMENDED LIST OF EXHIBITS

REPORTER'S TRANSCRIPT: Taken SEPTEMBER 12, 2005,
to be lodged with the Supreme Court.

CLAIMANT'S EXHIBITS 1-87:

1. Idaho Supreme Court Decision, Gibson v. Ada County Sheriff's Department, 139 Idaho 5, 72 P .3d 845 (2003).
2. January 30, 2003 Affidavit of Sharon M. Ullman.
3. May 6, 2002 Affidavit of Vernon K. Smith.
4. Vernon K. Smith's September 14, 2001 letter to Jewel Roberts, Senior Claims Examiner, State Insurance Fund.
5. The Idaho Industrial Commission's August 7, 2001 Certification of Service with copies of two (2) letters attached.
6. Stacy A. Gibson's July 9, 2001 letter to Gary Stivers, Director, Idaho Industrial Commission.
7. Gary Stivers June 8, 2001 letter to Vernon K. Smith.
8. Vernon K. Smith's May 15, 2001 letter to Gary Stivers, Director, Idaho Industrial Commission.
9. February 12, 2001 letter with five (5) attachments from Theodore E. Argyle, Chief Civil Deputy Prosecutor for Ada County, to the Ada County Board of Commissioners.
10. R. Monte MacConnell's January 28, 2000 letter to the Idaho State Board of Medicine.
11. Dr. Charles D. Steuart's January 2000 letter to the Idaho State Board of Medicine.
12. A copy of the transcript concerning Claimant's separation hearing before the Ada County Personnel Hearing Officer on January 25th and 26th, 2000.
13. A copy of the handwritten diary John M. Gibson kept from July 20, 1999 through January 12, 2000, detailing his observations of his wife, Stacy Gibson.
14. Legal Advisor to Sheriff Killeen, R. Monte MacConnell's November 3, 1999 letter to Vernon K. Smith.
15. John A. Christensen's August 20, 1999 letter to Greg Bower.
16. Ada County Prosecutor, Greg Bower's August 9, 1999 letter to John A. Christensen, Chief Criminal Deputy Prosecutor, Canyon County, Idaho.
17. Copy of the August 3, 1999 Case Status Report that Detective Arville Glenn forwarded to the Ada County Prosecutor's Office.
18. Transcribed copies of the interrogation of Claimant conducted by Detective Arville Glenn on July 20, 1999.
19. Transcribed copies of the interrogation of Claimant conducted by Detective Scott Johnson on July 20, 1999.

20. A copy of the Ada County Sheriff's Case Log No. !A 99-008, initiated on July 19, 1999.
21. Merrily Wilfong's (Ada County Payroll Technician) July 19, 1999 facsimile transmission to Kelli Bolicek, Ada County Sheriff's Office Budget Director, concerning nine (9) Sheriff's Office employees who County Payroll determined were owed back wages for overtime from October 1998 through June 1999.
22. May 3, 1999 e-mail from Lieutenant Dale Woodcock concerning his search for a non-commissioned officer (white shirt) to undertake advanced training in computers; this position is one of several Claimant, Stacy Gibson, had submitted her name for, so she could receive additional training.
23. Copies of Claimant's Ada County Sheriff's Office Employee Training History concerning additional and correspondence courses she completed from March 22, 1998 through June 17, 1999.
24. Copies of Claimant's Monthly Evaluation Reports from January 16, 1999 through June 1999.
25. Claimant's July 29, 1998 request to Sergeant Gary Rouse for permission to undertake additional off-duty training.
26. Sergeant Gary Rouse's July 2, 1998 response to Claimant's request for additional off-duty training.
27. A copy of Claimant's July 1998 Performance Review Report.
28. Copies of Claimant's Monthly Evaluation Reports from July 19, 1997 through May 19, 1998.
29. Sergeant Gary Rouse's October 24, 1997 response to Claimant's Memorandum regarding payroll errors she had discovered in her wages and benefits.
30. The December 23, 1997 memo from the Legal Advisor to the Ada County Sheriff, confirming the ineligibility of the "white shirt" staff members of the Sheriff's Office to the FLSA "7k exemption" as a means of compensating those employees, as such staff members were not considered "law enforcement" personnel under the provisions of the federal enactment (FLSA).

Dr. Stephen E. Spencer, M.D.

31. R. Monte MacConnell's August 2, 2001 letter to Dr. Stephen E. Spencer, M.D.
32. Dr. Spencer's August 7, 2001 letter to R. Monte MacConnell.
33. R. Monte MacConnell's August 2, 2001 letter to Dr. Stephen E. Spencer, M.D.
34. Dr. Spencer's February 3, 2000 letter to the Idaho State Board of Medicine.
35. Dr. Spencer's November 12, 1999 letter.
36. Dr. Spencer's August 20, 1999 Progress Notes of Claimant, Stacy Gibson.
37. Dr. Spencer's August 20, 1999 letter.
38. Dr. Spencer's letter dated August 5, 1999.
39. Dr. Spencer's July 23, 1999 Progress Notes of Claimant, Stacy Gibson.

Dr. F. LaMarr Heyrend, M.D.

40. Curriculum Vitae of Dr. F. LaMarr Heyrend, M.D. Clinical Psychiatrist.
41. Dr. F. LaMarr Heyrend's September 1, 2005 Affidavit.
42. Dr. F. LaMarr Heyrend's June 23, 2005 Evaluation and diagnosis, prognosis and medial opinion of Claimant's mental health condition, addressing his diagnosis and prognosis of Claimant's Post-Traumatic Stress Disorder (PTSD) and the consequences of her mental and physical disability and impairment, and any resulting condition as a consequence of her workplace injury, described as constituting an accidental psychological "mental-physical" injury under the Worker's Compensation Laws of Idaho.
43. Dr. F. LaMarr Heyrend's May 10, 2005 Affidavit.
44. Dr. F. LaMarr Heyrend's May 6, 2005 letter (and enclosures) to Claimant's counsel, concerning his medical opinion as to the effects and injury of Claimant's mental, emotional and physical health, due to the re-victimizing consequences of more examinations of Claimant by Defendants' medical advocates for Ada County and the State Insurance Fund.
45. The non-scientific graphical representations and portrayal of Claimant's mental, emotional, physical health, behavioral state and her course of conduct from 1994 through April 2005, as prepared by Mr. Gibson, as on April 4, 2005, Dr. Heyrend requested Claimant's husband, John Gibson, reduce to writing a graphically formatted representation of his observations of Claimant as he has recorded them to assist Dr. Heyrend objectively demonstrate how events physically affect a PTSD impaired individual.
46. Dr. Heyrend's April 15, 2005 SPECIAL CORE EVALUATION OF Claimant.
47. Dr. Heyrend's April 4, 2005 two (2) page EEG/EVOKED POTENTIAL REVIEW of Claimant.
48. Dr. F. LaMarr Heyrend's March 31, 2005 auditory, visual evoked- potential and EEG performed on Claimant, Stacy A. Gibson. A complete copy (42 pages) of the data collected and the graphical representations of the electroencephalogram (EEG) brain activity testing Dr. Heyrend performed on Claimant on March 31, 2005.
49. Seven pages from the "Military Veterans PTSD Reference Manual" Dr. Heyrend provided to Defendants and their counsel.
50. Quantitative Electroencephalography Certification Board certification of Dr. F. LaMarr Heyrend's Quantitative EEG Technologist, Mr. Rick Tillery, Certificate No. 76, administered and approved on August 29, 2000.
51. Dr. F. LaMarr Heyrend's March 24, 2005 letter to Vernon K. Smith.
52. Dr. Heyrend's October 24, 2003 Progress Note of Claimant, Stacy Gibson.
53. Dr. Heyrend's October 22, 2003 Progress Note of Claimant, Stacy Gibson.
54. Dr. Heyrend's April 21, 2003 letter to Vernon K. Smith.
55. Dr. Heyrend's December 3, 2002 letter to Dr. Craig Beavers, Ph.D.
56. Dr. Heyrend's December 3, 2002 letter to Vernon K. Smith.

Dr. Joe A. Lipetzky, Psy. D.

57. Curriculum Vitae of Dr. Joe A. Lipetzky, Psy. D., Licensed Psychologist.
58. Dr. Joe A. Lipetzky's April 29, 2004 Evaluation Report, concerning his evaluation, diagnosis and opinions concerning the mental status of Claimant, Stacy Gibson.

Dr. Cynthia Brownsmith, Ph.D.

59. Curriculum vitae of Dr. Cynthia Brownsmith provided to Claimant by Defense counsel on February 20, 2003, prior to Dr. Brownsmith's examination or appointment with Claimant which was to occur on June 20, 2003.
60. Curriculum vitae of Dr. Cynthia Brownsmith obtained by Claimant on April 14, 2005.
61. VHS Video Tape recording of Dr. Brownsmith's April 14, 2005 examination of Claimant, previously submitted to the Commission on June 15, 2005 with Claimant's Memorandum in Support of Petition for Declaratory Ruling, as Exhibit 11.
62. Dr. Cynthia Brownsmith's August 27, 2003 evaluation report concerning her evaluation, diagnosis and opinions on the mental status and physical condition of Claimant, Stacy Gibson.
63. Vernon K. Smith's October 29, 2003 letter to Dr. Cynthia Brownsmith, Ph.D., including attachments and the rebuttal narrative to her August 27, 2003 Evaluation Report of Claimant, Stacy Gibson.

Dr. Richard W. Wilson, M.D.

64. Curriculum vitae of Dr. Richard W. Wilson, M.D.
65. Dr. Richard W. Wilson's evaluation report pertaining to his June 28, 2005 examination, anticipated to address his diagnosis and prognosis of Claimant's Post-Traumatic Stress Disorder (PTSD) and the consequences of her mental and physical disability and impairment, and any resulting condition as a consequence of her workplace injury, described as constituting an accidental psychological "mental-physical" injury under the Worker's Compensation Laws of Idaho.
66. Billing statement from Dr. Richard Wilson, M.D., to Claimant, Stacy A. Gibson, for the sum of \$1,266.00 for an alleged "no show for IME".

State Insurance Fund

67. August 16, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled an EEG appointment for Claimant at St. Alphonsus Regional Medical Center on August 23, 2005, at 10:00 a.m.
68. July 26, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, requesting Claimant choose either August 9, 2005, at 10:00 a.m. or August 11, 2005, at 1 :00 p.m. for an EEG appointment at St. Alphonsus Regional Medical Center, with said dates being unilaterally chosen by Ms. Owen and no accommodation given to Claimant or her primary care psychiatrist.
69. June 30, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled an EEG appointment for Claimant at St. Alphonsus Regional Medical Center on July 11, 2005, at 9:30 a.m.

70. June 29, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, requesting Claimant sign and date a Medical Release Authorization form and complete the attached Prior Records form, listing the names and addresses of all doctors seen in the past ten years.
71. May 27, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, requesting Claimant choose June 3, 2005, at 9:00 a.m., June 7, 2005, at 10:00 a.m., June 28, 2005, at 9:00 a.m., or July 1, 2005, at 9:00 a.m. for an EEG appointment at St. Alphonsus Regional Medical Center, with said dates being unilaterally chosen by Ms. Owen and no accommodation given to Claimant or her primary care psychiatrist.
72. May 24, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating the appointment Ms. Owen had unilaterally scheduled for Claimant to be examined by Dr. Richard Wilson on May 26, 2005, at 8:00 a.m. had been cancelled.
73. May 18, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled Claimant to be examined by Dr. Richard W. Wilson, M.D. on May 26, 2005, at 8:00 a.m.
74. April 28, 2005 letter from Jewel Owen to Claimant, Stacy A. Gibson, indicating she had unilaterally scheduled Claimant to be examined by Dr. Richard W. Wilson, M.D. on May 11, 2005, at 10:00 a.m.

Pharmaceutical Receipts

75. Claimant's August 23, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
76. Claimant's August 23, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
77. Claimant's July 23, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
78. Claimant's July 23, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
79. Claimant's June 21, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
80. Claimant's June 21, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
81. Claimant's May 17, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
82. Claimant's May 17, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
83. Claimant's April 18, 2005 Costco Pharmacy receipt for Guanabenz, prescribed by Dr. Heyrend.
84. Claimant's April 6, 2005 Costco Pharmacy receipt for Lexapro, prescribed by Dr. Heyrend.
85. Rite Aid Pharmacy Customer History Report for Claimant, Stacy Gibson, generated May 3, 2004, for prescribed medications dispensed to Claimant during the period of January 1, 1998 through May 3, 2004.
86. A copy of Plaintiffs August 8, 1994 Proposed Findings of Fact, Conclusions of Law and Order, from Fourth District Court Case No. 95957, Woodbridge and Perkins v. Ada County and Ada County Sheriff. Vaughn Killeen.
87. Saint Alphonsus Regional Medical Center Electroencephalography Report 8/23/2005

DEFENDANTS' EXHIBITS 1-47:

1. Claimant's First Report of Injury or illness, prepared July 5, 2001.
2. Claimant's Answer to Surety Defendant's First Request for Production of Documents and Interrogatories, dated February 12, 2002.
3. Claimant's Supplemental Responses to Defendants' Request for Production of Documents and Interrogatories, dated December 2, 2002.
4. Claimant's Response to Defendants' Second Set of Interrogatories and Second Request for Production of Documents to Claimant dated June 12, 2003.
5. Claimant's Second Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated July 2, 2003.
6. Claimant's Third Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated August 28, 2003.
7. Tape recording of Arville "Butch" Glenn's interview of Stacy Gibson on July 20, 1999 (Claimant's counsel has a copy and therefore this tape has not been produced herewith).
8. Tape recording of Scott Johnson's interview of Stacy Gibson on July 20, 1999 (Claimant's counsel has a copy and therefore this tape has not been produced I herewith).
9. Transcription of Arville "Butch" Glenn's interview of Stacy Gibson on July 20, 1999.
10. Transcription of Scott Johnson's interview of Stacy Gibson on July 20, 1999.
11. Medical records of Stacy Gibson from Stephen E. Spencer, M.D., Bates labeled 01001-01028.
12. Medical records of Stacy Gibson from John L. Hendricks, M.D., Bates labeled 02001.
13. Medical records of Stacy Gibson from Charles Steuart, M.D., Jail Medical Unit, Ada County Sheriff's office, 03001-03004.
14. Independent Medical Evaluation of Cynthia Brownsmith, Ph.D., dated August 27, 2003, Bates labeled 04001-04024.
15. Medical records of Dr. Wendell Wells, Bates labeled 05001-05014.
16. DSMV-IV-TR Diagnostic Criteria for 309.81 Posttraumatic Stress Disorder.
17. Deposition transcript of LaMarr Heyrend, M.D., taken on October 15, 2003 (Claimant's counsel has a copy and therefore this document has not been produced herewith).
18. Deposition transcript of LaMarr Heyrend, M.D., taken on May 5, 2005 (Claimant's counsel has a copy and therefore this document has not been produced herewith).
19. Deposition transcript of Stacy Gibson (Claimant's counsel has a copy and therefore this document has not been produced herewith).
20. Representative samples of pay vouchers of Stacy Gibson, dated October 22, 1998 and May 20, 1999.

21. Claimant's Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, and Response to Defendants' Fourth Request for Production of Documents and Interrogatories to Claimant, received November 25, 2003.
22. Claimant's Fifth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, received May 3, 2004.
23. Claimant's Sixth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated November 14, 2004.
24. Claimant's Seventh Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated May 6, 2005.
25. Claimant's Eighth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated June 24, 2005.
26. Claimant's Ninth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated July 8, 2005.
27. Claimant's Tenth Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated August 18, 2005.
28. Claimant's Response to Defendants' Fourth Request for Production of Documents, dated August 19, 2005.
29. Claimant's Eleventh Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, dated August 25, 2005.
30. Curriculum vitae of Cynthia Brownsmith, Ph.D., pgs. 1-9.
31. Practice Guideline for the Treatment of Patients with Acute Stress Disorder and PostTraumatic Stress Disorder, pgs. 1-57.
32. A Multidimensional Meta-Analysis of Psychotherapy for PTSD, pgs. 214-227; 33. Blue Cross/Blue Shield, Medical Records Standards, pgs. 1-2.
34. Psychiatrist's Malpractice Record Keeping Guidelines, pgs. 1-2.
35. PostTraumatic Stress Disorder, The Courtroom Diagnosis, pgs. 1-2.
36. Treating Patients with Acute Stress Disorder and PostTraumatic Stress Disorder, pgs.I-21.
37. PTSD, the Traumatic Principle and Lawsuits, pgs. 1-7.
38. Forensic Validity of a PTSD Diagnosis, pgs. 1-4.
39. Assessment of digital EEG, quantitative EEG, and EEG brain mapping: report of the American Academy of Neurology and the American Clinical Neurophysiology Society, pgs. 1-3;
40. Assessment of Digital EEG, Quantitative EEG, and EEG Brain Mapping, pgs. 1-23.
41. Diagnostic Criteria for PTSD.

42. Commonplace Anger, pgs. 1-2.
43. Curriculum Vitae of Dr. Richard Wilson.
44. Diagnostic Criteria for Dissociative Fugue, 300.13. Diagnostic and Statistical Manual IV -T -R.
45. Claimant's 13th Supplemental Response to Defendants' Request for Production of Documents and Interrogatories dated September 9, 2005
46. Attachment Claimant's Rule 10 Disclosure of Witnesses and Exhibits dated May 3, 2004 to Defendants' Motion in Limine filed May 5, 2004
47. Dept. Veterans Affairs Best Practice Manual for posttraumatic Stress Disorder (PTSD) Compensation and Pension Examinations

DEPOSITIONS:

1. Stacy A. Gibson taken January 28, 2003
2. F. LaMarr Heyrend, M.D., taken October 15, 2003
3. F. LaMarr Heyrend, M.D., taken May 5, 2005
4. Joseph A. Lipetzky, Psy.D., taken September 26, 2005
5. F. LaMarr Heyrend, M.D., taken November 17, 2005
6. F. LaMarr Heyrend, M.D., taken January 19, 2006
7. Richard W. Wilson, M.D., taken January 25, 2006
8. Richard W. Wilson, M.D., taken March 26, 2006
9. Cynthia Brownsmith, Ph.D., taken July 14, 2006

ADDITIONAL DOCUMENTS - BRIEFS:

1. Claimant Opening Brief filed July 5, 2006
2. Claimant Opening Brief filed October 2, 2006
3. Defendants' Post-Hearing Brief filed October 27, 2006
4. Claimant's Reply Brief filed December 8, 2006

ADDITIONAL DOCUMENTS - PETITIONS DECLARATORY RULING:

1. Claimant's Petition for Entry of Declaratory Ruling with supporting memo filed June 15, 2005, includes Ex. 11 video (2 tapes) Dr. Brownsmith interview of Stacy A. Gibson and John Gibson on April 14, 2005
2. Defendants' Response to Petition for Entry Declaratory Ruling filed June 29, 2005
3. Claimant's Reply to Defendants' Response to Petition for Entry of Declaratory Ruling filed July 15, 2005
4. Industrial Commission's Order Dismissing Petition for Declaratory Ruling filed August 15, 2005

5. Claimant Motion to Reconsider Idaho Industrial Commission's Interlocutory Order Entered August 15, 2005, and Motion to Clarify the Language and Meaning Contained in that Order with memo filed August 31, 2005
6. Claimant's Petition for Declaratory Ruling on Construction and Application of Idaho's Worker's Compensation Lay, Under §72-451 and §72-102, Idaho Code , with memo filed September 1, 2005
7. Industrial Commission's Notice of Intent to Rule on Motion filed September 1, 2005
8. Defendants' Response to Claimant Motion to Reconsider Idaho Industrial Commission's Interlocutory Order [SIC] Entered August 15, 2005, and Motion to Clarify the Language and Meaning Contained in that Order filed August 31, 2005
9. Industrial Commission's Order Denying Motion to Reconsider filed September 2, 2005
10. Industrial Commission's Order Dismissing Petition for Declaratory Ruling filed September 2, 2005
11. Defendants' Response Claimant's Petition for Declaratory Ruling on Construction and Application of Idaho's Worker's Compensation Lay, Under §72-451 and §72-102, Idaho Code filed September 1, 2005

ADDITIONAL DOCUMENTS - ATTORNEY FEES:

1. Claimant's Motion to Compel Payment of Medical Bill with exhibits filed July 13, 2007
2. Defendants' Response to Claimant Motion to Compel Payment of Medical Bill filed July 27, 2007
3. Claimant's Objection to Defendant's Response to Claimant's motion to Compel Payment of Medical Bill filed August 1, 2007
4. Industrial Commission's Order to Compel Payment filed August 2, 2007
5. Claimant's Affidavit of Vernon K. Smith for Attorney Fees filed August 10, 2007
6. Industrial Commission's Order on Attorney Fees filed August 23, 2007
7. Defendants' Motion to Enforce Order Compelling Payment of Fees to Medical Provider with Memorandum and Affidavit of Matthews C. Parks in Support of Motion to Enforce Order filed September 7, 2007
8. Claimant's Response and Objection to Defendants' Motion to Enforce Payment to Medical Provider filed September 20, 2007
9. Industrial Commission's Order Regarding Defendants' Motion to Compel Payment filed October 4, 2007

**WORKERS' COMPENSATION
COMPLAINT**

01-015332

CLAIMANT'S NAME AND ADDRESS Stacy A. Gibson 5501 Tinker St. Boise, ID 83709 (208) 362-1471		CLAIMANT'S ATTORNEY'S NAME, ADDRESS, AND TELEPHONE NUMBER Vernon K. Smith 1900 W. Main Street Boise, ID 83702 (208) 345-1125	
EMPLOYER'S NAME AND ADDRESS Ada County Sheriff's office 7200 Barrister Drive Boise, ID 83704		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS	
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDATE [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 7/29/99	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho, Ada		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE OF: \$400, PURSUANT TO §72-419, IDAHO CODE \$1,575/mo + OT	
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) See my attached statement			
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE See attached statements from Stephen E. Spencer, MD.			
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? All benefits to which I am entitled to under Idaho law.			
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER See attached Doctor statements		TO WHOM YOU GAVE NOTICE R. Monte MacConnell	
HOW NOTICE WAS GIVEN: <input checked="" type="checkbox"/> ORAL <input checked="" type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE SPECIFY R. Monte MacConnell notified. file workers compensation claim. Ada County and Vernon K. Smith requested R. Monte MacConnell to			
ISSUE OR ISSUES INVOLVED I suffered permanent work related disability and impairment resulting from inappropriate conduct in the workplace. Ada County refused to file my claim hoping to minimize effects of their misconduct. I have a permanent psychological injury, resulting in posttraumatic shock, migraine headaches, anxiety, and depression, all stemming from the conduct pursued from the forced environment during employment.			

DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? YES NO IF SO, PLEASE STATE WHY.

NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL SPECIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002

1

PHYSICIANS WHO TREATED CLAIMANT (NAME AND ADDRESS)

Stephen E. Spencer
Internal Medicine Specialists
6094 Emerald, Suite #2
Boise, ID 83704
(208) 367-6575

WHAT MEDICAL COSTS HAVE YOU INCURRED TO DATE? \$944

WHAT MEDICAL COSTS HAS YOUR EMPLOYER PAID, IF ANY? \$0 WHAT MEDICAL COSTS HAVE YOU PAID, IF ANY? \$794

I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE. YES NO

DATE July 5, 2001

SIGNATURE OF CLAIMANT OR ATTORNEY
Stacy A. Gibson

PLEASE ANSWER THE SET OF QUESTIONS IMMEDIATELY BELOW
ONLY IF CLAIM IS MADE FOR DEATH BENEFITS

NAME OF DECEASED	DATE OF DEATH	RELATION OF DECEASED TO CLAIMANT
WAS CLAIMANT DEPENDENT ON DECEASED? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID CLAIMANT LIVE WITH DECEASED AT TIME OF ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	

CLAIMANT MUST COMPLETE, SIGN AND DATE THE FOLLOWING:

MEDICAL RELEASE FORM

I hereby authorize any defendant and defendants' legal counsel, at their sole expense, to examine, inspect, receive or take copies of any medical reports, records, x-rays or test results of hospitals, physicians or any other person, or to receive information from any person having examined me and their diagnosis, relative to my past, present and future physical and mental condition.

I also authorize and direct that a duplicate set of all documents or written records provided to said law firm, or any individual member thereof, also be provided to me or my attorney, Vernon K. Smith. The defendant requesting my records shall bear the expense incurred in production of such duplicate set.

I further authorize that copies of this authorization may be used in lieu of the original. THIS AUTHORIZATION IS VALID ONLY FOR THE DURATION OF THE PENDING LITIGATION. It is further understood that all information obtained under this authorization shall be regarded as confidential and maintained as such.

Dated this 5th day of July, 2001

Stacy A. Gibson
Claimant's Signature

NOTICE! An Employer or Insurance Company served with a Complaint must file an Answer on Form I.C. 1003 with the Industrial Commission within 21 days of the date of service as specified on the certificate of mailing to avoid default. If no answer is filed, a Default Award may be entered!

Further information may be obtained from: Industrial Commission, Judicial Division, P.O. Box 83720, Boise, Idaho 83720-0041 (208) 334-6000

(COMPLETE CERTIFICATE OF SERVICE ON PAGE 3)

PLEASE COMPLETE

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of _____, 19____, I caused to be served a true and correct copy of the foregoing Complaint upon:

EMPLOYER'S NAME AND ADDRESS

SURETY'S NAME AND ADDRESS

via: personal service of process

via: personal service of process

regular U.S. Mail

regular U.S. Mail

I have not served a copy of the Complaint on anyone.

Signature

1/14/2002
copy to Jon Bauman
JUB

13

July 13, 2001

Gary Stivers
Director
Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

RE: Stacy A. Gibson
Taxpayer ID Number: 518-78-2239

RECEIVED
INDUSTRIAL COMMISSION
2001 JUL 16 A 10:07

Dear Mr. Stivers:

Enclosed is the completed First Report of Injury form for Stacy A. Gibson, and the Workers' Compensation Complaint form. I will be representing Ms. Gibson in regard to this worker's compensation claim, and it is so entered on the forms.

If we can be of further assistance regarding this case, please so advise. Until then, I remain,

Yours very truly,


Vernon K. Smith

4

5501 Tinker St.
Boise, ID 83709

July 9, 2001

Gary Stivers
Director
Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

Dear Mr. Stivers:

This statement is made to clarify and complete requested information on the First Report of Injury and Workers' Compensation Complaint forms.

Ada County Sheriff's Office personnel created and pursued psychological work place misconduct and discrimination, and were reckless, careless and frivolous in their conduct, causing long-term emotional and psychological complications and need for medical attention while I was still employed, and continuing after the result of forced separation.

I endured a lengthy interrogation (by two different detectives) consisting of false, malicious, and inappropriate accusations and contentions that were intended to induce me to voluntarily turn in my resignation. On July 28, 1999, R. Monte MacConnell, Legal Advisor to the Sheriff, notified me through my attorney, Sheriff Vaughn Killeen was really irrate over this issue of ongoing over-payment, and the sheriff was giving me a choice; I was to either immediately turn in my resignation, and if I did not do so, I would be prosecuted for grand theft as a result of these over-payments.

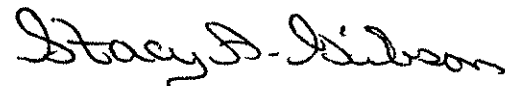
On October 5, 1999, Sheriff Killeen, through his Legal Advisor, R. Monte MacConnell, 'ordered' me to see Dr. Charles Steuart, at the Ada County Jail Medical Facility, as they were questioning my emotional state from their course of abusive conduct. I reluctantly did as I was ordered to do, as I was still on "Administrative Leave", not yet terminated, but was supposed to have medical benefits in full force, notwithstanding the "Administrative Leave Without Pay" status I was placed on, without prior hearing. Four written requests have been made to obtain my medical records from this doctors appointment, but without success to date, and the County states no such medical diagnosis currently exists.

Additionally, R. Monte MacConnell breached a fundamental commitment to maintain my medical benefits when he placed me on "Administrative Leave", and he unilaterally denied me and my family access to the group medical benefits, associated with my employment package.

My employer, Ada County Sheriff's Office, was fully aware of my medical condition, and the reason it was not reported to you, is they were trying to cover it up, as if the situation never existed, as they wanted to complete termination if I would not resign, and hopefully bring closure to the disputes without causing further complications from the environment they created.

If further information is needed about this case, please contact me through my attorney, Vernon K. Smith.

Sincerely,

A handwritten signature in cursive script that reads "Stacy A. Gibson".

Stacy A. Gibson



Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: 08/30/1958

August 5, 1999

To Whom It May Concern:

RE: Stacy A. Gibson

Dear Sir:

Mrs. Gibson is a patient of mine who has been under tremendous emotional duress lately due to circumstantial difficulties. We are currently trying to stabilize her with medication but her condition has not improved to the point where she can participate in a hearing until further notice.

Yours truly,


STEPHEN E. SPENCER, MD

SES : kc

D/D: 08/05/99

T/D: 08/05/99

PATIENT'S CHART

1



Saint Alphonsus
Regional Medical Center

Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: [REDACTED]

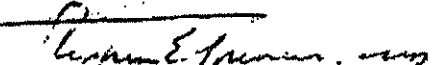
August 20, 1999

To Whom It May Concern:

Dear Sir:

Mrs. Gibson is a patient of mine. She has been under extreme duress for the past month related to her work. She has been extremely depressed and anxious and at times, has panic attacks. Her memory is extremely poor at times and she cannot focus. If she takes medication to reduce the anxiety, then she is too sleepy to focus or remember well. There is no way that she can adequately represent herself in the present emotional state.

Yours truly,


STEPHEN E. SPENCER, MD

SES : kc

D/D: 08/20/99

T/D: 08/20/99

PATIENT'S CHART

1/8



Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: 08/30/1958

November 12, 1999

To Whom It May Concern

Dear Sir:

Mrs. Gibson has been extremely distraught over allegations of embezzlement brought by the Ada County Sheriff's Office. Between severe anxiety attacks and extreme melancholy, she has not been able to effectively deal with even simple issues in her day-to-day life and is in no frame of mind to defend herself against these allegations at this time. I have known Mrs. Gibson for five years and I have never seen her so distraught until these allegations were brought against her. She feels totally out of control because of manipulation by certain members of the Ada County Sheriff's Office. I think it is possible that if Mrs. Gibson were able to acquire information necessary to defend herself and prove her innocence, she might feel more secure and capable of doing so. However, it appears that certain members of the Ada County Sheriff's Office have chosen to prevent her from accessing requested records for her to do so. It would be my assessment that the continued obstructionism by the Ada County Sheriff's Office will perpetuate Mrs. Gibson's insecurity, isolation, anxiety and depression, making it impossible for her to defend herself.

Yours truly,

STEPHEN E. SPENCER, MD

SES : kc

D/D: 11/12/99

T/D: 11/12/99

PATIENT'S CHART

19



Saint Alphonsus
Regional Medical Center

Internal Medicine Specialists

6094 Emerald
Boise, Idaho 83704
(208) 367-6575 XFAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: 08/30/1958

February 3, 2000

RE: Stacy A. Gibson.

Dear Ms. Leonard:

I received a copy of a letter addressed to you from Vaughn Killeen, Ada County Sheriff via R. Monty McConnell, legal advisor to the sheriff and dated January 28, 2000. The content of this letter intentionally distorts information that I have been required to present on behalf of Mrs. Gibson. Mrs. Gibson has been the target of some very serious allegations which greatly impact her future and livelihood. The actions taken against Mrs. Gibson by the county have had a devastating impact on her emotional well-being. This woman is an extremely caring, thoughtful and sensitive person. She has genuinely been severely depressed and terribly anxious and anguished over this predicament. If she had been dealt with in an understanding and supportive way from the beginning, this issue probably would have been promptly resolved. Unfortunately, those in a position of authority chose to attack and impugn her, leaving her powerless to help resolve this issue quickly. The net result was the need for legal representation on her part. The county has been unwilling to provide information necessary for her legal defense and one has to wonder what they are hiding. Mr. and Mrs. Gibson through their attorney have repeatedly requested records of a medical evaluation performed by Dr. Charles Steuart and they have been denied this information. This letter suggests that there is no written documentation of that evaluation which is unfathomable given the seriousness of the circumstance requiring this evaluation. If a permanent record of this interaction does exist, then perhaps the Gibson's have a legal right to review that with their attorney as any patient does have with their medical record.

Yours truly,

STEPHEN E. SPENCER, MD

SS : ar

D/D: 02/04/2000

T/D: 02/04/2000

AMENDED
**WORKERS' COMPENSATION
COMPLAINT**

CLAIMANT'S NAME AND ADDRESS Stacy A. Gibson 5501 Tinker St. Boise, ID 83709 (208) 362-1471	CLAIMANT'S ATTORNEY'S NAME, ADDRESS, AND TELEPHONE NUMBER Vernon K. Smith Attorney at Law 1900 W. Main St. Boise, ID 83702 (208) 345-1125
EMPLOYER'S NAME AND ADDRESS Ada County Sheriff's Office 7200 Barrister Dr. Boise, ID 83704	WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS State Insurance Fund P.O. Box 83720 Boise, ID 83720-0044
CLAIMANT'S SOCIAL SECURITY NO. / CLAIMANT'S BIRTHDATE [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 7/20/99
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho, Ada	WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE OF: \$ 400, PURSUANT TO §72-419, IDAHO CODE \$1,575/MO + OT

DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED)
 See attached statement.

NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE
 See attached statements from Stephen E. Spencer, MD

WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME?
 All benefits to which claimant is entitled under Idaho Law.

DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER See attached Dr. statements.	TO WHOM YOU GAVE NOTICE R. Monte MacConnell
--	--

HOW NOTICE WAS GIVEN: ORAL WRITTEN OTHER, PLEASE SPECIFY
 Ada County and R. Monte MacConnell notified. Vernon K. Smith requested Mr. MacConnell to file Work Comp Claim.

ISSUE OR ISSUES INVOLVED Claimant suffered permanent work related disability and impairment resulting from inappropriate conduct in the workplace. Ada County refused to file my claim hoping to minimize effects of their misconduct. Claimant has permanent psychological injury resulting in POST traumatic shock, migraine headaches, anxiety, and depression all stemming from the conduct pursued from the forced environment during employment.

DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? YES NO IF SO, PLEASE STATE WHY.

NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL SPECIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002

RECEIVED
 INDUSTRIAL COMMISSION
 2001 JUL 31 PM 12:14

11

PHYSICIANS WHO TREATED CLAIMANT (NAME AND ADDRESS)

Stephen E. Spender
Internal Medicine Specialists
6094 Emerald, Suite #2
Boise, ID 83704
(208) 367-6575

WHAT MEDICAL COSTS HAVE YOU INCURRED TO DATE? \$944.00

WHAT MEDICAL COSTS HAS YOUR EMPLOYER PAID, IF ANY? \$ 0 WHAT MEDICAL COSTS HAVE YOU PAID, IF ANY? \$ 794.00

I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE. YES NO

DATE

SIGNATURE OF CLAIMANT OR ATTORNEY

7-31-01

[Signature]

PLEASE ANSWER THE SET OF QUESTIONS IMMEDIATELY BELOW
ONLY IF CLAIM IS MADE FOR DEATH BENEFITS

NAME OF DECEASED	DATE OF DEATH	RELATION OF DECEASED TO CLAIMANT
WAS CLAIMANT DEPENDENT ON DECEASED? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID CLAIMANT LIVE WITH DECEASED AT TIME OF ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	

CLAIMANT MUST COMPLETE, SIGN AND DATE THE FOLLOWING:

MEDICAL RELEASE FORM

I hereby authorize any defendant and defendants' legal counsel, at their sole expense, to examine, inspect, receive or take copies of any medical reports, records, x-rays or test results of hospitals, physicians or any other person, or to receive information from any person having examined me and their diagnosis, relative to my past, present and future physical and mental condition.

I also authorize and direct that a duplicate set of all documents or written records provided to said law firm, or any individual member thereof, also be provided to me or my attorney, Vernon K. Smith. The defendant requesting my records shall bear the expense incurred in production of such duplicate set.

I further authorize that copies of this authorization may be used in lieu of the original. THIS AUTHORIZATION IS VALID ONLY FOR THE DURATION OF THE PENDING LITIGATION. It is further understood that all information obtained under this authorization shall be regarded as confidential and maintained as such.

Dated this 31st day of July, 2001

[Signature: Stacy Gibson]
Claimant's Signature

NOTICE! An Employer or Insurance Company served with a Complaint must file an Answer on Form I.C. 1003 with the Industrial Commission within 21 days of the date of service as specified on the certificate of mailing to avoid default. If no answer is filed, a Default Award may be entered!

Further information may be obtained from: Industrial Commission, Judicial Division, P.O. Box 83720, Boise, Idaho 83720-0041 (208) 334-6000

(COMPLETE CERTIFICATE OF SERVICE ON PAGE 3)

Amended
Complaint—Page 2 of 12

PLEASE COMPLETE

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of July, 192001, I caused to be served a true and correct copy of the foregoing Complaint upon:

EMPLOYER'S NAME AND ADDRESS

Ada County Sheriff's Office
702 Barrister St.
Boise, ID 83704

SURETY'S NAME AND ADDRESS

State Insurance Fund
P.O. Box 83720
Boise, ID 83720-0044

via: personal service of process

regular U.S. Mail

via: personal service of process

regular U.S. Mail

I have not served a copy of the Complaint on anyone.

[Signature]
Signature

5501 Tinker St.
Boise, ID 83709

July 9, 2001

Gary Stivers
Director
Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

Dear Mr. Stivers:

This statement is made to clarify and complete requested information on the First Report of Injury and Workers' Compensation Complaint forms.

Ada County Sheriff's Office personnel created and pursued psychological work place misconduct and discrimination, and were reckless, careless and frivolous in their conduct, causing long-term emotional and psychological complications and need for medical attention while I was still employed, and continuing after the result of forced separation.

I endured a lengthy interrogation (by two different detectives) consisting of false, malicious, and inappropriate accusations and contentions that were intended to induce me to voluntarily turn in my resignation. On July 28, 1999, R. Monte MacConnell, Legal Advisor to the Sheriff, notified me through my attorney, Sheriff Vaughn Killeen was really irate over this issue of ongoing over-payment, and the sheriff was giving me a choice; I was to either immediately turn in my resignation, and if I did not do so, I would be prosecuted for grand theft as a result of these over-payments.

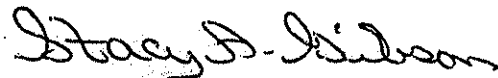
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Additionally, R. Monte MacConnell breached a fundamental commitment to maintain my medical benefits when he placed me on "Administrative Leave", and he unilaterally denied me and my family access to the group medical benefits, associated with my employment package.

My employer, Ada County Sheriff's Office, was fully aware of my medical condition, and the reason it was not reported to you, is they were trying to cover it up, as if the situation never existed, as they wanted to complete termination if I would not resign, and hopefully bring closure to the disputes without causing further complications from the environment they created.

If further information is needed about this case, please contact me through my attorney, Vernon K. Smith.

Sincerely,



Stacy A. Gibson

STATE OF IDAHO WORKERS COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS

GENERAL	EMPLOYER (NAME & ADDRESS INCL ZIP) Ada County Sheriff's Office 7200 Barrister Drive Boise, Id 83704		CARRIER/ADMINISTRATOR CLAIM NUMBER		REPORT PURPOSE CODE		
	JURISDICTION		JURISDICTION CLAIM NUMBER				
	INSURED REPORT NUMBER						
	EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT)			LOCATION #	PHONE #		
CLAIMS ADMINISTRATOR	CARRIER (NAME, ADDRESS & PHONE NUMBER)		POLICY PERIOD TO	CLAIMS ADMIN (NAME, ADDRESS & PHONE NO.)			
	CARRIER FEIN		POLICY NUMBER OR SELF-INSURED NUMBER	ADMINISTRATOR FEIN			
	AGENT NAME & CODE NUMBER						
	CHECK IF SELF INSURED						
EMPLOYEE	LEGAL NAME (LAST, FIRST, MIDDLE) Gibson, Stacy A.		BIRTH DATE 8/30/58	SOCIAL SECURITY NUMBER 518-78-2139	DATE HIRED 7/10/97	STATE OF HIRE Idaho	
	ADDRESS (INCL ZIP) 5501 Tinker St. Boise, Id 83709		SEX M MALE F FEMALE U UNKNOWN	MARITAL STATUS U UNMARRIED/SINGLE/DIV. M MARRIED S SEPARATED U UNKNOWN	OCCUPATION (JOB TITLE) Jail Technician		
	PHONE (208) 362-1471		# OF DEPENDENTS 2	EMPLOYMENT STATUS Active Full Time			
	WAGE RATE PER: \$1,575		DAY WEEK	MONTH OTHER:	# DAYS WORKED/WK 4 x 12 hrs on 4 days off	FULL PAY FOR DATE OF INJURY? DID SALARY CONTINUE?	
	TIME EMPLOYEE BEGAN WORK 3:00		DATE OF INJURY/ILLNESS 7/20/99	TIME OCCURED 3:00-5:30	LAST WORK DATE 7/20/99	DATE EMPLOYER NOTIFIED See attached Doctor Statements	
	DATE DISABILITY BEGAN 7/20/99		NCCI CLASS CODE				
OCCURRENCE	EMPLOYER CONTACT NAME/PHONE NUMBER R. Monte MacConnell 377-6500		TYPE OF INJURY/ILLNESS See attached statements from Stephen E. Spencer, MD.		PART OF BODY AFFECTED		
	DID INJURY/ILLNESS EXPOSURE OCCUR ON EMPLOYER'S PREMISES? Ada County Sheriff's Office		TYPE OF INJURY/ILLNESS CODE		PART OF BODY AFFECTED CODE		
	DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED Detective's Interrogation Room		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE USING UPON OCCURRENCE N/A				
	SPECIFIC ACTIVITY EMPLOYEE ENGAGED IN AT TIME OF OCCURRENCE See my attached statement		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN AT TIME OF OCCURRENCE See my attached statement				
	HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE EMPLOYEE ILL. See my attached statement					CAUSE OF INJURY CODE	
	DATE RETURNED TO WORK haven't returned		IF FATAL, DATE OF DEATH n/a		WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? WERE THEY USED?		
	PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS) Stephen E. Spencer, M.D. Internal Medicine Specialists 6094 Emerald, Suite #2 Boise, Id 83704 (208) 367-6575		HOSPITAL (NAME & ADDRESS)		INITIAL TREATMENT 0 NO MEDICAL TREATMENT 1 MINOR BY EMPLOYER 2 MINOR CLINIC/HOSP 3 EMERGENCY CARE 4 HOSPITALIZED > 24 HR 5 ANTICIPATED MAJOR MED/LOST TIME		
SIGNATURE OF INJURED EMPLOYEE, OR SIGNATURE ON FILE, DATE Stacy A. Gibson		WITNESS TO ACCIDENT (NAME & PHONE NUMBER) Detective Arville Glenn Detective Scott Johnson 377-6500		DATE ADMINISTRATOR NOTIFIED 7/5/01			
DATE PREPARED 7/5/01		PREPARER'S NAME & TITLE John M. Gibson - Spouse		PREPARER'S PHONE NUMBER 362-1471			

until 8/1/99

10



Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: [REDACTED]

August 5, 1999


To Whom It May Concern:

RE: Stacy A. Gibson

Dear Sir:

Mrs. Gibson is a patient of mine who has been under tremendous emotional duress lately due to circumstantial difficulties. We are currently trying to stabilize her with medication but her condition has not improved to the point where she can participate in a hearing until further notice.

Yours truly,


STEPHEN E. SPENCER, MD
SES : kc
D/D: 08/05/99
T/D: 08/05/99



Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: 08/30/1958

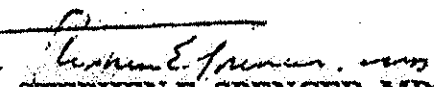
August 20, 1999

To Whom It May Concern:

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Mrs. Gibson is a patient of mine. She has been under extreme duress for the past month related to her work. She has been extremely depressed and anxious and at times, has panic attacks. Her memory is extremely poor at times and she cannot focus. If she takes medication to reduce the anxiety, then she is too sleepy to focus or remember well. There is no way that she can adequately represent herself in the present emotional state.

Yours truly,


STEPHEN E. SPENCER, MD

SES : kc

D/D: 08/20/99

T/D: 08/20/99



Saint Alphonsus
Regional Medical Center

Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: [REDACTED]

November 12, 1999

To Whom It May Concern

Dear Sir:

Mrs. Gibson has been extremely distraught over allegations of embezzlement brought by the Ada County Sheriff's Office. Between severe anxiety attacks and extreme melancholy, she has not been able to effectively deal with even simple issues in her day-to-day life and is in no frame of mind to defend herself against these allegations at this time. I have known Mrs. Gibson for five years and I have never seen her so distraught until these allegations were brought against her. She feels totally out of control because of manipulation by certain members of the Ada County Sheriff's Office. I think it is possible that if Mrs. Gibson were able to acquire information necessary to defend herself and prove her innocence, she might feel more secure and capable of doing so. However, it appears that certain members of the Ada County Sheriff's Office have chosen to prevent her from accessing requested records for her to do so. It would be my assessment that the continued obstructionism by the Ada County Sheriff's Office will perpetuate Mrs. Gibson's insecurity, isolation, anxiety and depression, making it impossible for her to defend herself.

Yours truly,

STEPHEN E. SPENCER, MD

SES : kc

D/D: 11/12/99

T/D: 11/12/99

PATIENT'S CHART

19



Saint Alphonsus
Regional Medical Center

Internal Medicine Specialists

6094 Emerald
Boise, Idaho 83704
(208) 367-6575 XFAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: [REDACTED]

February 3, 2000

RE: Stacy A. Gibson.

Dear Ms. Leonard:

I received a copy of a letter addressed to you from Vaughn Killeen, Ada County Sheriff via R. Monty McConnell, legal advisor to the sheriff and dated January 28, 2000. The content of this letter intentionally distorts information that I have been required to present on behalf of Mrs. Gibson. Mrs. Gibson has been the target of some very serious allegations which greatly impact her future and livelihood. The actions taken against Mrs. Gibson by the county have had a devastating impact on her emotional well-being. This woman is an extremely caring, thoughtful and sensitive person. She has genuinely been severely depressed and terribly anxious and anguished over this predicament. If she had been dealt with in an understanding and supportive way from the beginning, this issue probably would have been promptly resolved. Unfortunately, those in a position of authority chose to attack and impugn her, leaving her powerless to help resolve this issue quickly. The net result was the need for legal representation on her part. The county has been unwilling to provide information necessary for her legal defense and one has to wonder what they are hiding. Mr. and Mrs. Gibson through their attorney have repeatedly requested records of a medical evaluation performed by Dr. Charles Steuart and they have been denied this information. This letter suggests that there is no written documentation of that evaluation which is unfathomable given the seriousness of the circumstance requiring this evaluation. If a permanent record of this interaction does exist, then perhaps the Gibson's have a legal right to review that with their attorney as any patient does have with their medical record.

Yours truly,

STEPHEN E. SPENCER, MD

SS : ar

D/D: 02/04/2000

T/D: 02/04/2000

20

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
)
 and)
)
 STATE INSURANCE FUND,)
)
 Surety,)
)
 Defendants.)
 _____)

IC 01-015332

CERTIFICATE OF SERVICE

FILED

AUG - 7 2001

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of August, 2001, a true and correct copy of Letter from Employer to the Commission was served by regular United States mail upon the following:

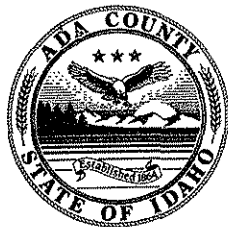
VERNON K SMITH
1900 W MAIN ST
BOISE ID 83702

Kenna Andrews

ka

CERTIFICATE OF SERVICE

21



ADA COUNTY

RISK MANAGEMENT
(208) 364-2340

R.M. "Mike" Roberts
Director

FAX (208) 364-2449

650 Main Street
Boise, Idaho 83702

August 2, 2001

Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

Re: Amended Worker's Compensation Complaint - Gibson, Stacy

Dear Claims Examiner:

This office received the above referenced notice of injury claim and amended Worker's Compensation Complaint today. We did not receive the original complaint and have no worker's injury file on the claimant.

As you can see by the attached letter, the Ada County Sheriff's Department Legal Advisor believes the claim is unfounded and without merit. Given the time lapse between her employment with Ada County and filing the claim, and the nature of the claim itself, it would seem that further investigation is warranted.

Sincerely,

Handwritten signature of R.M. Roberts in cursive.

R.M. Roberts
Director

Enclosure

cc: Kellie Brauner-Ketlinski

2001 AUG -1 A 9:52
RECEIVED
INDUSTRIAL COMMISSION

ADA COUNTY SHERIFF'S OFFICE

BOISE, IDAHO



VAUGHN KILLEEN, Sheriff

7200 BARRISTER DRIVE
BOISE, IDAHO 83704-9217

TELEPHONE (208) 377-8600
ADMINISTRATION FAX (208) 377-6535
POLICE RECORDS FAX (208) 377-6578

August 1, 2001

Mike Roberts
Ada County Risk Manager
650 Main Street
Boise, Idaho 83702

Re: "Amended Workers" Comp Claim
Stacy A. Gibson

Dear Mike:

I am forwarding to you an "Amended" complaint received from Vernon K. Smith regarding certain claims made by Ms. Gibson which she claims stem from her employment with the Sheriff's Office.

We have researched our files and can find no evidence that we were ever provided a copy of a complaint filed by Ms. Gibson in the past. So I cannot tell what the substance of her original claims were, if any. It is also important to note that Ms. Gibson has not been employed by the Sheriff's Office since February 15, 2000. Nothing in our files indicates that she has ever made a Workers' Compensation claim prior to this time.

Ms. Gibson was terminated from this department after a lengthy and acrimonious process. A Hearing Officer and a District Judge have upheld her termination. I am told that she has filed a Notice of Appeal with the Idaho Supreme Court. I believe that her claim of "psychological injury" is spurious. I also believe that her claim should be denied.

It is important to note that the observations of Dr. Spencer appended to the "Amended" complaint are more in the nature of unsupported speculation and conclusions about occurrences between Ms. Gibson and employees of this department to which Dr. Spencer was not a witness. I do not understand what evidentiary value they could possibly have.

If you have any questions about this matter, please do not hesitate to call on me at your convenience. Kelli Brauner of the Prosecutor's Office has also worked extensively on the litigation issues in this matter; she can also answer your questions about Ms. Gibson and her husband.

Sincerely,

VAUGHN KILLEEN
Ada County Sheriff

A handwritten signature in cursive script that reads "Vaughn".

by: R.M. MacConnell
Legal Advisor to the Sheriff

Cc: Kelli Brauner-Ketlinski

RECEIVED
INDUS. INT. COMMISSION
2001 AUG - 1 A 9 53

AMENDED
**WORKERS' COMPENSATION
 COMPLAINT**

CLAIMANT'S NAME AND ADDRESS Stacy A. Gibson 5501 Tinker St. Boise, ID 83709 (208) 362-1471		CLAIMANT'S ATTORNEY'S NAME, ADDRESS, AND TELEPHONE NUMBER Vernon K. Smith Attorney at Law 1900 W. Main St. Boise, ID 83702 (208) 345-1125
EMPLOYER'S NAME AND ADDRESS Ada County Sheriff's Office 7200 Barrister Dr. Boise, ID 83704		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS State Insurance Fund P.O. Box 83720 Boise, ID 83720-0044
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDATE [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 7/20/99
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho, Ada		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE \$1,575/Mo + OT OF: \$ 400, PURSUANT TO §72-419, IDAHO CODE
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) See attached statement.		
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE See attached statements from Stephen E. Spencer, MD		
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? All benefits to which claimant is entitled under Idaho Law.		
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER See attached Dr. statements.	TO WHOM YOU GAVE NOTICE R. Monte MacConnell	
HOW NOTICE WAS GIVEN: <input type="checkbox"/> ORAL <input type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE SPECIFY Ada County and R. Monte MacConnell notified. Vernon K. Smith requested Mr. MacConnell to file Work Comp Claim.		
ISSUE OR ISSUES INVOLVED Claimant suffered permanent work related disability and impairment resulting from inappropriate conduct in the workplace. Ada County refused to file my claim hoping to minimize effects of their misconduct. Claimant has a permanent psychological injury resulting in POST traumatic shock, migraine headaches, anxiety, and depression all stemming from the conduct pursued from the forced environment during employment.		
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? <input type="checkbox"/> YES <input type="checkbox"/> NO IF SO, PLEASE STATE WHY.		

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 INDUSTRIAL COMMISSION
 200 AUG 7 A 9 53

NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL SPECIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002

24

PHYSICIANS WHO TREATED CLAIMANT (NAME AND ADDRESS)

Stephen E. Spender
Internal Medicine Specialists
6094 Emerald, Suite #2
Boise, ID 83704
(208) 367-6575

WHAT MEDICAL COSTS HAVE YOU INCURRED TO DATE? \$944.00

WHAT MEDICAL COSTS HAS YOUR EMPLOYER PAID, IF ANY? \$ 0 WHAT MEDICAL COSTS HAVE YOU PAID, IF ANY? \$ 794.00

I AM INTERESTED IN MEDIATING THIS CLAIM, IF THE OTHER PARTIES AGREE. YES NO

DATE

7-31-01

SIGNATURE OF CLAIMANT OR ATTORNEY

[Handwritten Signature]

PLEASE ANSWER THE SET OF QUESTIONS IMMEDIATELY BELOW
ONLY IF CLAIM IS MADE FOR DEATH BENEFITS

NAME OF DECEASED	DATE OF DEATH	RELATION OF DECEASED TO CLAIMANT
WAS CLAIMANT DEPENDENT ON DECEASED? <input type="checkbox"/> YES <input type="checkbox"/> NO	DID CLAIMANT LIVE WITH DECEASED AT TIME OF ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO	

CLAIMANT MUST COMPLETE, SIGN AND DATE THE FOLLOWING:

MEDICAL RELEASE FORM

I hereby authorize any defendant and defendants' legal counsel, at their sole expense, to examine, inspect, receive or take copies of any medical reports, records, x-rays or test results of hospitals, physicians or any other person, or to receive information from any person having examined me and their diagnosis, relative to my past, present and future physical and mental condition.

I also authorize and direct that a duplicate set of all documents or written records provided to said law firm, or any individual member thereof, also be provided to me or my attorney, Vernon K. Smith. The defendant requesting my records shall bear the expense incurred in production of such duplicate set.

I further authorize that copies of this authorization may be used in lieu of the original. THIS AUTHORIZATION IS VALID ONLY FOR THE DURATION OF THE PENDING LITIGATION. It is further understood that all information obtained under this authorization shall be regarded as confidential and maintained as such.

Dated this 31st day of July, 192001

[Handwritten Signature]
Claimant's Signature

NOTICE! An Employer or Insurance Company served with a Complaint must file an Answer on Form I.C. 1003 with the Industrial Commission within 21 days of the date of service as specified on the certificate of mailing to avoid default. *If no answer is filed, a Default Award may be entered!*

Further information may be obtained from: Industrial Commission, Judicial Division, P.O. Box 83720, Boise, Idaho 83720-0041 (208) 334-6000

(COMPLETE CERTIFICATE OF SERVICE ON PAGE 3)

Amended
Complaint - Page 2 of 25

PLEASE COMPLETE

CERTIFICATE OF SERVICE

I hereby certify that on the July day of 2001, I caused to be served a true and correct copy of the foregoing Complaint on:

EMPLOYER'S NAME AND ADDRESS

Office
702
Boise, ID

SURETY'S NAME AND ADDRESS

State Insurance Fund
P.O. Box 33720
Boise, ID 83720-0044

via: personal service of process

via: personal service of process

regular U.S. Mail

regular U.S. Mail

I have not served a copy of the Complaint on anyone.

[Signature]
Signature

5501 Tinker St.
Boise, ID 83709

July 9, 2001

Gary Stivers
Director
Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

Dear Mr. Stivers:

This statement is made to clarify and complete requested information on the First Report of Injury and Workers' Compensation Complaint forms.

Ada County Sheriff's Office personnel created and pursued psychological work place misconduct and discrimination, and were reckless, careless and frivolous in their conduct, causing long-term emotional and psychological complications and need for medical attention while I was still employed, and continuing after the result of forced separation.

I endured a lengthy interrogation (by two different detectives) consisting of false, malicious, and inappropriate accusations and contentions that were intended to induce me to voluntarily turn in my resignation. On July 28, 1999, R. Monte MacConnell, Legal Advisor to the Sheriff, notified me through my attorney, Sheriff Vaughn Killeen was really irrate over this issue of ongoing over-payment, and the sheriff was giving me a choice; I was to either immediately turn in my resignation, and if I did not do so, I would be prosecuted for grand theft as a result of these over-payments.

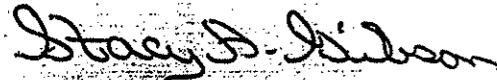
On October 5, 1999, Sheriff Killeen, through his Legal Advisor, R. Monte MacConnell, 'ordered' me to see Dr. Charles Steuart, at the Ada County Jail Medical Facility, as they were questioning my emotional state from their course of abusive conduct. I reluctantly did as I was ordered to do, as I was still on "Administrative Leave", not yet terminated, but was supposed to have medical benefits in full force, notwithstanding the "Administrative Leave Without Pay" status I was placed on, without prior hearing. Four written requests have been made to obtain my medical records from this doctors appointment, but without success to date, and the County states no such medical diagnosis currently exists.

Additionally, R. Monte MacConnell breached a fundamental commitment to maintain my medical benefits when he placed me on "Administrative Leave", and he unilaterally denied me and my family access to the group medical benefits, associated with my employment package.

My employer, Ada County Sheriff's Office, was fully aware of my medical condition, and the reason it was not reported to you, is they were trying to cover it up, as if the situation never existed, as they wanted to complete termination if I would not resign, and hopefully bring closure to the disputes without causing further complications from the environment they created.

If further information is needed about this case, please contact me through my attorney, Vernon K. Smith.

Sincerely,



Stacy A. Gibson

STATE OF IDAHO WORKERS COMPENSATION - FIRST REPORT OF INJURY OR ILLNESS

GENERAL	EMPLOYER (NAME & ADDRESS INCL. ZIP) Ada County Sheriff's Office 7200 Barrister Drive Boise, Id 83704		CARRIER/ADMINISTRATOR CLAIM NUMBER		REPORT PURPOSE CODE		
	SIC CODE		EMPLOYER FEIN		PHONE #		
	CARRIER (NAME, ADDRESS & PHONE NUMBER)		POLICY PERIOD TO	CLAIMS ADMIN (NAME, ADDRESS & PHONE NO.)			
	CARRIER FEIN		POLICY NUMBER OR SELF-INSURED NUMBER	ADMINISTRATOR FEIN			
CLAIMS ADMIN	AGENT NAME & CODE NUMBER						
EMPLOYEE	LEGAL NAME (LAST, FIRST, MIDDLE) Gibson, Stacy A.		BIRTH DATE 8/30/58	SOCIAL SECURITY NUMBER 518-78-2239	DATE HIRED 7/10/97	STATE OF HIRE Idaho	
	ADDRESS (INCL. ZIP) 5501 Tinker St. Boise, Id 83709		SEX MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> UNKNOWN	MARITAL STATUS UNMARRIED/SINGLE/DIV. <input type="checkbox"/> MARRIED <input type="checkbox"/> SEPARATED <input type="checkbox"/> UNKNOWN	OCCUPATION/JOB TITLE Jail Technician		
	PHONE (208) 362-1471		# OF DEPENDENTS 2	EMPLOYMENT STATUS Active Full Time		NCCI CLASS CODE	
	WAGE RATE PER: \$1,575		DAY WEEK	MONTH OTHER:	# DAYS WORKED/WK 4 1/2 hrs on 4 days off	FULL PAY FOR DATE OF INJURY? DID SALARY CONTINUE?	
OCCURRENCE	TIME EMPLOYEE BEGAN WORK 3:00	DATE OF INJURY/ILLNESS 7/20/99	TIME OCCURED 3:00-5:30	LAST WORK DATE 7/20/99	DATE EMPLOYER NOTIFIED See attached Doctor statements	DATE DISABILITY BEGAN 7/20/99	
	EMPLOYER CONTACT NAME/PHONE NUMBER R. Monte MacConnell 377-6500		TYPE OF INJURY/ILLNESS See attached statements from Stephen E. Spencer, MD.		PART OF BODY AFFECTED		
	DID INJURY/ILLNESS EXPOSURE OCCUR ON EMPLOYER'S PREMISES? Ada County Sheriff's Office		YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	TYPE OF INJURY/ILLNESS CODE		PART OF BODY AFFECTED CODE
	DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED Detective's Interrogation Room		ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE USING UPON OCCURRENCE N/A				
	SPECIFIC ACTIVITY EMPLOYEE ENGAGED IN AT TIME OF OCCURRENCE See my attached statement		WORK PROCESS THE EMPLOYEE WAS ENGAGED IN AT TIME OF OCCURRENCE See my attached statement				
	HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE EMPLOYEE ILL. See my attached statement						
	DATE RETURNED TO WORK haven't returned		IF FATAL, DATE OF DEATH n/a	WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? WERE THEY USED?		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
TREATMENT	PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS) Stephen E. Spencer, M.D. Internal Medicine Specialists 6094 Emerald, Suite #2 Boise, Id 83704 (208) 367-1577		HOSPITAL (NAME & ADDRESS)		INITIAL TREATMENT		
	SIGNATURE OF INJURED EMPLOYEE OR SIGNATURE ON FILE: DATE Stacy A. Gibson		WITNESS TO ACCIDENT (NAME & PHONE NUMBER) Detective Arville Glenn 377-6500 Detective Scott Johnson		PREPARER'S PHONE NUMBER 362-1471		
DATE ADMINISTRATOR NOTIFIED		DATE PREPARED 7/5/01	PREPARER'S NAME & TITLE John M. Gibson - spouse				

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Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A
Date of Birth: 08/30/1958

August 5, 1999

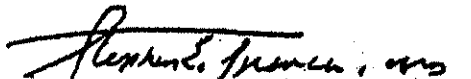
To Whom It May Concern:

RE: Stacy A. Gibson

Dear Sir:

Mrs. Gibson is a patient of mine who has been under tremendous emotional duress lately due to circumstantial difficulties. We are currently trying to stabilize her with medication but her condition has not improved to the point where she can participate in a hearing until further notice.

Yours truly,


STEPHEN E. SPENCER, MD
SES : kc
D/D: 08/05/99
T/D: 08/05/99



Internal Medicine Specialists
6094 Emerald
Boise, Idaho 83704
(208) 367-6575 • FAX (208) 367-6597

Patient Name: GIBSON, STACY A

Date of Birth: 08/30/1958

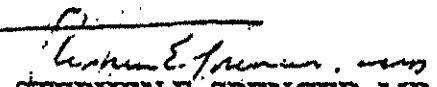
August 20, 1999

To Whom It May Concern:

Dear Sir:

Mrs. Gibson is a patient of mine. She has been under extreme duress for the past month related to her work. She has been extremely depressed and anxious and at times, has panic attacks. Her memory is extremely poor at times and she cannot focus. If she takes medication to reduce the anxiety, then she is too sleepy to focus or remember well. There is no way that she can adequately represent herself in the present emotional state.

Yours truly,


STEPHEN E. SPENCER, MD

SES : kc

D/D: 08/20/99

T/D: 08/20/99

Patient Name: GIBSON, STACY A

Date of Birth: 08/30/1958

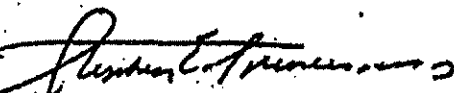
November 12, 1999

To Whom It May Concern

Dear Sir:

Mrs. Gibson has been extremely distraught over allegations of embezzlement brought by the Ada County Sheriff's Office. Between severe anxiety attacks and extreme melancholy, she has not been able to effectively deal with even simple issues in her day-to-day life and is in no frame of mind to defend herself against these allegations at this time. I have known Mrs. Gibson for five years and I have never seen her so distraught until these allegations were brought against her. She feels totally out of control because of manipulation by certain members of the Ada County Sheriff's Office. I think it is possible that if Mrs. Gibson were able to acquire information necessary to defend herself and prove her innocence, she might feel more secure and capable of doing so. However, it appears that certain members of the Ada County Sheriff's Office have chosen to prevent her from accessing requested records for her to do so. It would be my assessment that the continued obstructionism by the Ada County Sheriff's Office will perpetuate Mrs. Gibson's insecurity, isolation, anxiety and depression, making it impossible for her to defend herself.

Yours truly,



STEPHEN E. SPENCER, MD

SES : kc

D/D: 11/12/99

T/D: 11/12/99

Patient Name: GIBSON, STACY A

Date of Birth: [REDACTED]

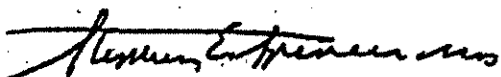
February 3, 2000

RE: Stacy A. Gibson.

Dear Ms. Leonard:

I received a copy of a letter addressed to you from Vaughn Killeen, Ada County Sheriff via R. Monty McConnell, legal advisor to the sheriff and dated January 28, 2000. The content of this letter intentionally distorts information that I have been required to present on behalf of Mrs. Gibson. Mrs. Gibson has been the target of some very serious allegations which greatly impact her future and livelihood. The actions taken against Mrs. Gibson by the county have had a devastating impact on her emotional well-being. This woman is an extremely caring, thoughtful and sensitive person. She has genuinely been severely depressed and terribly anxious and anguished over this predicament. If she had been dealt with in an understanding and supportive way from the beginning, this issue probably would have been promptly resolved. Unfortunately, those in a position of authority chose to attack and impugn her, leaving her powerless to help resolve this issue quickly. The net result was the need for legal representation on her part. The county has been unwilling to provide information necessary for her legal defense and one has to wonder what they are hiding. Mr. and Mrs. Gibson through their attorney have repeatedly requested records of a medical evaluation performed by Dr. Charles Steuart and they have been denied this information. This letter suggests that there is no written documentation of that evaluation which is unfathomable given the seriousness of the circumstance requiring this evaluation. If a permanent record of this interaction does exist, then perhaps the Gibson's have a legal right to review that with their attorney as any patient does have with their medical record.

Yours truly,



STEPHEN E. SPENCER, MD

SS : ar

D/D: 02/04/2000

T/D: 02/04/2000

ANSWER TO COMPLAINT
I.C. NO. 01-015332

Claimant's Name and Address STACY A. GIBSON 5501 TINKER ST BOISE ID 83709	Claimant's Attorney's Name and Address VERNON K. SMITH 1900 W. MAIN ST BOISE ID 83702
Employer's Name and Address ADA COUNTY SHERIFF'S OFFICE 7200 BARRISTER DR. BOISE ID 83704	Workers' Compensation Insurance Fund STATE INSURANCE FUND
Attorney Representing Surety (Name and Address) RYAN P. ARMBRUSTER ELAM & BURKE P. O. BOX 1539 BOISE, ID 83701	Attorney Representing Industrial Special Indemnity Fund (Name and Address) N/A

RECEIVED
 INDUSTRIAL COMPENSATION
 2001 AUG 10 P 4:11

- The above-named Surety responds to Claimant's Complaint by stating:
- The Industrial Special Indemnity Fund responds to the Complaint against the ISIF by stating:

IT IS: (Check One)		
Admitted	Denied	
	XX	1. That the accident or occupational exposure alleged in the Complaint actually occurred on or about the time claimed.
XX		2. That the employer/employee relationship existed.
XX		3. That the parties were subject to the provisions of the Idaho Workers' Compensation Act.
	XX	4. That the condition for which benefits are claimed was caused partly <input type="checkbox"/> entirely <input type="checkbox"/> by an accident arising out of and in the course and scope of claimant's employment.
	**	5. That, if an occupational disease is alleged, manifestation of such disease is or was due to the nature of the employment in which the hazards of such disease actually exist, are characteristic of and peculiar to the trade, occupation, process, or employment.
	***	6. That notice of the accident causing the injury, or notice of the occupational disease, was given to the employer as soon as practical but not later than 60 days after such accident or 60 days of the manifestation of such occupational disease.
	***	7. That, if an occupational disease is alleged, notice of such was given to the employer within five months after the employment had ceased in which it is claimed the disease was contracted.
Under	Investigation	8. That the rate of wages claimed is correct. If denied, state the average weekly wage pursuant to Idaho Code § 72-419: \$_____.
XX		9. That the alleged employer was insured or permissibly self-insured under the Idaho Workers' Compensation Act.

** To the extent an occupational disease is alleged, Item 5 hereof is denied.

*** Conditionally denied for lack of sufficient knowledge and information.

ORIGINAL

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10. What benefits, if any, do you concede are due Claimant?
 None

11. State with specificity what matters are in dispute and your reason for denying liability, together with any affirmative defenses.

a. Defendants deny each and every allegation of Claimant's Complaint not admitted herein.

b. The Employer and Surety allege that Claimant is seeking to recover compensation for conditions attributable in whole or in part to a preexisting injury, condition, or infirmity, and claimant's compensation, if any, should be apportioned pursuant to Idaho Code Section 72-406.

c. The Employer and Surety assert that Claimant did not give timely notice to the Employer after the claimed occupational disease was first manifest.

d. The Employer and Surety allege that Claimant is seeking to recover compensation for a condition or conditions resulting from a subsequent intervening cause.

e. To the extent attorney fees are sought by Claimant's Amended Complaint, the Employer and Surety deny that they have acted unreasonably, and Claimant is therefore not entitled to an award of attorney fees pursuant to the provisions of Idaho Code Section 72-804.

f. The Employer and Surety deny that this claim is compensable.

g. To the extent Claimant seeks benefits for mental, psychological, psychiatric, or emotional injury, her claim fails under the provisions of Idaho Code Section 72-451.

h. Claimant's claim is barred by her failure to comply with the applicable statute of limitations set forth in Idaho Code Section 72-706.

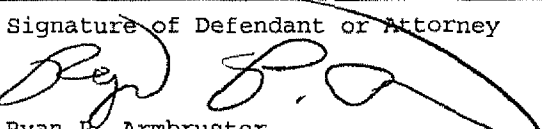
i. Claimant's claim is barred by her failure to timely make a claim pursuant to the provisions of Idaho Code Section 72-701.

j. The Employer and Surety reserve the right to amend this Answer and/or raise additional defenses based on information discovered subsequent hereto.

Under the Commission rules, you have twenty-one (21) days from the date of service of the Complaint to answer the Complaint. A copy of your Answer must be mailed to the Commission and a copy must be served on all parties or their attorneys by regular U.S. mail or by personal service of process. Unless you deny liability, you should pay immediately the compensation required by law and not cause the claimant, as well as yourself, the expense of a hearing. All compensation which is concededly due and accrued should be paid. Payments due should not be withheld because a Complaint has been filed. Rule III(D), Judicial Rules of Practice and Procedure under the Idaho Workers' Compensation law, applies. Complaints against the Industrial Special Indemnity Fund must be filed on Form I.C. 1002.

I am Interested in Mediating this Claim, if the Other Parties Agree. YES NO

Do you believe this claim presents a new question of law or a complicated set of facts? If so, please state.
 NO

Amount of Compensation Paid to Date			Dated	Signature of Defendant or Attorney
PPD	TTD	Medical	8/10/01	 Ryan P. Armbruster
\$ -0-	\$ -0-	\$ -0-		

35

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of August, 2001, I caused to be served a true and correct copy of the foregoing Answer upon:

Claimant's Attorney's Name
and Address

Employer and Surety's
Name and Address

Defendants' Name & Address

Vernon K. Smith, Esquire
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

personal service of process

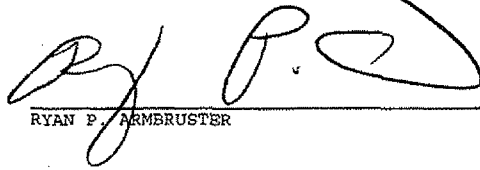
personal service of process

personal service of process

XX regular U.S. Mail

regular U.S. Mail

regular U.S. Mail



RYAN P. AMBRUSTER

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF IDAHO

o0o
STACY A. GIBSON)
Claimant,)
v.)
ADA COUNTY SHERIFF'S OFFICE,)
Employer,)
and)
STATE INSURANCE FUND,)
Surety,)
Defendants.)
o0o

I.C. Case No. 01-015332
MOTION TO VACATE
AND RESET HEARING

RECEIVED
INDUSTRIAL COMMISSION
2001 NOV 30 P 2:02

COMES NOW The Claimant, Stacy A. Gibson, through counsel, and does hereby respectfully request that the Hearing currently scheduled for January 18, 2002, at 9:00 a.m., be vacated and reset to a date convenient to the Idaho Industrial Commission, the Claimant's counsel of record, and the Defendant's counsel of record for the following reason:

Defense counsel of record and Claimant's counsel of record have stipulated to Vacate and Reset Date for Taking Deposition of Claimant upon the grounds that

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/31

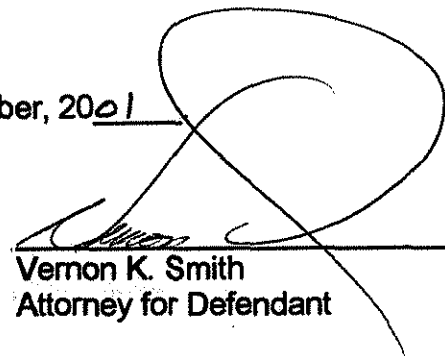
defense counsel will be on medical leave of absence due to required surgery, and Claimant's counsel has existing trial commitments and will not be able to appear on that date. Consequently, the parties will need additional time to prepare the materials in the above referenced case for the Hearing, and will not have the opportunity to complete preparation by January 18, 2002.

The unavailable dates of Claimant's attorney for trial in said matter are as follows:

See attached calendar.

DATED this 30th day of November, 2001

Ryan P. Armbruster
Attorney for Defendant Surety



Vernon K. Smith
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on the 30th day of November, 2001, I caused a true and correct copy of the above and foregoing to be delivered to the following persons at the following addresses as follows:

Idaho Industrial Commission	()	U.S. Mail
317 Main Street	()	Fax
P.O. Box 83720	(<input checked="" type="checkbox"/>)	Hand Delivered
120 9 th Avenue South		
Boise, Idaho 83720-0041		

Mr. Ryan P. Armbruster	()	U.S. Mail
Elam & Burke, P.A.	()	Fax
702 W. Idaho Street	(<input checked="" type="checkbox"/>)	Hand Delivered
P.O. Box 1539		
Boise, Idaho 83701		



Vernon K. Smith

DECEMBER 2001						
S	M	T	W	T	F	S
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2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

JANUARY 2002						
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27	28	29	30	31		

FEBRUARY 2002						
S	M	T	W	T	F	S
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MARCH 2002						
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24/31	25	26	27	28	29	30

APRIL 2002						
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MAY 2002						
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF IDAHO

o0o
STACY A. GIBSON)
Claimant,)
v.)
ADA COUNTY SHERIFF'S OFFICE,)
Employer,)
and)
STATE INSURANCE FUND,)
Surety,)
Defendants.)
o0o

I.C. Case No. 01-015332

STIPULATION TO VACATE
AND RESET DATE FOR
TAKING DEPOSITION
OF CLAIMANT

RECEIVED
INDUSTRIAL COMMISSION
2001 NOV 30 P 2:02

COMES NOW The Defendant's attorney, Ryan P. Armbruster, representing State Insurance Fund, Surety, and Vernon K. Smith, attorney of record for the Plaintiff, Stacy A. Gibson, and do hereby stipulate and agree that the date as previously scheduled in the above entitled matter for the day of December 17, 2001, at 1:30 p.m., be vacated and the same reset to a convenient date for both Defendant's counsel and Claimant's counsel and upon the grounds that defense counsel will be on medical leave of absence due to required surgery, and

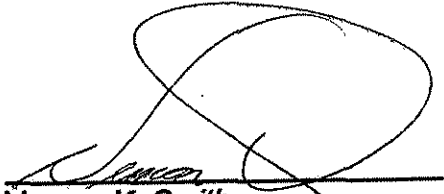
Claimant's counsel has existing trial commitments and will not be able to appear on this date.

The unavailable dates of Claimant's attorney for trial in said matter are as follows:

See attached calendar.

DATED this 30th day of November, 2001.

Ryan P. Armbruster
Attorney for Defendant Surety



Vernon K. Smith
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on the _____ day of November, 2001, I caused a true and correct copy of the above and foregoing to be delivered to the following persons at the following addresses as follows:

Idaho Industrial Commission () U.S. Mail
317 Main Street () Fax
P.O. Box 83720 () Hand Delivered
120 9th Avenue South
Boise, Idaho 83720-0041

Mr. Ryan P. Armbruster () U.S. Mail
Elam & Burke, P.A. () Fax
702 W. Idaho Street () Hand Delivered
P.O. Box 1539
Boise, Idaho 83701



Vernon K. Smith

CH

DECEMBER 2001						
S	M	T	W	T	F	S
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APRIL 2002						
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MAY 2002						
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19	20	21	22	23	24	25
26	27	28	29	30	31	

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF IDAHO

o0o
STACY A. GIBSON)
Claimant,)
v.)
ADA COUNTY SHERIFF'S OFFICE,)
Employer,)
and)
STATE INSURANCE FUND,)
Surety,)
Defendants.)
o0o

I.C. Case No. 01-015332
AMENDED STIPULATION TO
VACATE AND RESET HEARING

2001 DEC -14 A 10:40
RECEIVED
INDUSTRIAL COMMISSION

COME NOW, Vernon K. Smith, counsel for Claimant, Stacy A. Gibson, and Ryan P. Armbruster, of the firm Elam & Burke, P.A., counsel for Employer and Surety, Defendants, and hereby stipulate to vacate the hearing date in the above-referenced action currently set for January 18, 2002, for the following reasons:

Counsel for Claimant currently has existing trial commitments that preclude his appearance on that date. Further, the parties need additional time to complete

pre-hearing discovery in this action and will not have the opportunity to complete said discovery prior to January 18, 2002.

Counsel request that the hearing be reset to a mutually acceptable date after April 1, 2002. Unavailable dates for counsel for Claimant after April 1, 2002, are: April 2, and 8, 2001. Unavailable dates for counsel for Defendants after April 1, 2002, are: April 4, 8, and 25, 2001.

DATED This 3rd day of December, 2001.

VERNON K. SMITH



Vernon K. Smith
Counsel for Claimant

DATED This 3rd day of December, 2001.

ELAM & BURKE, P.A.



Ryan P. Armbruster, of the Firm
Counsel for Defendants

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF IDAHO

o0o
STACY A. GIBSON)
Claimant,)
v.)
ADA COUNTY SHERIFF'S OFFICE,)
Employer,)
and)
STATE INSURANCE FUND,)
Surety,)
Defendants.)
o0o

I.C. Case No. 01-015332
AMENDED STIPULATION
TO VACATE AND RESET
DATE FOR TAKING
DEPOSITION OF CLAIMANT

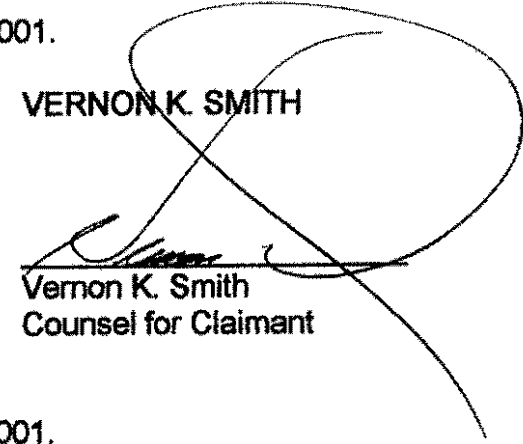
RECEIVED
INDUSTRIAL COMMISSION
2001 DEC -4 A 10:41

COME NOW, Ryan P. Armbruster of the firm Elam & Burke, P.A., counsel for Defendants Employer and Surety, and Vernon K. Smith, counsel for Claimant, and do hereby stipulate and agree that the deposition of Claimant, currently scheduled for December 17, 2001, in the above-entitled matter, be vacated and the same reset at a mutually acceptable date for counsel and Claimant.

ORIGINAL

DATED This 3rd day of December, 2001.


VERNON K. SMITH



Vernon K. Smith
Counsel for Claimant

DATED This 3rd day of December, 2001.

ELAM & BURKE, P.A.



Ryan P. Armbruster, of the Firm
Counsel for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)
Claimant,)
v.)
ADA COUNTY SHERIFF'S OFFICE,)
Employer,)
and)
STATE INSURANCE FUND,)
Surety,)
Defendants.)

IC 01-015332

ORDER VACATING HEARING

FILED


DEC 12 2001


INDUSTRIAL COMMISSION

On November 30, 2001, Claimant filed a Motion to Vacate and Reset Hearing; Claimant filed an Amended Stipulation to Vacate and Reset Hearing on December 4, 2001. The Referee having reviewed the file herein and being fully advised in the premises,

HEREBY ORDERS that the hearing set for January 18, 2002, in Boise in the above-entitled matter, be and the same is hereby VACATED. **The matter will not be reset for hearing until a new Request for Calendaring is submitted, pursuant to the rules, indicating unavailable dates, and appropriate response thereto.**

DATED in Boise, Idaho, on this 12th day of December, 2001.

INDUSTRIAL COMMISSION

Douglas A. Donohue, Referee

ATTEST:

Assistant Commission Secretary

ORDER VACATING HEARING - 1

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of December, 2001, a true and correct copy of **ORDER VACATING HEARING** was Sent by Facsimile Machine Process upon each of the following:

Vernon K. Smith
1900 West Main Street
Boise, ID 83702

Fax #: 345-1129

Ryan P. Armbruster
P.O. Box 1539
Boise, ID 83701-1539

Fax #: 384-5844

db

Rena K. Burke

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
)
 and)
)
 STATE INSURANCE FUND,)
)
 Surety,)
 Defendants.)

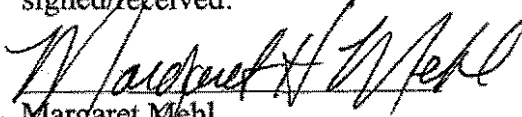
IC 01-015332

CERTIFICATE OF RECEIPT

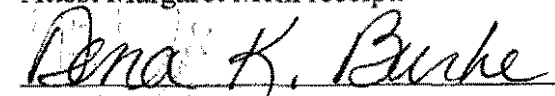
FILED
JAN 14 2002
INDUSTRIAL COMMISSION

I hereby certify that on the 14th day of January, 2002, a true and correct copy of **WORKERS' COMPENSATION COMPLAINT FILED JULY 16, 2001; AMENDED COMPLAINT FILED JULY 31, 2001; and ADA COUNTY(R.M. Roberts) LETTER FILED AUGUST 7, 2001**, was received in person by Margaret Mehl for Jon Bauman.

signed/received:


Margaret Mehl
Legal Assistant to Jon M. Bauman

Attest Margaret Mehl receipt:


Dena K. Burke
Assistant Commission Secretary
to Douglas A. Donohue, Referee



ADA COUNTY

RISK MANAGEMENT
(208) 364-2340

R.M. "Mike" Roberts
Director

FAX (208) 364-2449

650 Main Street
Boise, Idaho 83702

August 2, 2001

Idaho Industrial Commission
317 Main Street
P.O. Box 83720
Boise, ID 83720-0041

Re: Amended Worker's Compensation Complaint - Gibson, Stacy

Dear Claims Examiner:

This office received the above referenced notice of injury claim and amended Worker's Compensation Complaint today. We did not receive the original complaint and have no worker's injury file on the claimant.

As you can see by the attached letter, the Ada County Sheriff's Department Legal Advisor believes the claim is unfounded and without merit. Given the time lapse between her employment with Ada County and filing the claim, and the nature of the claim itself, it would seem that further investigation is warranted.

Sincerely,

Handwritten signature of R.M. Roberts.

R.M. Roberts
Director

Enclosure

cc: Kellie Brauner-Ketlinski

2001 AUG - 7 A 9:52
RECEIVED
INDUSTRIAL COMMISSION

50

AMENDED
**WORKERS' COMPENSATION
 COMPLAINT**

CLAIMANT'S NAME AND ADDRESS Stacy A. Gibson 5501 Tinker St. Boise, ID 83709 (208) 362-1471	CLAIMANT'S ATTORNEY'S NAME, ADDRESS, AND TELEPHONE NUMBER Vernon K. Smith Attorney at Law 1900 W. Main St. Boise, ID 83702 (208) 345-1125
EMPLOYER'S NAME AND ADDRESS Ada County Sheriff's Office 7200 Barrister Dr. Boise, ID 83704	WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS State Insurance Fund P.O. Box 83720 Boise, ID 83720-0044
CLAIMANT'S SOCIAL SECURITY NUMBER [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 7/20/99
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho, Ada	WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE \$1,575/Mo + OT OF: \$ 400, PURSUANT TO §72-419, IDAHO CODE
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) See attached statement.	
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE See attached statements from Stephen E. Spencer, MD	
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? All benefits to which claimant is entitled under Idaho Law.	
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER See attached Dr. statements.	TO WHOM YOU GAVE NOTICE R. Monte MacConnell
HOW NOTICE WAS GIVEN: <input type="checkbox"/> ORAL <input type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE SPECIFY Ada County and R. Monte MacConnell notified. Vernon K. Smith requested Mr. MacConnell to file Work Comp Claim.	
ISSUE OR ISSUES INVOLVED Claimant suffered permanent work related disability and impairment resulting from inappropriate conduct in the workplace. Ada County refused to file my claim hoping to minimize effects of their misconduct. Claimant has permanent psychological injury resulting in POST traumatic shock, migraine headaches, anxiety, and depression all stemming from the conduct pursued from the forced environment during employment.	
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? <input type="checkbox"/> YES <input type="checkbox"/> NO IF SO, PLEASE STATE WHY.	

RECEIVED
 INDUSTRIAL COMMISSION
 2001 JUL 31 PM 12:14

NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL SPECIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002

5

**WORKERS' COMPENSATION
COMPLAINT**

01-015332

CLAIMANT'S NAME AND ADDRESS Stacy A. Gibson 5501 Tinker St. Boise, ID 83709 (208) 362-1471		CLAIMANT'S ATTORNEY'S NAME, ADDRESS, AND TELEPHONE NUMBER Vernon K. Smith 1900 W. Main Street Boise, ID 83702 (208) 345-1125	
EMPLOYER'S NAME AND ADDRESS Ada County Sheriff's office 7200 Barrister Drive Boise, ID 83704		WORKERS' COMPENSATION INSURANCE CARRIER'S (NOT ADJUSTOR'S) NAME AND ADDRESS	
CLAIMANT'S SOCIAL SECURITY NO. [REDACTED]	CLAIMANT'S BIRTHDATE [REDACTED]	DATE OF INJURY OR MANIFESTATION OF OCCUPATIONAL DISEASE 7/24/99	
STATE AND COUNTY IN WHICH INJURY OCCURRED Idaho, Ada		WHEN INJURED, CLAIMANT WAS EARNING AN AVERAGE WEEKLY WAGE OF: \$400 ⁻ PURSUANT TO 172-419, IDAHO CODE \$1,575/mo + OT	
DESCRIBE HOW INJURY OR OCCUPATIONAL DISEASE OCCURRED (WHAT HAPPENED) See my attached statement			
NATURE OF MEDICAL PROBLEMS ALLEGED AS A RESULT OF ACCIDENT OR OCCUPATIONAL DISEASE See attached statements from Stephen E. Spencer, MD.			
WHAT WORKERS' COMPENSATION BENEFITS ARE YOU CLAIMING AT THIS TIME? All benefits to which I am entitled to under Idaho law.			
DATE ON WHICH NOTICE OF INJURY WAS GIVEN TO EMPLOYER See attached doctor statements		TO WHOM YOU GAVE NOTICE R. Monte MacConnell	
HOW NOTICE WAS GIVEN: <input checked="" type="checkbox"/> ORAL <input checked="" type="checkbox"/> WRITTEN <input type="checkbox"/> OTHER, PLEASE SPECIFY R. Monte MacConnell notified. file workers compensation claim. Ada County and Vernon K. Smith requested R. Monte MacConnell to			
ISSUE OR ISSUES INVOLVED I suffered permanent work related disability and impairment resulting from inappropriate conduct in the workplace. Ada County refused to file my claim hoping to minimize effects of their misconduct. I have a permanent psychological injury, resulting in posttraumatic shock, migraine headaches, anxiety, and depression, all stemming from the conduct pursued from the forced environment during employment.			
DO YOU BELIEVE THIS CLAIM PRESENTS A NEW QUESTION OF LAW OR A COMPLICATED SET OF FACTS? <input type="checkbox"/> YES <input type="checkbox"/> NO IF SO, PLEASE STATE WHY.			

RECEIVED
 JUDICIAL DIVISION
 A 10:08

NOTICE: COMPLAINTS AGAINST THE INDUSTRIAL SPECIAL INDEMNITY FUND MUST BE FILED ON FORM I.C. 1002

152

Jon M. Bauman
ELAM & BURKE, P.A.
Key Financial Center, 10th Floor
702 West Idaho Street
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Bauman - ISB #2989

Attorneys for Defendant

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)	
)	
Claimant,	)	I.C. Case No. 01-015332
)	
v.)	
	)	MOTION TO COMPEL DISCOVERY
ADA COUNTY SHERIFF'S OFFICE,)	
)	
Employer,)	
)	
and)	
STATE INSURANCE FUND,)	
)	
Surety,)	
Defendants.)	

RECEIVED
INDUSTRIAL COMMISSION
2002 JAN 28 10 41 17

COME, NOW, Defendants in the above-entitled matter, by and through Elam & Burke, P.A., their attorneys of record herein, and, pursuant to Rules VII and XVI, Judicial Rules of Procedure of the Idaho Industrial Commission, hereby move the Industrial Commission for an order compelling discovery on the grounds that Claimant has failed to respond or object to Defendants' First Set of Interrogatories to Claimant and Defendants' First Request for

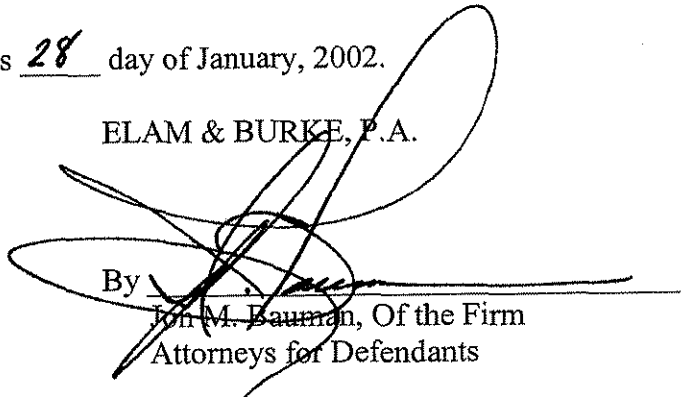
MOTION TO COMPEL DISCOVERY - 1

Production of Documents to Claimant, served on Claimant's counsel on or about November 21, 2001, or any of them, within the time permitted by law, as appears of record in the file of the Industrial Commission in this matter.

Defendants, therefore, respectfully move this Commission for its order compelling Claimant to answer Defendants' First Set of Interrogatories and respond to Defendant's First Request for Production of Documents or, in the event of failure to comply, to impose sanctions for such failure. This motion is further based on the affidavit of counsel for Defendants, filed herewith.

RESPECTFULLY SUBMITTED this 28 day of January, 2002.

ELAM & BURKE, P.A.

By 
Jon M. Bauman, Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 28 day of January, 2002, I caused a true and correct copy of the above and foregoing instrument to be sent by the method indicated below to:

Vernon K. Smith (ISB #1365)
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

- U.S. Mail (postage prepaid)
- Hand Delivery
- Federal Express
- Facsimile Transmission
- Fax: 345-1129
- Phone: 345-1125


Jon M. Bauman

Jon M. Bauman
ELAM & BURKE, P.A.
Key Financial Center, 10th Floor
702 West Idaho Street
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Bauman - ISB #2989

Attorneys for Defendant

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
)
 and)
)
 STATE INSURANCE FUND,)
)
 Surety,)
 Defendants.)
 _____)

I.C. Case No. 01-015332

AFFIDAVIT OF DEFENSE
COUNSEL JON M. BAUMAN

RECEIVED
INDUSTRIAL COMMISSION
2002 JAN 28 P 4:17

55

STATE OF IDAHO)
) ss.
County of Ada)

JON M. BAUMAN, having first been duly sworn, upon his oath deposes and says as follows:

1. I am an attorney in the employ of the law firm of Elam & Burke, P.A., attorneys of record at all relevant times for Defendants in the above-entitled matter. In that capacity, I have personal knowledge of the contents of the file and of all matters set forth herein.

2. On or about November 21, 2001, Defendants caused to be served on counsel for Claimant Defendants' First Set of Interrogatories to Claimant and Defendants' First Request for Production of Documents to Claimant. Attached as Exhibit A hereto are true and correct copies of letters signed by Ryan P. Armbruster of the firm Elam & Burke, P.A., dated January 10, 2002, and January 23, 2002, to Claimant's counsel, reminding him that responses to the foregoing discovery are past due and that this motion would ensue if the answers and responses were not received by January 28, 2002.

3. As of the date hereof, Claimant's counsel has failed to respond or object in any fashion whatsoever to Defendants' First Set of Interrogatories to Claimant and Defendants' First Set of Requests for Production of Documents to Claimant, or any of them, despite the extension unilaterally extended to him by counsel for Defendants evidenced by Exhibit A hereto.

4. Your affiant makes this affidavit in support of Defendants' Motion to Compel Discovery.

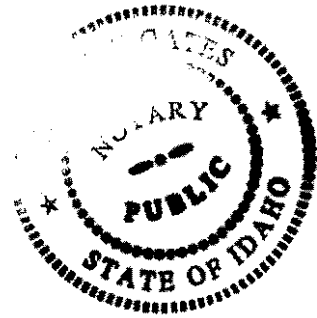
5. Further your affiant saith naught.

RESPECTFULLY SUBMITTED this 28 day of January, 2002.

ELAM & BURKE, P.A.

By [Signature]
Jon M. Bauman, Of the Firm
Attorneys for Defendants

SUBSCRIBED AND SWORN TO before me, Annette Gates, the undersigned notary public, this 28 day of January, 2002.



Annette Gates
Notary Public for Idaho
Residing at Boise ID
Commission Expires 4/11/02

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 28 day of January, 2002, I caused a true and correct copy of the above and foregoing instrument to be sent by the method indicated below to:

Vernon K. Smith (ISB #1365)
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

- U.S. Mail (postage prepaid)
- Hand Delivery
- Federal Express
- Facsimile Transmission
- Fax: 345-1129
- Phone: 345-1125

[Signature]
Jon M. Bauman

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

E-MAIL
rpa@elamburke.com

RYAN P. ARMBRUSTER

January 23, 2002

Vernon K. Smith, Esquire
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

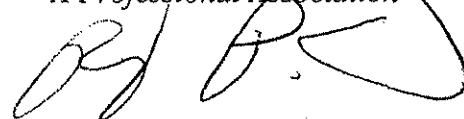
RE: *Stacy A. Gibson v. Ada County Sheriff's Office*
and State Insurance Fund
I.C. Case No. 01-015332

Dear Mr. Smith:

To date we have not received any response to my January 10, 2002, request for responses to outstanding discovery in the above-referenced matter. If we have not received these discovery responses by Monday, January 28, 2002, we will file a *Motion to Compel* with the Industrial Commission.

Very truly yours,

ELAM & BURKE
A Professional Association



Ryan P. Armbruster

RPA:jm

cc: State Insurance Fund

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1639
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

E-MAIL
rpa@elamburke.com

RYAN P. ARMBRUSTER

January 10, 2002

Vernon K. Smith, Esquire
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

RE: *Stacy A. Gibson v. Ada County Sheriff's Office
and State Insurance Fund*
I.C. Case No. 01-015332

Dear Mr. Smith:

Our records indicate there is discovery outstanding in this case from November 21, 2001.
Kindly forward Claimant's responses to discovery propounded by Defendants.

Very truly yours,

ELAM & BURKE
A Professional Association



Ryan P. Armbruster

RPA;jm

cc: State Insurance Fund

59

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)
)
Claimant,)
v.)
)
ADA COUNTY SHERIFF'S OFFICE,)
)
Employer,)
and)
)
STATE INSURANCE FUND,)
)
)
Surety,)
Defendants.)
_____)

IC 01-015332

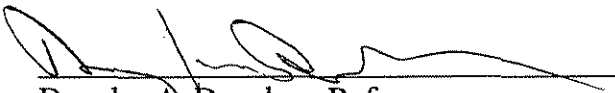
ORDER COMPELLING
DISCOVERY


FILED
FEB 12 2002
INDUSTRIAL COMMISSION

This matter came on regularly before the Industrial Commission on Defendants' Motion to Compel Discovery filed January 28, 2002. The Referee having reviewed the file and being fully advised in the premises,

HEREBY ORDERS that the Claimant respond *within 15 days* from the date of this Order to Defendants' discovery requests which were served upon her on or about November 21, 2001. Claimant shall also file a notice of compliance with the Industrial Commission *no later than 15 days* from the date of this Order, or sanctions may be imposed.

DATED in Boise, Idaho, on this 12th day of February, 2002.

INDUSTRIAL COMMISSION

Douglas A. Donohue, Referee

ATTEST:

Assistant Commission Secretary

60

CERTIFICATE OF SERVICE

I hereby certify that on 12th day of February, 2002, a true and correct copy of the foregoing **ORDER COMPELLING DISCOVERY** was Sent by Facsimile Machine Process upon each of the following:

Vernon K. Smith
1900 West Main Street
Boise, ID 83702

Fax #: 345-1129

Ryan P. Armbruster
Jon M. Bauman
P.O. Box 1539
Boise, ID 83701-1539

Fax #: 384-5844

db

Dena K. Burke

Ryan P. Armbruster
Jon M. Bauman
ELAM & BURKE, P.A.
251 East Front Street, Suite 300
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Armbruster - ISB #1878
Bauman - ISB #2989

Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)	
)	
Claimant,	)	I.C. Case No. 01-015332
)	
v.	)	MOTION TO COMPEL AND MOTION
	)	TO STAY PROCEEDINGS
ADA COUNTY SHERIFF'S OFFICE,)	
)	
Employer,)	
)	
and)	
)	
STATE INSURANCE FUND,)	
)	
Surety,)	
Defendants.)	

RECEIVED
INDUSTRIAL COMMISSION
2002 OCT 28 P 4:45

COME NOW Defendants in the above-entitled matter, by and through Elam &
Burke, P.A., their attorneys of record herein, and, pursuant to Rules VII and XVI, Judicial Rules
of Procedure of the Idaho Industrial Commission, hereby move the Industrial Commission for an

MOTION TO COMPEL AND MOTION TO STAY PROCEEDINGS - 1

G:\SHARED\0179\9303\DISCOVERY\compel-motion.wpd

order compelling discovery on the grounds that Claimant has failed to supplement her discovery responses as requested in Defendants' Request for Supplementation of Discovery Responses filed September 26, 2002.

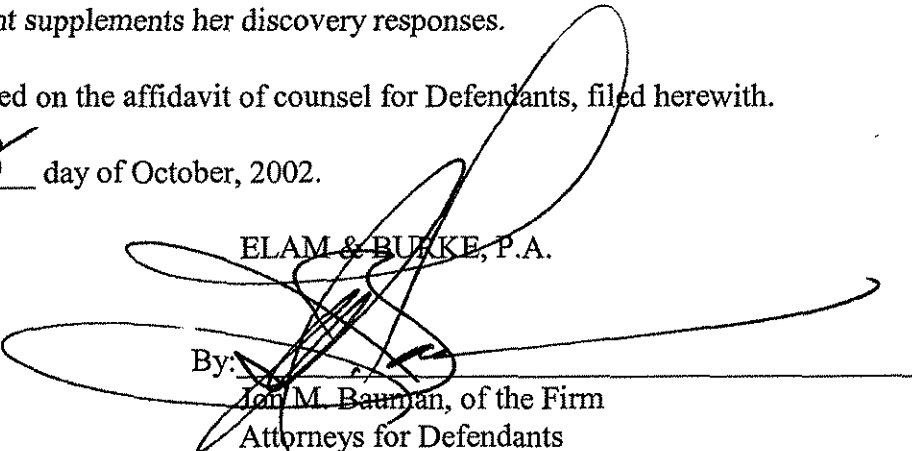
Defendants, therefore, respectfully move this Commission for its order compelling Claimant to respond to Defendants' Request for Supplementation of Discovery or, in the event of failure to comply, to impose sanctions for such failure.

Defendants also move the Industrial Commission to stay the proceedings in this matter until such time as Claimant supplements her discovery responses.

This motion is based on the affidavit of counsel for Defendants, filed herewith.

DATED this 28 day of October, 2002.

ELAM & BURKE, P.A.

By: 
Jon M. Bauman, of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28 day of October, 2002, I caused the above and foregoing instrument to be served as follows:

Vernon K. Smith
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

U.S. Mail
 Hand Delivery
 Federal Express
 Via Facsimile


Jon M. Bauman

Ryan P. Armbruster
Jon M. Bauman
ELAM & BURKE, P.A.
251 East Front Street, Suite 300
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Armbruster - ISB #1878
Bauman - ISB #2989

Attorneys for Defendant

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
)
 and)
)
 STATE INSURANCE FUND,)
)
 Surety,)
 Defendants.)

I.C. Case No. 01-015332

AFFIDAVIT OF COUNSEL

RECEIVED
INDUSTRIAL COMMISSION
2002 OCT 28 P 4:45

STATE OF IDAHO)
) ss.
County of Ada)

JON M. BAUMAN, having first been duly sworn, upon his oath deposes and says as follows:

64

1. I am an attorney in the employ of the law firm of Elam & Burke, P.A., attorneys of record at all relevant times for Defendants in the above-entitled matter. In that capacity, I have personal knowledge of the contents of the file and of all matters set forth herein.

2. On or about September 26, 2002, Defendants caused to be served on counsel for Claimant Defendants' Request for Supplementation of Discovery Responses. Attached as Exhibit A hereto is a true and correct copy of a letter signed by your affiant, dated October 21, 2002, to Claimant's counsel, reminding him that responses to the foregoing discovery were past due and that this motion would ensue if supplemental responses were not received by close of business on October 25, 2002.

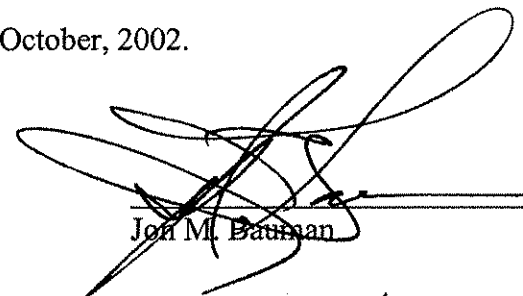
3. As of the date hereof, Claimant's counsel has failed to respond or object in any fashion whatsoever to Defendants' Request for Supplementation of Discovery Responses.

4. Without supplemental discovery responses, Defendants are unable to adequately prepare for upcoming events in this matter, including Claimant's deposition which is scheduled for November 5, 2002, at 1:00 p.m.

5. Your affiant makes this affidavit in support of Defendants' Motion to Compel and Motion to Stay Proceedings.

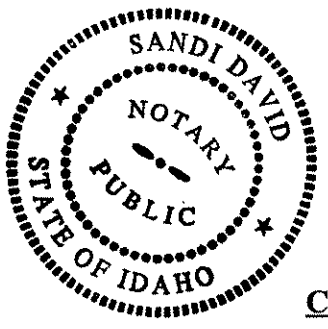
Further your affiant sayeth naught.

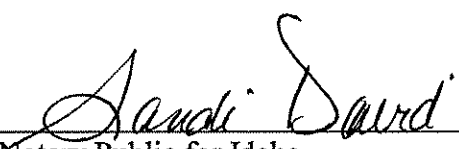
DATED this 28 day of October, 2002.



Jon M. Bauman

SUBSCRIBED AND SWORN TO before me this 28th day of January, 2002.





Notary Public for Idaho
Residing at Nampa
Commission Expires 10/18/05

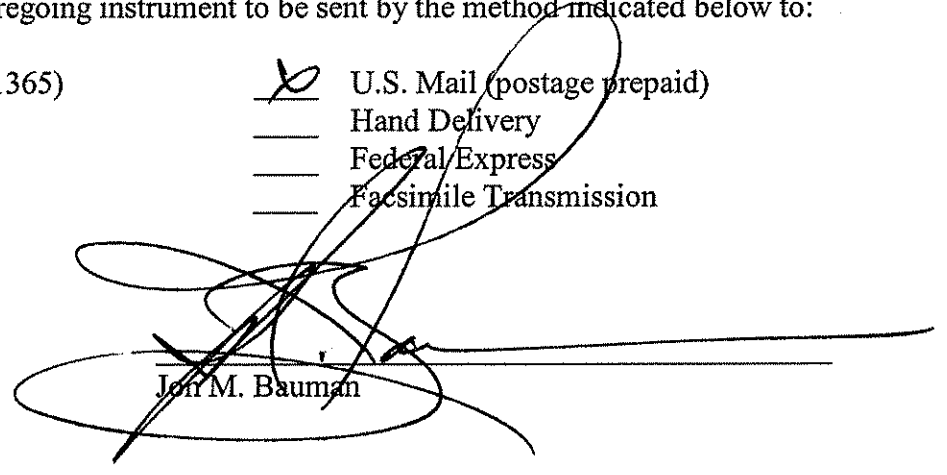
CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 28th day of October, 2002, I caused a true and

correct copy of the above and foregoing instrument to be sent by the method indicated below to:

Vernon K. Smith (ISB #1365)
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

- U.S. Mail (postage prepaid)
- Hand Delivery
- Federal Express
- Facsimile Transmission



Jon M. Bauman

66

ELAM & BURKE

A Professional Association
ATTORNEYS AT LAW

251 EAST FRONT STREET, SUITE 300
POST OFFICE BOX 1639
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

E-MAIL
jmb@elamburke.com

JON M. BAUMAN

October 21, 2002

Vernon K. Smith
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

VIA FACSIMILE

Re: *Stacy A. Gibson v. Ada County Sheriff's Office and State Insurance Fund*
E&B No. 179-9303

Dear Mr. Smith:

Last week I had the opportunity to speak with you about your request to vacate the hearing in the above-referenced matter until after the Supreme Court has issued its decision on the appeal of her termination. As I indicated, I need a letter from you to explain to my client your position as to the circumstances under which you feel it would be unnecessary to proceed against the State Fund with respect to Ms. Gibson's worker's compensation claim, noted above. As you say, it may be unnecessary to try this matter.

Another issue remains, which I mentioned to your administrative assistant, also last week. We have an outstanding request for supplementation of discovery responses. Ms. Gibson's supplemental responses are late. I would prefer not to file a Motion to Compel with the Industrial Commission, but if I do not have her supplemental responses by the close of business this Friday, October 25, 2002, I will have no alternative but to file a Motion to Compel.

Thank you for your anticipated courtesy and cooperation and cooperation in this regard.

Very truly yours,

ELAM & BURKE
A Professional Association


Jon M. Bauman

JMB:sd

cc: Jewel Roberts
Patti Powell

EXHIBIT A

67

TRANSACTION REPORT

P. 01

OCT-21-2002 MON 02:45 PM

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#	DP
OCT-21	02:44 PM	93451129	41"	2	SEND	OK	630	
			TOTAL :	41S	PAGES:	2		

ELAM & BURKE
A Professional Association
 ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
 702 WEST IDAHO
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 BOISE, IDAHO 83701

TELEPHONE
 208-343-5454

FACSIMILE
 208-354-5844

E-MAIL
 jmb@elamburke.com

JON M. BAUMAN

FACSIMILE TRANSMISSION
 October 21, 2002

Please deliver the following pages to:

NAME: Vernon K. Smith
COMPANY: Attorney at Law
ADDRESS: Boise, Idaho
TEL. #: 345-1125
FAX #: 345-1129

FROM: Jon Bauman
FILE #: 179-9303 / Gibson v. Ada County

TOTAL NUMBER OF PAGES (including this page): 2

68

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Established in 1928

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BOISE, IDAHO 83701

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208-343-5454
FACSIMILE
208-384-5844
E-MAIL
jmb@elamburke.com

JON M. BAUMAN

FACSIMILE TRANSMISSION
October 21, 2002

Please deliver the following pages to:

NAME: Vernon K. Smith
COMPANY: Attorney at Law
ADDRESS: Boise, Idaho
TEL. #: 345-1125
FAX #: 345-1129

FROM: Jon Bauman
FILE #: 179-9303 / Gibson v. Ada County

TOTAL NUMBER OF PAGES (including this page): 2

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If you have any problems receiving, please call Sandi at (208) 343-5454.

69

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

o0o
)
STACY A. GIBSON)
)
Claimant,)
)
v.)
)
ADA COUNTY SHERIFF'S OFFICE,)
)
Employer,)
)
and)
)
STATE INSURANCE FUND,)
)
Surety,)
)
Defendants.)
o0o

I.C. Case No. 01-015332
MOTION TO VACATE
AND RESET HEARING

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INDUSTRIAL COMMISSION
2002 NOV - 1 P 2:21

TO: EMPLOYER AND DEFENDANT SURETY AND THEIR ATTORNEY OF RECORD, RYAN P. ARMBRUSTER AND CALENDARING CLERK:

COMES NOW The Claimant above named, through counsel, and does request the hearing currently scheduled in the above referenced matter, before the Idaho Industrial Commission for December 2nd and 3rd, 2002, at 9:00 a.m., be vacated and rescheduled for the reason and upon the grounds as follows:

1. In early April 2002, it was agreed upon by the parties (after a telephone conference with all parties on April 15, 2002) that it would best address

ORIGINAL

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the issues in an efficient manner to vacate and reset a previously scheduled hearing before the Idaho Industrial Commission to allow the Idaho Supreme Court to make a final decision on whether the termination of Claimant was discriminatory, arbitrary and capricious. Several issues that have been presented to the Supreme Court pertaining to this case are not only paramount, but critical, in assisting Claimant advance her claim with the Idaho Industrial Commission. Consequently, after approximating the time needed for the Supreme Court to schedule oral argument and render a final decision, the hearing in this matter was reset for December 2nd and 3rd, 2002.

2. Oral argument on Supreme Court Case No. 27605 has now been scheduled for December 11, 2002, at 10:00 a.m., yet a final decision on this matter is not expected until sometime in spring (March-April 2003).

3. Counsel for Defendants, Employer and Surety, Jon M. Bauman, has submitted his request to stay the proceedings in this matter until such time Claimant does provide supplements to discovery responses before submitted by Claimant.

4. Claimant cannot complete her supplemental discovery responses at this time, as she is undergoing medical evaluations, and to supplement that information at this time would be premature and prejudicial to the best interests of justice if an attempt is made to expedite the medical assessments on Claimant.

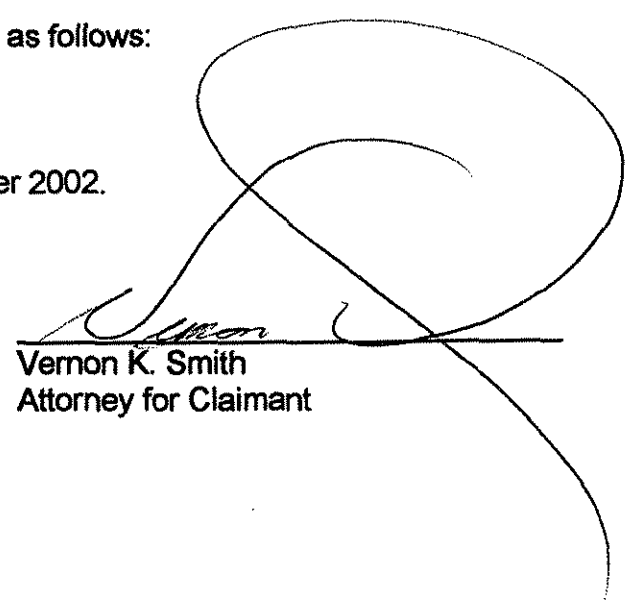
5. Furthermore, on November 1, 2002, Claimant's employer, Bernie R. Rakozy, has scheduled Claimant to participate in a training program during that period of time Defendants are attempting to schedule Claimant's deposition to qualify her possibly for the position of a bankruptcy administrator. She will not be

available, without jeopardizing her employment, if she is required to participate in Defendants' previously scheduled deposition on November 5, 2002.

The unavailable dates of Claimant's attorney for hearing before the Idaho Industrial Commission in said matter are as follows:

See attached calendar.

Dated this 1st day of November 2002.



Vernon K. Smith
Attorney for Claimant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on the 1st day of November 2002, I caused a true and correct copy of the above and foregoing to be delivered to the following persons at the following addresses as follows:

Mr. Ryan P. Armbruster	(<input checked="" type="checkbox"/>)	U.S. Mail
Elam & Burke	(<input checked="" type="checkbox"/>)	Fax
Key Financial Center	()	Hand Delivered
702 West Idaho		
Boise, Idaho 83701		


Vernon K. Smith

November 2002						
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24	25	26	27	28	29	30

Ryan P. Armbruster
Jon M. Bauman
ELAM & BURKE, P.A.
Key Financial Center, 10th Floor
702 West Idaho Street
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Armbruster - ISB #1878
Bauman - ISB #2989

Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)	
)	
Claimant,	)	I.C. Case No. 01-015332
)	
v.	)	DEFENDANTS' RESPONSE
	)	TO MOTION TO VACATE AND
ADA COUNTY SHERIFF'S OFFICE,)	RESET HEARING
)	
Employer,)	
)	
and)	
)	
STATE INSURANCE FUND,)	
)	
Surety,)	
Defendants.)	

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2002 NOV - 5 A 8:24

Defendants oppose Claimant's motion to vacate and reset the hearing in this matter.

Defendants respectfully except to Claimant's assertion that her appeal before the Idaho Supreme Court is in any respect relevant to the determination of the issues connected with her worker's

DEFENDANTS' RESPONSE TO MOTION TO VACATE AND RESET HEARING - 1

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compensation claim. The Idaho Legislature contemplated that the determination of worker's compensation claims is entirely the province of the Idaho Industrial Commission. Idaho Code § 72-201. Claimant has made no showing that any of the issues pending before the Idaho Supreme Court is pertinent to the resolution of her worker's compensation claim. Initially, Claimant demanded a full week's hearing on her worker's compensation claim, asserting that the Industrial Commission should determine whether Claimant's employer had violated various federal, state and local laws and regulations. Now Claimant maintains that she cannot participate in the hearing scheduled for December 2 and 3, 2002, on the grounds that the Idaho Supreme Court should be allowed to decide her appeal before she goes to hearing on her worker's compensation claim. Claimant had not previously asserted that the determination of her claim by the Idaho Supreme Court was critical to the adjudication of her worker's compensation claim, as she now claims. (Motion to Vacate and Reset Hearing, p.2.)

Claimant also knew, in April 2002, at the time the hearing was scheduled in this matter, that it could not be ascertained in advance precisely when the Idaho Supreme Court might rule on her case. Further, it is entirely possible that the Idaho Supreme Court may take any of several actions with respect to Claimant's appeal, including but not limited to remanding the matter for a new hearing, or affirming the order of the District Court and rejecting Claimant's appeal. In the former case, Claimant appears to maintain that the Industrial Commission should wait until after the matter has been heard again, and, if necessary, until after a new appeal ensues following the remand, before adjudicating her worker's compensation claim.

If, on the other hand, the Idaho Supreme Court should affirm the decision of the District Court, the question remains whether Claimant will be satisfied that "the issues that have been

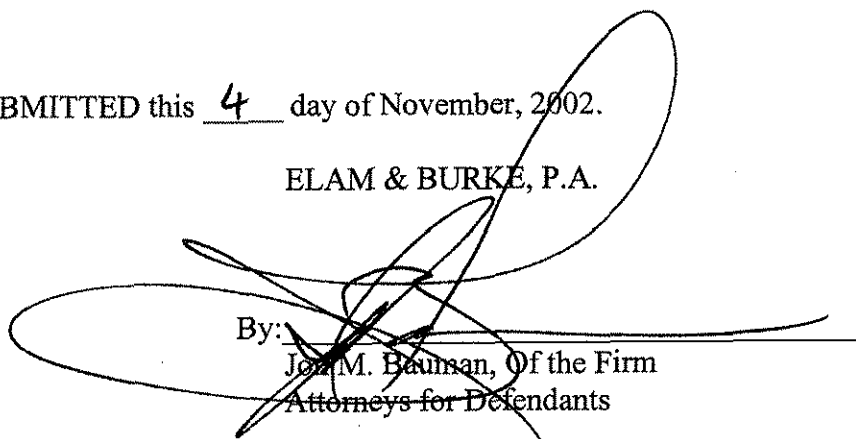
presented to the Supreme Court pertaining to this case" (*id.*, p. 2) will have been resolved such that she will be able to prosecute her case properly. Defendants reiterate their concern that the claims pending before the Idaho Supreme Court concerning the termination of Claimant's employment with Defendant Employer have no bearing on and are utterly separate from her worker's compensation claim. Further, Claimant has not made any showing to the Industrial Commission or Defendants that, whatever the outcome of her appeal before the Idaho Supreme Court, her worker's compensation claim will be allowed to proceed before the Industrial Commission in a timely fashion.

Defendants maintain that they are entitled to have supplemental discovery responses from Claimant and that Claimant is required, pursuant to Rule VII, J.R.P., and the corresponding Idaho Rules of Civil Procedure pertaining to discovery, to provide timely updates to Claimant's discovery responses. Defendants have been obliged to file motions to compel twice in this matter. Claimant should not be permitted to withhold pertinent information until such time as it pleases her to provide it. Moreover, Claimant previously agreed to be deposed on November 5, 2002, through her counsel, but now asserts she is unavailable on that date, without giving new available dates. Regardless whether the hearing in this matter is vacated, Defendants insist on the right to obtain proper discovery and in a timely manner.

Claimant's motion to vacate and reset hearing should not be granted lightly. Defendants request a telephone conference with the Referee on their Motion to Compel Discovery and to Stay Proceedings, and on this Motion.

RESPECTFULLY SUBMITTED this 4 day of November, 2002.

ELAM & BURKE, P.A.

By: 
Jon M. Bauman, Of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 4 day of November, 2002, I caused a true and correct copy of the above and foregoing instrument to be sent by the method indicated below to:

Vernon K. Smith
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

- U.S. Mail (postage prepaid)
- Hand Delivery
- Federal Express
- Facsimile Transmission
- Fax: 345-1129
- Phone: 345-1125


Jon M. Bauman

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)	
)	
Claimant,	)	IC 01-015332 - D
v.)	
)	
ADA COUNTY SHERIFF'S OFFICE,	)	ORDER VACATING AND
	)	RESET HEARING
Employer,)	
and)	
)	
IDAHO STATE INSURANCE FUND,	)	FILED
	)	NOV 15 2002
Surety,)	
Defendants.	)	INDUSTRIAL COMMISSION

On November 14, 2002, the Referee conducted a telephone conference with all parties represented. During the telephone conference, the Referee discussed Claimant's Motion to Vacate and Reset Hearing filed November 1, 2002. The Referee having reviewed the file herein and being fully advised in the premises,

IT IS HEREBY ORDERED that the hearing set for December 2 & 3, 2002, in the above-entitled matter is hereby VACATED, pursuant to request of counsel, and RESET for MAY 1 & 2, 2003, AT 9:00 A.M., FOR TWO DAYS, in the Industrial Commission hearing room, 317 Main Street, City of Boise, County of Ada, State of Idaho, on the following issues:

1. Whether Claimant has complied with the notice of limitations set forth in Idaho Code § 72-701 through Idaho Code § 72-706, and whether these limitations are tolled pursuant to Idaho Code § 72-604.
2. Whether Claimant suffered an injury caused by an accident arising out of and in the course of employment.
3. Whether the condition for which Claimant seeks benefits was caused by the alleged industrial accident.
4. Whether Claimant's condition is due in whole or in part to a subsequent intervening cause.
5. Whether and to what extent Claimant is entitled to the following benefits:

78

- a) Temporary partial and/or temporary total disability benefits (TPD/TTD);
- b) Permanent partial impairment (PPI);
- c) Disability in excess of impairment; and
- d) Medical care.


6. Whether apportionment for a pre-existing condition pursuant to Idaho Code § 72-406 is appropriate.

7. Whether Claimant's condition is compensable under Idaho Code § 72-451.

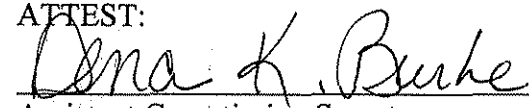
IT IS SO ORDERED.

DATED in Boise, Idaho, on this 15th day of November, 2002.

INDUSTRIAL COMMISSION


Douglas A. Donohue, Referee

ATTEST:


Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of November, 2002, a true and correct copy of the foregoing **ORDER VACATING AND RESETTING HEARING** was served by **UNITED STATES CERTIFIED MAIL** upon each of the following:

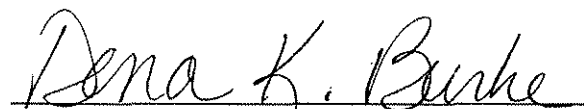
Vernon K. Smith
1900 West Main Street
Boise, ID 83702

Ryan P. Armbruster
Jon M. Bauman
P.O. Box 1539
Boise, ID 83701-1539

AND BY REGULAR UNITED STATES MAIL TO:

M. Dean Willis, CCR
P.O. Box 1241
Eagle, ID 83616

db



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
 v.)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
 and)
 IDAHO STATE INSURANCE FUND,)
)
 Surety,)
 Defendants.)

IC 01-015332

ORDER COMPELLING
DISCOVERY

FILED

NOV 15 2002

INDUSTRIAL COMMISSION

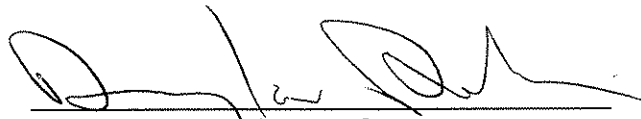
On October 28, 2002, Defendants filed a Motion to Compel and Motion to Stay Proceedings.

The Referee having reviewed the file and being fully advised in the premises,

HEREBY ORDERS that the Claimant respond within 15 days from the date of this Order to Defendants' discovery requests which were served upon her on or about September 26, 2002. Claimant shall also file a notice of compliance with the Industrial Commission no later than 15 days from the date of this Order. The issue of sanction is reserved.

DATED in Boise, Idaho, on this 15th day of November, 2002.

INDUSTRIAL COMMISSION


Douglas A. Donohue, Referee

ATTEST:


Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on th 15 day of November, 2002, a true and correct copy of the foregoing **ORDER COMPELLING DISCOVERY** was **Sent by Facsimile Machine Process** upon each of the following:

Vernon K. Smith **FAX #: 345-1129**
1900 West Main Street
Boise, ID 83702

Ryan P. Armbruster **FAX #: 384-5844**
Jon M. Bauman
P.O. Box 1539
Boise, ID 83701-1539

db

Dena K. Burke

Ryan P. Armbruster
Jon M. Bauman
ELAM & BURKE, P.A.
251 East Front Street, Suite 300
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Armbruster - ISB #1878
Bauman - ISB #2989

Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)
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 Claimant,)
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 v.)
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 ADA COUNTY SHERIFF'S OFFICE,)
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 Employer,)
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 and)
)
 STATE INSURANCE FUND,)
)
 Surety,)
 Defendants.)

I.C. Case No. 01-015332

STIPULATION TO
VACATE HEARING

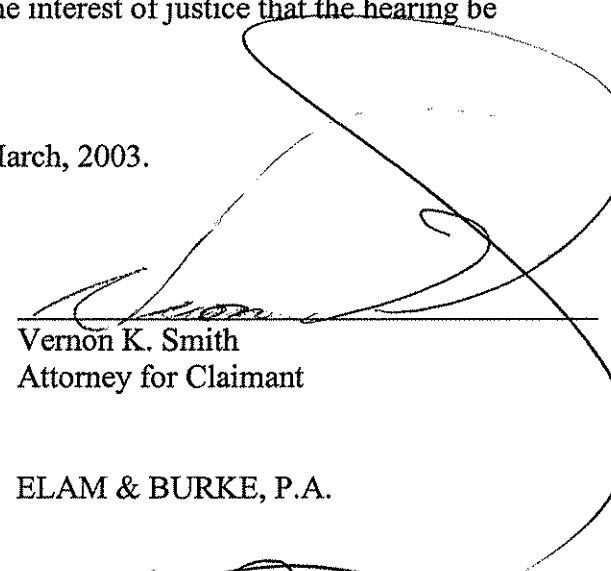
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2003 MAR 17 P 3:14

COME NOW Claimant, by and through Vernon K. Smith, her attorney of record, and Defendants, by and through their attorney of record, Ryan P. Armbruster of the firm Elam & Burke, P.A., and hereby stipulate and agree that the hearing in this matter, now scheduled to

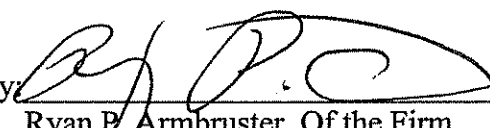
begin May 1, 2003, may and should be vacated on the grounds and for the reason that Claimant is presently employed and that her employer asserts that her absence from employment for periods sufficient to permit her to be evaluated by Defendants' psychological expert would impose a severe hardship on the employer's business and that the soonest Claimant could be available to undergo such an evaluation would be May 1, 2003. Accordingly, the parties agree that it is in the best interest of both parties and in the interest of justice that the hearing be vacated and rescheduled for some later date.

Respectfully submitted this 14th day of March, 2003.



Vernon K. Smith
Attorney for Claimant

ELAM & BURKE, P.A.

By 
Ryan P. Armbruster, Of the Firm
Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,
Claimant,
v.
ADA COUNTY SHERIFF'S OFFICE,
Employer,
and
STATE INSURANCE FUND,
Surety,
Defendants.


)
)
) IC 01-015332
)
) ORDER VACATING HEARING
)
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) FILED
) MAR 18 2003
) INDUSTRIAL COMMISSION
)

On March 17, 2003, the parties filed a Stipulation to Vacate Hearing. The Referee having reviewed the file herein and being fully advised in the premises,


HEREBY ORDERS that the hearing set for May 1 and 2, 2003, in Boise in the above-entitled matter, be and the same is hereby VACATED. **The matter will not be reset for hearing until a new Request for Calendaring is submitted, pursuant to the rules, indicating unavailable dates, and appropriate response thereto.**

DATED in Boise, Idaho, on this 18th day of March, 2003.

INDUSTRIAL COMMISSION


Douglas A. Donohue, Referee

ATTEST:


Assistant Commission Secretary

102
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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March, 2003, a true and correct copy of **ORDER VACATING HEARING** was **Sent by Facsimile Machine Process** upon each of the following:

Vernon K. Smith
1900 West Main Street
Boise, ID 83702

Fax #: 345-1129

Ryan P. Armbruster
P.O. Box 1539
Boise, ID 83701-1539

Fax #: 384-5844

db

Dena K. Burke

Ryan P. Armbruster
Jon M. Bauman
ELAM & BURKE, P.A.
251 East Front Street, Suite 300
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Armbruster - ISB #1878
Bauman - ISB #2989

Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)	
)	
Claimant,	)	I.C. No. 01-015332
)	
v.	)	MOTION TO COMPEL ATTENDANCE
	)	AT INDEPENDENT PSYCHOLOGICAL
ADA COUNTY SHERIFF'S OFFICE,	)	EVALUATION
)	
Employer,)	
)	
and)	
)	
STATE INSURANCE FUND,)	
)	
Surety,)	
Defendants.)	

RECEIVED
INDUSTRIAL COMMISSION
2003 JUN 12 P 4:12

Defendants, Ada County Sheriff's Office and Idaho State Insurance Fund, by and through the law firm of Elam & Burke, P.A., their attorneys of record herein, hereby move the Industrial Commission pursuant to Rule VII, J.R.P., Idaho Code Sections 72-433 and 434, and applicable

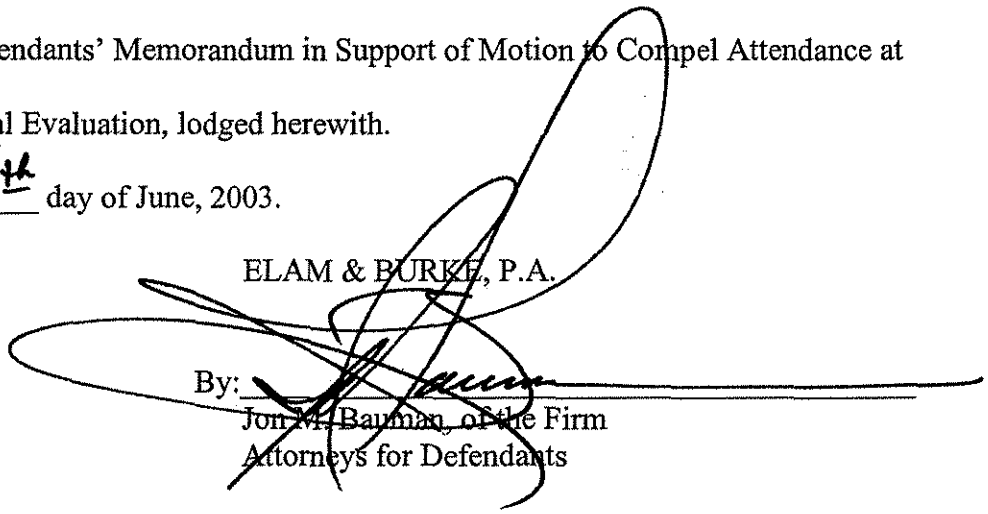
provisions of the Idaho Rules of Civil Procedure, for its order compelling Claimant to attend the independent psychological evaluation scheduled by Defendants with Dr. Cynthia Brownsmith to begin at 9:00 a.m. on Friday, June 20, 2003, and the second session to begin at 9:00 a.m. on Friday, June 27, 2003.

Defendants move the Industrial Commission for its order compelling Claimant to attend the independent psychological evaluation as requested herein and, in the event Claimant fails to attend the said evaluation, her Complaint should be dismissed or, alternatively, her right to prosecute further proceedings pursuant to the Idaho Worker's Compensation Law should be suspended until such time as she undergoes such evaluation.

This motion is based on the pleadings of record in this matter, on the Affidavit of Counsel filed herewith and on Defendants' Memorandum in Support of Motion to Compel Attendance at Independent Psychological Evaluation, lodged herewith.

DATED this 12th day of June, 2003.

ELAM & BURKE, P.A.

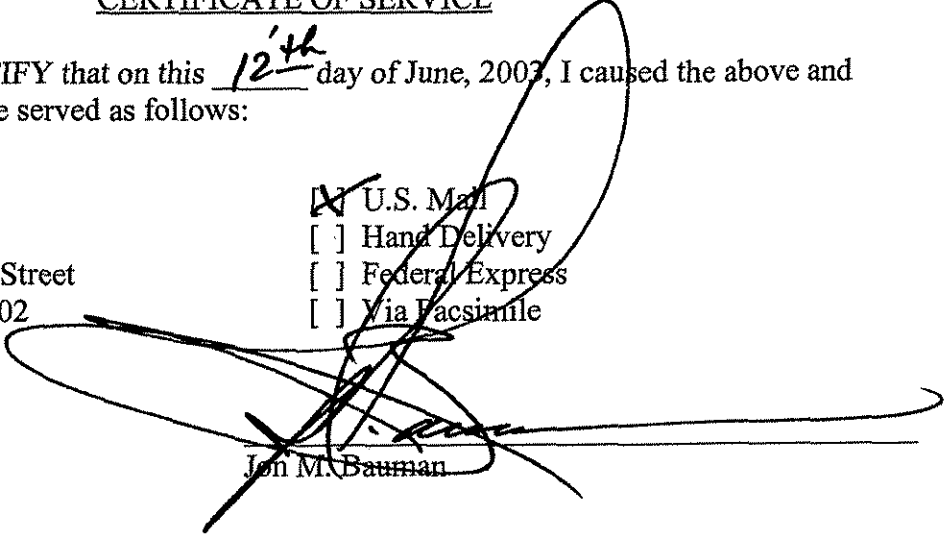
By: 
Jon M. Bayman, of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June, 2003, I caused the above and foregoing instrument to be served as follows:

Vernon K. Smith
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

- U.S. Mail
 Hand Delivery
 Federal Express
 Via Facsimile


Jon M. Bauman

Ryan P. Armbruster
Jon M. Bauman
ELAM & BURKE, P.A.
251 East Front Street, Suite 300
P.O. Box 1539
Boise, Idaho 83701
Telephone: (208) 343-5454
Facsimile: (208) 384-5844
Armbruster - ISB #1878
Bauman - ISB #2989

Attorneys for Defendants

BEFORE THE INDUSTRIAL COMMISSION OF
THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
)
 and)
)
 STATE INSURANCE FUND,)
)
 Surety,)
 Defendants.)

I.C. No. 01-015332
MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO COMPEL
ATTENDANCE AT INDEPENDENT
PSYCHOLOGICAL EVALUATION

RECEIVED
INDUSTRIAL COMMISSION
2003 JUN 12 P 4:12

Defendants submit this brief in support of their motion to compel Claimant's attendance at the independent psychological evaluation of Claimant to be performed by Dr. Cynthia Brownsmith on June 20 and June 27, 2003, relative to the above-noted matter.

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INTRODUCTION

By her Complaint herein, Claimant seeks worker's compensation benefits solely as a result of an alleged psychological injury arising pursuant to Idaho Code Section 72-451.

Claimant has identified F. LaMarr Heyrend, M.D., as a witness who may be called to testify at the hearing in this matter. (Claimant's Supplemental Response to Defendants' Requests for Production of Documents and Interrogatories, p. 2, dated December 2, 2002.) A true and correct copy of Claimant's supplemental response is attached as Exhibit A hereto.

Pursuant to Idaho Code Section 72-433(1), after an injury or contraction of an occupational disease and during the period of disability, the employee, if requested by the employer or ordered by the commission "shall submit himself for examination at reasonable times and places to a duly qualified physician or surgeon." The Idaho Supreme Court has determined that the term "physician" as defined in Idaho Code Section 72-102(24) includes psychologists. *O'Loughlin v. Circle A Construction*, 112 Idaho 1048, 739 P.2d 347 (1987). Defendants seek to have Claimant evaluated by Cynthia Brownsmith, Ph.D., a psychologist licensed to practice in the state of Idaho. A true and correct copy of Dr. Brownsmith's curriculum vitae is attached as Exhibit B hereto. Defendants seek to have Claimant evaluated by Dr. Brownsmith because Dr. Brownsmith has extensive experience in the diagnosis and treatment of post-traumatic stress disorder, a condition which Claimant asserts she sustained as a result of the injury alleged in her Complaint. (Complaint, p. 1.) Dr. Brownsmith sets forth her experience with post-traumatic stress disorder in her letter to Jon M. Bauman dated May 5, 2003, a true and correct copy of which is attached as Exhibit C hereto. Defendants seek to have

Claimant examined by Dr. Brownsmith on the grounds and for the reason that Defendants dispute the compensability of Claimant's claim, and specifically deny that Claimant sustained post-traumatic stress disorder as a result of having been interviewed by two other employees of the Ada County Sheriff's Department. Pursuant to Idaho Code Section 72-433, Defendants are entitled to have Claimant evaluated by a psychologist of their choosing. Defendants seek an order from the Industrial Commission requiring Claimant to attend the independent psychological evaluation scheduled with Dr. Brownsmith for June 20 and June 27, 2003.

The procedural background giving rise to this motion is as follows. By letter of January 30, 2003, Defendants notified Claimant's counsel that an independent psychological evaluation of Claimant by Dr. Cynthia Brownsmith had been scheduled for March 14 and March 21, 2003. A reminder letter to Claimant's counsel noting the date and time of the evaluation was also sent on February 4, 2003, by certified mail, return receipt requested. By letter of February 5, 2003, Claimant's counsel asked for a copy of the curriculum vitae of Dr. Brownsmith, requested that the interview with Dr. Brownsmith be recorded, and asked for reimbursement of two days' lost wages for Claimant as she attended the independent evaluation. By letter of February 20, 2003, defense counsel agreed that Claimant could tape record the interview with Dr. Brownsmith if Claimant used her own tape recording equipment, provided Claimant's counsel with Dr. Brownsmith's curriculum vitae, and agreed to reimburse Claimant for two days' lost wages from work. By letter of March 10, 2003, Claimant's counsel was also provided with detailed instructions on how to locate Dr. Brownsmith's office at 750 Warm Springs Avenue, in Boise, Idaho.

Despite the fact that Claimant's counsel had been notified of the contemplated independent psychological evaluation on January 30, 2003, it was not until March 12, 2003 — two days before the evaluation was to take place — that Claimant's attorney wrote and said that Claimant could not attend the evaluation. This was because Claimant's employer could not carry on its operations without her until May 1, 2003 — the first day of the hearing originally scheduled in this matter. Thereafter, defense counsel agreed to vacate the evaluation by Dr. Brownsmith and stipulated with Claimant's counsel to vacate the hearing. The Stipulation provided in pertinent part that "Claimant is presently employed and [that] her employer asserts that her absence from employment for periods sufficient to permit her to be evaluated by Defendants' psychological expert would impose a severe hardship on the employer's business and that the soonest Claimant could be available to undergo such an evaluation would be May 1, 2003." (Stipulation to Vacate Hearing, p. 2.) By Order of March 18, 2003, the Industrial Commission vacated the hearing pursuant to the parties' Stipulation.

By letter of April 21, 2003, Claimant's attorney expressed a number of concerns about the prospective evaluation of Claimant by Dr. Brownsmith. In particular, Claimant's attorney expressed concern about interviews pertaining to post-traumatic stress disorder. By letter of May 5, 2003, Dr. Brownsmith addressed the concerns of Claimant's counsel and agreed to several measures to accommodate those concerns. (Exhibit C.) This letter was provided to opposing counsel by defense counsel's letter of May 7, 2003. Notably, Dr. Brownsmith stressed her experience as a *clinical psychologist since 1978*; that she has conducted evaluations and provided clinical psychotherapy to "literally thousands of patients," during the last twenty years as a

practitioner in full time private practice; that her work in legal matters comprises approximately twenty-five percent of her practice; and that the evaluation and treatment of post-traumatic stress disorder “has become an area of special interest and expertise in my practice. I’m familiar with the current literature in the field and have taught workshops and publicly spoken on the topic of trauma and related areas.” *Id.* Dr. Brownsmith further explains in her letter that it is precisely because of her experience in working with victims of post-traumatic stress disorder that she requested two separate dates for Claimant’s evaluation. Dr. Brownsmith explained it is her

customary practice to allow for the patient to take breaks as needed when we are discussing difficult areas of evaluation. It is imperative to proceed slowly and cautiously so as to allow the patients to pace themselves and regain control emotionally when recalling psychologically threatening and upsetting materials such as traumatic events.

Id.

Dr. Brownsmith also added that on the first evaluation date, the patient completes standardized objective psychological tests, in order to provide an “independent, neutral source of information” regarding symptoms and psychological functioning. Dr. Brownsmith also noted that it has been her experience “that most patients found it helpful to have an interim between the first evaluation and the second, in order to reflect on their experiences, and make notes about issues they would like to bring up and to clarify statements they have made.” *Id.* She allows more time in order to permit the patient to “take breaks as needed” and so as not to impose an external deadline. “In that way the patient does not feel pressured by time to hurry to tell their story.” *Id.*

Dr. Brownsmith also pointed out that she had "already agreed to have Ms. Gibson make a tape recording of the entire evaluation process." She also offered that Claimant's treating psychiatrist could be available on site in Dr. Brownsmith's waiting room to provide "necessary treatment or support to her" during the evaluation process if Claimant so desired. Dr. Brownsmith noted that her waiting room is "immediately adjacent to my office and I would welcome her having a support person in my waiting room." She also declared that Claimant could be accessible to Dr. Heyrend by telephone during the evaluation. *Id.*

Subsequently, on June 2, 2003, defense counsel sent by facsimile and regular mail a letter to Claimant's attorney notifying him that the psychological evaluation of Claimant had been rescheduled with Dr. Brownsmith for June 20 and June 27, 2003. Again, detailed directions for locating Dr. Brownsmith's office were provided.

On June 5, 2003, Dr. Brownsmith independently wrote to counsel for Claimant, setting forth the time and place for the evaluation, again providing detailed instructions on how to locate her office, and further observing "If you have further concerns or requests regarding Ms. Gibson's evaluation please contact me as soon as possible. I will look forward to meeting with Ms. Gibson on June 20, 2003 and June 27, 2003. Thank you so much for your assistance in this matter." By letter of June 4, 2003, Claimant's counsel wrote Defendants that "we respectfully decline" Defendants' "unilateral effort" to schedule Claimant for the evaluation with Dr. Brownsmith.

By letter of June 6, 2003, defense counsel responded to Claimant's attorney, pointing out that Defendants are authorized to obtain a psychological evaluation pursuant to the provisions of

Idaho Code Section 72-433 and that Defendants had given reasonable notice (18 days) of the evaluation. Claimant's counsel was reminded that Claimant had retained the services of a psychiatrist to assist her in prosecuting her claim. Defendants are likewise entitled to have a psychologist evaluate Claimant. Claimant's counsel was reminded of the consequences that may arise pursuant to Idaho Code Section 72-434 for unreasonable failure to submit to or obstructing the examination authorized by Idaho Code Section 72-433. Further, Claimant's attorney was provided with a copy of the recent decision of the Idaho Supreme in Court *Brewer v. La Crosse Health & Rehab*, dated May 28, 2003. Claimant's counsel was invited to reconsider his decision not to allow Claimant to attend the independent psychological evaluation.

Pursuant to Idaho Code Section 72-433, Defendants are entitled to have Claimant evaluated by a physician or surgeon of their own choosing. The Idaho Supreme Court has made plain that a psychologist qualifies as a "physician" as the term is defined in the Idaho Worker's Compensation Act. *O'Loughlin*, above. Idaho Code Section 72-433 requires that a Claimant "shall submit himself for examination at reasonable times and places to a duly qualified physician or surgeon." Defendants respectfully submit that Dr. Brownsmith's office, where she routinely conducts a clinical psychological practice, is a "reasonable place" for a psychological evaluation and that Dr. Brownsmith has provided a detailed explanation of why the times for the evaluation are also reasonable. As Dr. Brownsmith points out in her letter of May 5, 2003, the second interview can be cut short if Claimant feels that she has had a full opportunity to tell her story and explain her circumstances. (Exhibit C.) Moreover, Claimant has been aware since January 30, 2003, when defense counsel sent the first notice, that a psychological evaluation was

being sought. In the interim, Claimant has had the opportunity to ask for, and to receive from Defendants, Dr. Brownsmith's curriculum vitae, permission to tape record the evaluation, an assurance that Claimant would be reimbursed for time lost from work while attending the evaluation, an explanation of why the evaluation would require two sessions, and was further given assurance that she could bring a support person such as her forensic psychiatrist, Dr. Heyrend, to be available during the entire evaluation process. Defendants respectfully submit that 18 days' advance notice is entirely reasonable, particularly where Claimant lives in the same city where the evaluation is to be conducted. Under the circumstances, Claimant should be required to attend the independent psychological evaluation scheduled with Dr. Cynthia Brownsmith on June 20 and June 27, 2003.

The Idaho Supreme Court has previously addressed independent medical evaluations and psychiatric evaluations conducted pursuant to the provisions of Idaho Code Section 72-433. In *Hewson v. Asker's Thrift Shop*, 120 Idaho 164, 814 P.2d 424 (1991), the surety arranged for the Claimant to undergo a medical panel evaluation by a neurologist and a psychiatrist. The claimant there was accompanied by her former husband when she went to both of the appointments and took a micro cassette recorder with her. The Idaho Supreme Court reversed the determination of the Industrial Commission that the Claimant had obstructed the evaluation by refusing to take part when she was not permitted to tape record the proceedings. The Idaho Supreme Court held that Idaho Code Section 72-433 does not prohibit the Claimant from electronically recording a compelled examination as long as the recording does not interfere with or obstruct the evaluation process. In holding that it was incumbent on the surety to prove that

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the Claimant “unreasonably refused or obstructed the examination,” the Idaho Supreme Court noted that there are “many and diverse ways in which an employee may obstruct a compelled examination.” *Id.*, 120 Idaho at 168, 814 P.2d at 428. The Supreme Court also recognized that it was entirely possible that “the improper use of the tape recording device may constitute an obstruction” of the examination. *Id.*, 120 Idaho at 169, 814 P.2d at 429. Significantly, while the Court acknowledged that the Claimant could record the evaluation, it never intimated that a Claimant could simply avoid the evaluation altogether and refuse to attend. Indeed, it is precisely because the Claimant is compelled by law to attend such an examination that the Claimant is afforded the additional safeguards of being permitted to tape record the evaluation, or be accompanied by her own physician.

The Idaho Supreme Court has also underscored the fact that a Claimant is required to participate in an independent medical evaluation if requested by the employer or ordered by the Industrial Commission. *Brewer v. La Crosse Health & Rehab*, 2003 Opinion No. 63 (May 28, 2003). In that recently decided case, the Claimant did appear at the clinic designated for the independent medical evaluation, but refused to fill out the intake form or to give information regarding her medical history or present injury. She cooperated with the physician in the course of the physical portion of the examination. The surety claimed that the Claimant had obstructed the independent medical evaluation and discontinued her worker’s compensation benefits pursuant to Idaho Code Section 72-434. Subsequently, the surety filed a Motion to Compel the Claimant’s attendance at and participation in another independent medical evaluation. The Industrial Commission granted this motion and the Claimant moved for reconsideration. The

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Commission agreed that the Claimant should be required to attend the independent medical evaluation and the Claimant again moved for reconsideration, which motion was denied.

Claimant appealed.

The Idaho Supreme Court determined on appeal that pursuant to Idaho Code 72-433(1), “a claimant must submit to an IME if requested by the employer or ordered by the Commission.” (*Brewer*, p. 3.) The claimant argued that nothing in the statute required her to complete any written forms or provide additional information outside the presence of her attorney. The Idaho Supreme Court rejected this argument and determined that a “*wholesale, blanket refusal* to respond to written and oral inquiries regarding past and present medical conditions constitutes an unreasonable obstruction of an IME.” (*Brewer*, p. 5 (italics in original).) The Supreme Court reached this decision notwithstanding the claimant’s argument that she had done “everything they asked me to do” except fill out the paperwork. *Id.* The Idaho Supreme Court therefore affirmed the decision of the Industrial Commission that the claimant had unreasonably obstructed the evaluation by her complete refusal to fill out the patient intake form or answer questions regarding her past or present medical condition.

If a claimant who undergoes a physical examination, but refuses to answer questions about her medical condition has unreasonably obstructed the examination as the Supreme Court held in *Brewer*, then a Claimant’s complete refusal to attend the evaluation in the first place is plainly an even more egregious example of the unreasonable obstruction of an evaluation under Idaho Code Section 72-433. Defendants respectfully submit that Claimant should be required to undergo the independent psychological evaluation scheduled with Dr. Cynthia Brownsmith.

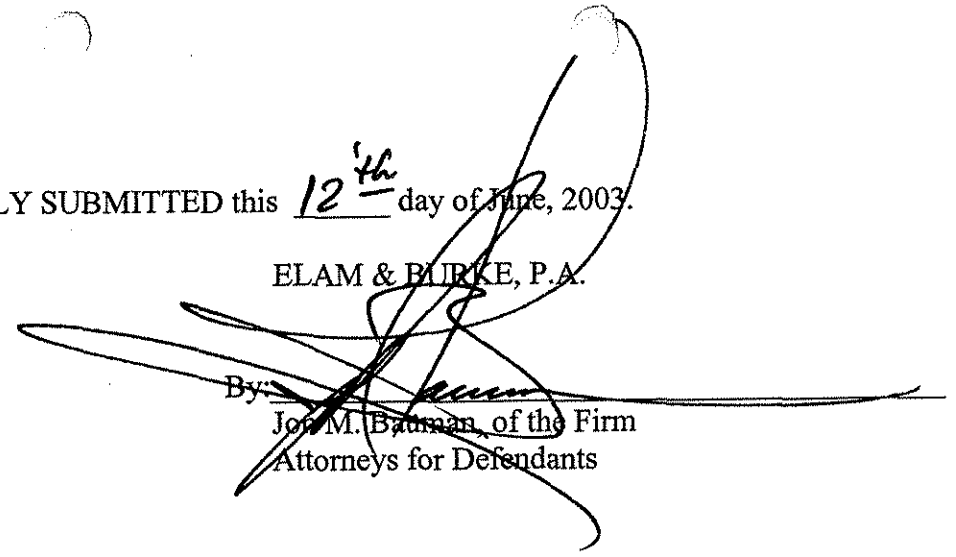
In the event Claimant fails to appear for the evaluation by Dr. Brownsmith as scheduled, this Commission should dismiss her Complaint or, alternatively, suspend her right to prosecute her claim for benefits pursuant to Idaho Code Section 72-434. In *Brewer*, the Idaho Supreme Court affirmed the Industrial Commission's decision that a surety may unilaterally terminate payment of worker's compensation benefits to a claimant who unreasonably obstructs an independent medical evaluation. In this case, however, because the compensability of the claim itself is at issue, no benefits are being paid to Claimant. Accordingly, Idaho Code Section 72-434 would be rendered meaningless and a nullity if no consequences would follow upon Claimant's failure to attend the evaluation as required by Idaho Code 72-433. Therefore, Claimant's right to prosecute her claim pursuant to the Idaho Worker's Compensation Laws should be suspended, or her Complaint dismissed, if she does not attend the evaluation scheduled by the Surety in this matter.

CONCLUSION

The Industrial Commission should order Claimant to attend the independent psychological evaluation scheduled with Dr. Cynthia Brownsmith on June 20 and June 27, 2003. In the event Claimant does not attend the evaluation, or otherwise unreasonably obstructs it, the Industrial Commission should dismiss Claimant's Complaint, or suspend her right to prosecute further proceedings to obtain worker's compensation benefits until such obstruction ceases.

RESPECTFULLY SUBMITTED this 12th day of June, 2003.

ELAM & BURKE, P.A.

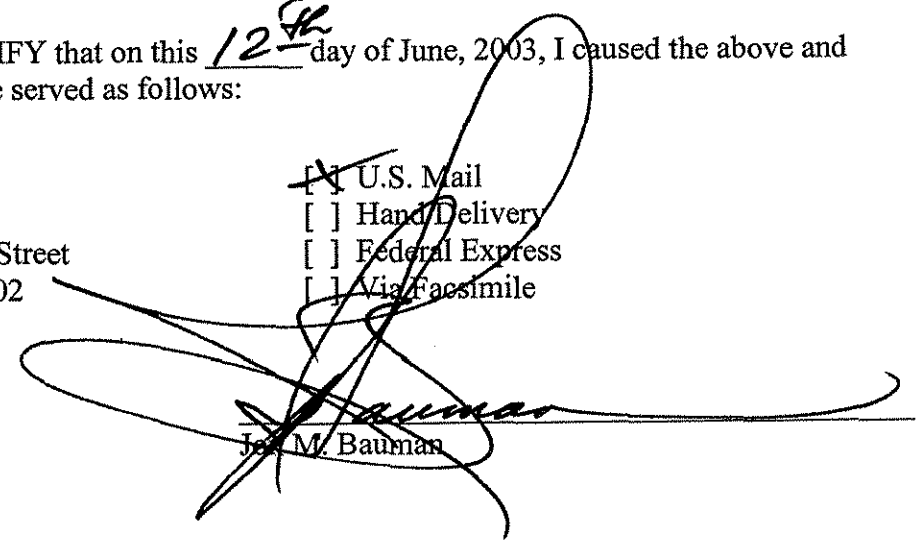
By: 
Jon M. Bauman, of the Firm
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June, 2003, I caused the above and foregoing instrument to be served as follows:

Vernon K. Smith
Attorney at Law
1900 West Main Street
Boise, Idaho 83702

- U.S. Mail
- Hand Delivery
- Federal Express
- Via Facsimile


Jon M. Bauman

100

EXHIBIT A

100a

rev'd
12/16/02

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

	o0o	
STACY A. GIBSON	)	I.C. Case No. 01-015332
Claimant,	)	<u>CLAIMANT'S SUPPLEMENTAL</u>
	)	<u>RESPONSE TO DEFENDANTS'</u>
v.	)	<u>REQUEST FOR PRODUCTION OF</u>
ADA COUNTY SHERIFF'S OFFICE,	)	<u>DOCUMENTS AND INTERROGATORIES</u>
Employer,)	
and)	
STATE INSURANCE FUND,)	
Surety,)	
Defendants.)	
	o0o	

COMES NOW The Claimant above named, through counsel, and does respond further to Defendants' Request for Discovery, and request for Claimant's supplemental response to discovery, as follows:

The witnesses who may be called to testify in this claim include the following individuals:

Jennifer Gibson
615 North Liberty
Boise, Idaho 83704

COPY

101

Sharon Ullman
Ada County Commissioner
200 West Front Street
3rd Floor
Boise, Idaho 83702
(208) 287-7001

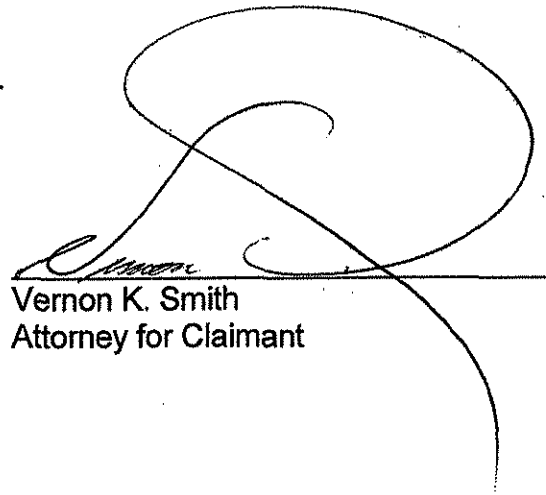
Hailey Prestridge
5501 Tinker Street
Boise, Idaho 83709
(208) 362-1471

Bob Perkins
Deputy
Ada County Sheriff's Office
7200 Barrister Drive
Boise, Idaho 83704
(208) 377-6500

F. Lamar Heyrend, MD
Behavioral Management Center, Inc.
355 North Allumbaugh
Boise, Idaho 83704
(208) 376-2518

He has sought further testing and expressed his desire for further referral in this testing process with Dr. Craig Beaver. Claimant has been engaged in the medical analysis process, but no formal report, diagnosis or prognosis has been made available to date

Dated this 2nd day of December 2002.



Vernon K. Smith
Attorney for Claimant

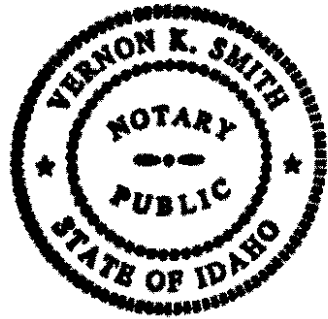
STATE OF IDAHO)
 : ss
County of Ada)

John M. Gibson, being first duly sworn upon oath, deposes as follows:

That I have read the above and foregoing Claimant's Supplemental Response to Defendants' Request for Production of Documents and Interrogatories, know the contents thereof, and the facts therein stated I believe to be true.

John M. Gibson
John M. Gibson
Claimant's Husband by Power of Attorney

SWORN AND SUBSCRIBED to before me this 27th day of December 2002.



Vernon K. Smith
Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 12/20/06

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on the 27th day of December 2002, I caused a true and correct copy of the above and foregoing to be delivered to the following persons at the following addresses as follows:

Mr. Ryan P. Armbruster
Elam & Burke
Key Financial Center
702 West Idaho
Boise, Idaho 83701

() U.S. Mail
() Fax
() Hand Delivered

Vernon K. Smith
Vernon K. Smith

EXHIBIT B

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Cynthia Brownsmith, Ph.D.
Licensed Psychologist
Clinical and Forensic Psychology

750 WARM SPRINGS AVENUE • BOISE, IDAHO 83712 • 208-342-3942

VITAE

NAME: Cynthia Brownsmith

OCCUPATION: Licensed Psychologist

DEMOGRAPHIC DATA: Office Address: 750 Warm Springs Ave., Suite B
Boise, ID 83712

Telephone: (208) 342-3942

EDUCATIONAL HISTORY

<u>Institute</u>	<u>Degree</u>	<u>Date</u>	<u>Major/Minor</u>
Texas Tech University	B.A.	1968	Psychology/Sociology
Texas Tech University	M.A.	1970	Clinical Psychology/ Special Education
Indiana University	Ph.D.	1976	Special Education/ Clinical Psychology

PROFESSIONAL EXPERIENCE:

- May 1985 to present Private Practice: Adult, adolescent and child psychology, individual, family and marital psychotherapy, hospital consultation and group inpatient psychotherapy. Expert witness and legal consultant in personal injury, wrongful death, workman's compensation, wrongful termination, child custody, child sexual abuse, and other criminal and civil forensic cases. Consultation with public and private non-profit agencies on child sexual abuse, domestic violence, eating disorders treatment programs, treatment and evaluation of gender specific disorders.
- Dec. 1978 to May 1985 Private Practice: Adult and adolescent individual psychotherapy. Marital and family therapy and parent counseling. Individual psychological evaluation for children. Divorce and child custody mediation, evaluation and counseling. Consultation with school districts in cases of severe behavioral disturbance. (Half-time)
- August 1978 to August 1985 Associate Professor, Department of Psychology, and Department of Teacher Education, Boise State University, Boise, Idaho. Undergraduate courses taught include: Abnormal Psychology, Assertiveness Training, Introduction to Exceptional Children, and Behavior Management. Graduate courses taught include: Childhood Psychopathology, Introduction to Counseling and Consulting, Personality Development and Analysis of the Individual (testing and behavioral observation methods). Duties included chairing master's degree thesis, advising students and serving on faculty committees. (Full-time, August 1978 - August 1983, Part time 1983 - 1985).
- September 1976 to August 1979 Principal Investigator, Project CAST: Teaching Interpersonal and Self-Management Skills to Mildly Handicapped Adolescents as part of a Career Education Curriculum, Center for Innovation in Teaching the Handicapped, Indiana University, Bloomington, Indiana, and Psychology Department, Boise State University. Activities: Directed research and development activities for training high-risk adolescent emotionally disturbed students in problem solving and self-management methods in small groups.
- September 1977 to Assistant Professor, Department of Special Education, Indiana

- August 1979 University, Bloomington, Indiana.
Taught undergraduate course: Introduction to Exceptional Students.
- January 1974 to May 1976 Research Assistant, Center for Innovation in Teaching the Handicapped, Indiana University, Bloomington, Indiana (part-time).
- October 1972 to January 1974 Staff Psychologist, South Louisville Mental Health Center River Region Services, Louisville, Kentucky (full-time).
Activities: Adult and child individual psychotherapy, child and adult diagnostics, community liaison for the public schools, juvenile courts, child welfare, and public assistance.
- August 1971 July 1973 Psychologist, Pediatric Associates, Louisville, Kentucky (part-time private practice).
Activities: Child, family and marital psychotherapy, psychoeducational diagnostics, school consultation, diagnosis and treatment in conjunction with pediatric medicine.
- September 1970 to May 1971 Staff Psychologist, Child Evaluation Center, Department of Pediatrics, University of Louisville Medical School, Louisville, Kentucky (half-time).
Activities: Child psychodiagnostics, school consultation and individual interventions, parental counseling including genetic counseling.
- January 1970 to September 1970 Intern in Clinical Psychology, South Plains Guidance Center, Lubbock, Texas (full-time).
Activities: Adult, child, individual, and group psychotherapy, adult and child psychodiagnostics, public school consultation, community liaison for juvenile courts.
- June 1969 to August 1969 Intern in Clinical Psychology, Big Springs State Hospital, Big Springs, Texas (part-time).
Activities: Psychodiagnostics for adults and child new admissions, individual and group, adult and child psychotherapy, Ward Psychologist for the Adolescent Unit.
- June 1969 to August 1969 Graduate Assistant, Texas Tech University. Taught graduate course in Intelligence and Personality Assessment, Department of Clinical Psychology, Texas University, Lubbock, Texas.

January 1969 to
June 1969 Staff Psychologist for the Department of Clinical Psychology,
State School for Retarded Children, Lubbock, Texas (half-time).
Activities: Outpatient and inpatient psychodiagnostics, parental
counseling, behavior modification training of profoundly
retarded inpatient children, educational consultation for children's
programming.

June 1968 to
July 1968 Program Coordinator, Learning Disabilities, Experimental
Clinician, Texas Tech University, Lubbock, Texas.
Activities: Small group and individual developmental training in
math and language for kindergarten and primary grades learning
disabled children.

PUBLICATIONS

Project CAST Inservice Teacher Training Series Module 1: An Introduction to Self-Management and Problem Solving; Supported by U.S.O.E., H.E.W. Grant: Project CAST, 1978.

Project CAST Inservice Teacher Training Series Module 3: Self-Regulation and Self-Management; Support by U.S.O.E., H.E.W. Grant: Project CAST, 1978.

Project CAST Inservice Teacher Training Series Module 4: The Seven Steps of Problem Solving; A color cassette videotape series authored by Frederick Kanfer, Ph.D. and Cynthia Brownsmith, Ph.D.; Supported by U.S.O.E., H.E.W. Grant: Project CAST, 1977.

Project CAST Student Intervention Program; A collection of materials including black and white videotapes, board games, simulation activities, A Student Handbook and a Group Leader's Manual; Supported by U.S.O.E., H.E.W. Grant: Project CAST, 1977.

PROFESSIONAL ORGANIZATIONS

Idaho Psychological Association
 American Psychological Association
 American Society for Psychology and the Law Society
 Psi Chi National Honorary in Psychology

PROFESSIONAL LICENSES AND CERTIFICATES

Certificate of Professional Qualification in Psychology (CPQ): CPQ #2,645, November 2001 to present

Idaho State Board of Psychologists: License #130, 1978 to present

Indiana State Board of Examiners in Psychology: Certificate #1100 133 278, 1978 to 1982

Kentucky State Board of Psychology: Certificate #233, 1971 to 1975

CONSULTATION, AND PROFESSIONAL STAFF TRAINING

Consulting Psychologist, Women's and Children's Alliance, Boise, Idaho, 2000-Present

The Treatment of Eating Disorders, staff training for the Warm Springs Center. Boise Idaho, April 1999.

Using the Psychological Expert in Custody and Visitation Issues, a course offered to attorneys by the National Business Institute. April 1997.

Air Force Judge Advocate General School, Adjunct Faculty for the Advanced Trial Advocacy Course 96A entitled "Child Victim as Witness", April 29-30, 1996, Maxwell Air Force Base, Montgomery, AL.

Program consultant at Intermountain Hospital, C.P.C., Boise, Idaho, 1990 to 1991. Conducted staff training and led an inpatient women's psychotherapy group. Provided consultation to the Program Development Committee on the development of a track for women's issues to be integrated throughout the general inpatient program.

HOSPITAL AFFILIATIONS

Medical Staff, Associate member, St. Alphonsus Regional Medical Center, Boise, Idaho, from Nov. 1987 to present

Medical Staff, Affiliate member, St. Luke's Regional Medical Center, Boise, Idaho from 1985 to present

AWARDS AND OFFICES HELD

Community Board, YMCA, 1995

Medical Advisory Committee, Planned Parenthood Association, 1993 to 1994.
Idaho State Mental Health Advisory Committee to the Crime Victims Compensation Fund, 1993.

Chair, Continuing Education Committee, Idaho Psychological Association, 1992 to 1996.

Member of Legislative Committee, Idaho Psychological Association, 1989 to 1994.

Advisory Board, CARES Program, St. Luke's Regional Medical Center, Boise, Idaho, 1990 to 1991.

Mayor's Drug and Alcohol Task Force, Boise, Idaho, 1990 to 1991.

Board of Directors, Women's Life Program, St. Luke's Regional Medical Center, Boise, Idaho, 1986 to 1989.

Chair, Idaho State Board of Psychologist Examiners, 1986 to 1987.

Vice Chair, Idaho State Board of Psychologist Examiners, 1983 to 1986.

Secretary, Idaho State Board of Psychologist Examiners, 1982 to 1983.

Chair, Women's Institute, American Orthopsychiatry Association, 1981 to 1985.

Chair, Task Force on Women's Issues, American Orthopsychiatry, 1985 to 1988.

CONTINUING EDUCATION

Forensic Practice Issues in Mental Health, Idaho Psychological Association, Boise, Idaho, January 31, 2003

Updates in Psychopharmacology, Michael J. Gitlin, M.D., Idaho Psychiatric Association, Boise, Idaho, January 25, 2003

Psychopharmacology of Energy and Fatigue, University of California, San Diego School of Medicine Department of Psychiatry, San Diego, California, November 7, 2002.

Ethical Decision Making & Risk Management in Clinical Practice, Idaho Psychological Association, Sun Valley, Idaho, April 13, 2002

Marketing the Value of Psychology to the Workplace & Other Niche Markets, Idaho Psychological Association, Sun Valley, Idaho, April 12, 2002.

A Series on Current Psychiatric Medications, Bipolar, Leslie P. Lundt, M.D. & Nancy Nadolski, R.N., M.Ed., FNP.C, March 8, 2002, Boise, Idaho.

A Series on Current Psychiatric Medications, Depression, Leslie P. Lundt, M.D. & Nancy Nadolski, R.N., M.Ed., FNP.C, February 15, 2002, Boise, Idaho.

Assessing Psychopathy with the HARE Psychopathy Checklist – Revised (PCL-R), Sinclair Seminars, February 9-10, 2002, San Francisco, California.

Advanced Psychopharmacology Course: Using Mechanism of Action to Select and Combine Antidepressants, Lewis L. Judd, M.D., Steven Stahl, M.D., March 9, 2001, Seattle, Washington.

Couples Therapy Workshop, Multicultural Competency & Ethical Standards, Roundtable Discussions, Idaho Psychological Association, May 5, 2001, Sun Valley, Idaho.

The Complex Multi-Problem Patient Workshop, Michael Tompkins, Ph.D., Idaho Psychological Association, May 4, 2001, Sun Valley, Idaho.

National Psychologist: September/October 2000 by Ohio Publications, Home Study Program, October 21, 2000, Boise, Idaho.

Legal and Ethical Risks and Risk Management in Professional Psychological Practice. Sequence II: Risk Management in Specific High Risk Areas, Eric Harris, Ed.D., JD, American Psychological Association, Insurance Trust, May 6, 2000, Boise, Idaho.

The Cutting Edge of Sexual Harassment, Louise Fitzgerald, Ph.D., Idaho Bar Association, February 19, 1998, Boise, Idaho

Sexual Harassment at Work: What Mental Health Professionals Should Know, Louise Fitzgerald, Ph.D., North End Center, February 18, 1998, Boise, Idaho.

Wechsler Adult Intelligence Scale-III, Charles Williams, Ed.D., Idaho Psychological Association, February 6, 1998, Boise, Idaho

Child Custody/Parenting Evaluations: Practice, Ethics and Case Law, Stuart A. Greenberg, Ph.D., American Academy of Forensic Psychology, June 27-29, 1996, Portland, Oregon.

Comprehensive Child Custody Evaluations, Randy K. Otto Ph.D, American Academy of Forensic Psychology, November 11, 1995, Chicago, Illinois.

Risk Assessment: Implication for Evaluation, Intervention and Decision-Making, Kirk S. Heilbrun, Ph.D., American Academy of Forensic Psychology November 10, 1995, Chicago, Illinois.

Personal Injury Evaluation- Part I: Introduction to Assessment and Testimony, Ronald S. Kaiser, Ph.D., American Academy of Forensic Psychology, November 9, 1995, Chicago, Illinois.

Intervention with Battered Women, Treatment of Battering Men, and Courtroom use of Battered Woman Syndrome Testimony, Diane R. Follingstad, Ph.D., Idaho Psychological Association, September 30, 1995, Coeur d'Alene, Idaho.

Surviving and Thriving as a Couples Therapist, Ellyn Bader, Ph.D., Idaho Psychological Association, May 5-6, 1995, Boise, Idaho.

Developments and Issues in Psychology, Sol Garfield, Ph.D., Idaho Psychological Association, April 7, 1995, Sun Valley, Idaho.

FORENSIC PSYCHOLOGY EXPERIENCE

CASE NAME CASE NUMBER	TYPE OF CASE	ATTORNEY	DATE
Ada County v Stacy A Gibson Case No. CV OC 0107394 D	Workers' Compensation	Jon M. Bauman	2002
Joann Saunders Case No: Fed CR-01-165-SBLW	Wire/Mail Fraud Criminal Defense	Thomas McCabe	2002
State of Idaho v Dennis G. Shaver Case No: H 0100994	Personal Injury/ Sexual Abuse of Minor Plaintiff	David Manweiler	2002
Kelley Lynn Coffin Ingraham v Erik Clarke Ingraham Case No: CV DR 0201544-D	Divorce/Spousal Abuse Plaintiff	Christopher Bray	2002
Tammi Fairchild v Loren Michael Gardner Bonneville County Case No: CV-01-4232	Child Custody	James D Holman	2002
Tom Allegrezza-Bouchard CaseNumber: 2092	Civil Tort Consulting	James Underwood	2002
State of Idaho v James Lee Morrison Criminal Number: H0100736	Murder Criminal Defense	Ada County Public Defender, August Cahill	2002
State of Idaho v David D. Harpt Criminal Number: H9901032	Capital Murder Criminal Defense	Ada County Public Defender, Ed Odessey	2001
Shubneesh Batra v Monica Batra Case Number: CVDR 96-02582-D	Child Custody Consultation	Scot Ludwig	2001
Sara Thornock v Micron Technology, Inc Case Number: CV OC9705357 D	Sexual Harassment Defense	Stephen Andersen	2001
Tracy Monti v James Monti Case Number: CV-DR-01-00537D	Child Custody Plaintiff	Susan Corisis Brooks	2001

Mathew Wells v Notus School District Case Number: CV 00 06689	Personal Injury Plaintiff	Scott Hess	2001
Degen, et al v White, et al Case Number: CV-00-00730	Wrongful Death Plaintiff	Rebecca Broadbent	2001
Nancy Dobbins v Gray Arlit Case Number: CV99-2142C	Child Custody Court Appointed	Scot Ludwig	2000
Jacqueline Vaught Case Numbers: IC89661639 IC92800252 IC93851698 IC96001202 IC97000637 IC97003737	Workman's Comp Plaintiff	Breck Seiniger	2000
Jan Bagby Idaho Human Rights Commission Number: E-0699-479	Workman's Comp Human Rights Commission Filing Plaintiff	Terry Anderson	2000
Ondrick v Elliott, et al Case Number: CV PI 9800328 D	Personal Injury: Child Molestation Plaintiff	Mark Prusynski	2000
Holt v Bright Beginnings Case Number: CV PI 9800225 D	Personal Injury: Child Molestation Plaintiff	Finch, Cosho	2000
Buchanan v Georjinana Elliott, Rick Elliott, Matthew Elliott and R & G Enterprises, Inc. Case Number: CV PI 9900122 D	Personal Injury: Child Molestation Plaintiff	Scot Ludwig	1999
Ehlert v Georjinana Elliott, Rick Elliott, Matthew Elliott, R & G Enterprises, Inc. Case Number: CV PI 9900173 D	Personal Injury: Child Molestation Plaintiff	Scot Ludwig	1999
McReynolds v Georjinana Elliott, Rick Elliott, Matthew Elliott and R & G Enterprises, Inc. Case Number: CV PI 9900123 D	Personal Injury: Child Molestation Plaintiff	Scot Ludwig	1999

Taylor v Georginana Elliott, Rick Elliott, Matthew Elliott and R & G Enterprises, Inc. Case Number: CV OC 9902338 D	Personal Injury: Child Molestation Plaintiff	Scot Ludwig	1999
Cabbage v Georginana Elliott, Rick Elliott, Matthew Elliott and R & G Enterprises, Inc. Case Number: CV PI 9900649 D	Personal Injury: Child Molestation Plaintiff	Scot Ludwig	1999
Nicole Myers v R & G Enterprises Case Number: CV PI 9800225 D	Sexual Harassment Plaintiff	John Janis	1999
In the Interest of: Alex Benjamin Castro Case Number: SP-99-344	Contested Adoption For the Foster Parents	Teresa Sturm	1999
Smith v Smith Case Number: CV95-00638	Child Custody Court Appointed	Ronald P Rainey Wes Wilhite	1999
Mark Welsh v Susan J Welsh Case Number: CVDR 9500359 D	Child Custody Court Appointed	James Bevis	1999
Unites States of America v Patricia Johnson Criminal Number: 99-44-EJL	Criminal Defense	Audrey Numbers	1999
Tracy Fruin v PAM Oil, Inc. Case Number: CIV98-0375-N-EJL	Sexual Harassment Defense	Karl Klein	1999
Jessica Lawrence v Matt Hanruhan; Tim Messuri; and John Does I-X Case Number: CIV 99-0485-S-EJL	Personal Injury Plaintiff	Scott Hess	1999
Mark Snethen v Teri Hunter Case Number: CV DR 95-02501 D	Child Custody Court Appointed	Ronald P Rainey	1998
Atwood v Kinney Bros. & Keele Hardware Co. & Michael Pratt Case Number: 97-1189 MA	Sexual Harassment Defense	Tamsen Leachman	1998
Steven Olsen, Joanne Olsen & Christopher Olsen v State Farm Ins.	Wrongful Death & Personal Injury	Rebecca Broadbent	1999

(Arbitration)

Defense

Permann v Permann

Child Custody

Randy Kline 1998

Riggs & Goad v

Dr. Mark Stephenson:

Case Number: CV 95 1157

Noreen v Stephenson:

Case Number 95 220

Barnard v Stephenson:

Case Number: CV 95 222

**Psychological Malpractice
Plaintiff Charles Lloyd 1997**

Cheever v Lord

Case Number: CV DR 9602611 D

**Child Custody
Court Appointed**

John Connoly 1997

Cripe v Manning

Case Number: CV 9602611 D

**Child Custody
Court Appointed**

**Jeffrey Christenson
1997**

EXHIBIT C

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Cynthia Brownsmith, Ph.D.
Licensed Psychologist
Clinical and Forensic Psychology

MAY 7 2003

750 WARM SPRINGS AVENUE • BOISE, IDAHO 83712 • 208-342-3942

May 5, 2003

Jon M Bauman, Attorney at Law
Elam & Burke
PO Box 1539
Boise, Idaho 83701

RE: Stacy A. Gibson
Claim Number: 2000110993

Dear Mr. Bauman:

I would like to take this opportunity to respond to a number of concerns raised by Vernon K. Smith and commented on by Dr. Lamar Heyrend. In Mr. Smith's letter of April 21, 2003, he calls into question whether I am an appropriate mental health professional to perform an Independent Medical Evaluation of Stacy Gibson. Some historical information regarding my longstanding practice in the area of clinical psychology could be of help in clarifying my expertise. I have been engaged in the private practice of clinical psychology since 1978. For the past 20 years I have been in fulltime private practice and have conducted evaluations and provided clinical psychotherapy to literally thousands of patients. My work in legal matters comprises approximately 25 % of my practice. The evaluation and treatment of Post Traumatic Stress Disorder has become an area of special interest and expertise in my practice. I'm familiar with the current literature in the field and have taught workshops and publicly spoken on the topic of trauma and related areas.

It is precisely because of my experience in working with Post Traumatic Stress Disorder victims that I have requested two separate dates for Ms Gibson's evaluation. In my experience virtually all victims of trauma are upset by having to recount the traumatic events and the subsequent psychological, social and behavioral consequences of trauma. Because of this I have requested lengthy interview time. It is important to understand the context in which trauma occurs, the level and type of stress experienced at the time of the trauma, and the individual's perception of those events. A historical context is also very important, as past experiences can result in re-experiencing of prior trauma. It is also important to obtain a detailed account of the victim's subsequent, ongoing changes in psychological symptoms and the impact on daily life functioning. Because of my

concern about possible re-victimization it is my customary practice to allow for the patient to take breaks as needed when we are discussing difficult areas of the evaluation. It is imperative to proceed slowly and cautiously so as to allow the patients to pace themselves and regain control emotionally when recalling psychologically threatening and upsetting material such as traumatic events.

It is my standard practice to conduct these evaluations on two separate occasions. On the first evaluation date, it is my practice to have the patient complete standardized objective, psychological testing in order to provide an independent, neutral source of information regarding a patient's symptoms and psychological functioning. Conducting psychological tests, as a part of a psychological evaluation, is customary and the standard of care for such evaluations. It provides an opportunity for the psychologist to check their clinical observations and impressions with standardized measures. There are several advantages of conducting a psychological evaluation on two separate occasions. Psychological testing typically takes the patient three to four hours to complete. This is a tiring process and patients often feel a need for a break following the testing. Allowing for such a break and then conducting a 2 ½ to 3-hour interview, is a full day of evaluation. However, this does not allow sufficient time to cover the patient's history prior to the alleged trauma, their experiences related to the trauma and their condition post trauma. It has also been my experience that most patients find it helpful to have an interim between the first evaluation and the second, in order to reflect on their experiences, make notes about issues they would like to bring up and to clarify statements they have made. Typically the second day of interviewing does not require the full seven hours. In order to allow the patient to take breaks as needed in discussing such difficult material I usually do not impose an external deadline on the second day of interviewing. In that way the patient does not feel pressured by time to hurry to tell their story. If the interview is completed prior to the allotted time the patient is free to go. The point is to allow the patient as much time as they feel is needed to give a personal, detailed account of their experiences.

It is also my practice to conduct collateral interviews with individuals who have known the patient prior to and following the incidents of concern. This provides more information about the context in which the alleged trauma occurred and a collaborative accounting of the patient's contemporaneous reports of symptoms and psychological functioning. It is not unusual in clinical practice, or in psychological evaluations, to gain information from third parties who have direct observations and experiences with the patient.

In order to insure Ms Gibson's sense of safety and to provide an accurate record of the psychological evaluation I have already agreed to have Ms Gibson make a tape recording of the entire evaluation process. I understand Ms Gibson may experience distress and emotional upset at having to talk about her experiences with the Ada County Sheriff's Department, as well as her psychological symptoms. In order to insure that she has psychological support and the sense of safety I would offer that her treating psychiatrist, Dr. Heyrend, could be available on site in my office waiting room to provide necessary treatment or support to her if she feels overwhelmed by the psychological evaluation process. Ms Gibson could also make arrangements with Dr. Heyrend to be available by

telephone if she were to need his assistance during the evaluation. My waiting room is immediately adjacent to my office and I would welcome her having a support person in my waiting room.

Hopefully, this letter clarifies the evaluation process and my understanding and expertise of Post Traumatic Stress Disorder. I look forward to the opportunity to meet with Ms Gibson and to understand her current symptoms and condition. If I may be of further assistance please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cynthia Brownsmith".

Cynthia Brownsmith, Ph.D.
Licensed Psychologist

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)
)
 Claimant,)
)
 v.)
)
 ADA COUNTY SHERIFF'S OFFICE,)
)
 Employer,)
)
 and)
)
 IDAHO STATE INSURANCE FUND,)
)
 Surety,)
)
 Defendants.)

IC 01-015332

NOTICE OF INTENT TO RULE
AND ORDER

FILED

JUN 18 2003

INDUSTRIAL COMMISSION

On June 12, 2003, the Industrial Commission received Defendants' Motion to Compel Attendance at Independent Psychological Evaluation. The evaluation is scheduled to be conducted on June 20 and 27, 2003. Good cause has been shown for the Referee to issue an order in this matter within the 10-day period provided by rule. Therefore, the Referee issues this notice of intent to issue an order on the motion.

Claimant, by filing a workers' compensation claim, has put at issue her physical and psychological condition. Idaho Code § 72-433 requires Claimant to allow examinations by certain experts chosen by Defendants. The recent Idaho Supreme Court case of Brewer v. LaCrosse Health and Rehab, 2003 Opinion No. 63 (May 28, 2003), is the latest in a consistent line of cases establishing that Claimant is required to attend and cooperate with such examinations.

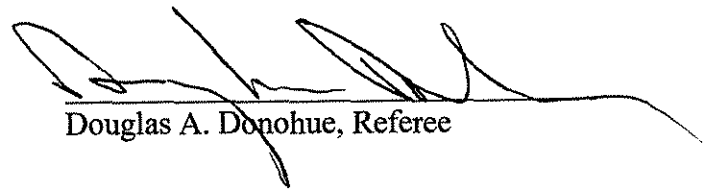
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Therefore, Defendants' Motion to Compel is GRANTED and Claimant is hereby ORDERED to attend and cooperate with the scheduled evaluation. Refusal or failure to attend and cooperate shall constitute a basis for sanctions up to and including dismissal of her workers' compensation claim.

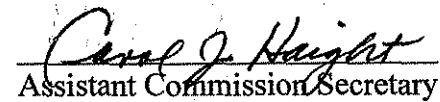
Because this order is made within the 10-day period, Claimant shall have until 4:00 p.m. on June 19, 2003, to show cause, by written submission why this Order should not be enforced. Oral evidence and argument shall not be permitted relative to this opportunity to show cause.

DATED this 18th day of June, 2003.

INDUSTRIAL COMMISSION


Douglas A. Donohue, Referee

ATTEST:


Assistant Commission Secretary

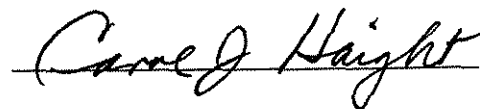
CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of June, 2003 a true and correct copy of **Notice of Intent to Rule and Order** was served by FACSIMILE PROCESSING MACHINE upon:

VERNON K SMITH FAX # (208) 345-1129

JON M BAUMAN FAX # (208) 384-5844

cjh



NOTICE OF INTENT TO RULE AND ORDER - 2

FAX

VERNON K. SMITH
ATTORNEY AT LAW
1900 West Main Street
Boise, Idaho 83702
Idaho State Bar No. 1365
Telephone: (208) 345-1125
Fax: (208) 345-1129

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

	oOo	
STACY A. GIBSON	)	I.C. Case No. 01-015332
Claimant,	)	<u>CLAIMANT'S RESPONSE</u>
v.	)	<u>TO NOTICE OF INTENT TO</u>
ADA COUNTY SHERIFF'S OFFICE,	)	<u>RULE AND ORDER</u>
Employer,)	
and)	
STATE INSURANCE FUND,)	
Surety,)	
Defendants.)	
	oOo	

INDUSTRIAL COMMISSION

JUN 19 2003

FILED

COMES NOW The Claimant above-named, Stacy A. Gibson, through counsel, and pursuant to the "Notice of Intent to Rule and Order" filed June 18, 2003, therein granting Defendant-Surety's Motion to Compel Claimant to attend a "psychological examination" as currently scheduled by Defendant with Dr. Cynthia Brownsmith, a forensic psychologist, and to require Claimant to attend and cooperate with that scheduled "evaluation", does herewith respond to that Notification and does furthermore respond to the Commission's further Order allowing Claimant to show cause, by written submission, by 4:00 p.m. on June 19,

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2003, why such an Order should not be enforced as entered. Claimant does respond as follows:

Claimant's counsel received the letter of June 5, 2003 from Defendants and Dr. Brownsmith, together with the Motion now to Compel Attendance of Claimant for an Independent Psychological Evaluation, which was received June 13, 2003. Claimant and counsel have the Commission's Notice of Intent to Rule and Order, filed June 18, 2003.

The basis of any authority to compel any Claimant to submit to any independent medical examination (not Independent psychological evaluation) comes from that statutory authority as identified in Idaho Code, § 72-434, which states in pertinent part:

"If an injured employee unreasonably fails to submit to or in any way obstructs an examination by a physician or surgeon designated by the Commission or the employer..." (Emphasis added).

It is Claimant's position and now made a particular issue in this case, that Defendant-Surety has not scheduled an "examination" with a "physician or surgeon" but rather has undertaken to schedule an "evaluation" with an independent psychologist and in doing such, Claimant is to be "evaluated" by a "forensic psychologist", Dr. Cynthia Brownsmith, who is neither a psychiatrist, nor a physician, nor a surgeon, but rather is a practitioner who deals in forensic psychology, a learning skills, research and study science, not acting as a member of any "healing profession".

Idaho Code, § 72-102 (24) provides us with the definition of what a "physician" is, and it does appear, by definition, to not include forensic psychology.

The term "physician" is define as follows:

"Physician" means medical physicians and surgeons, ophthalmologists, otorhinolaryngologists, dentists, osteopaths, osteopathic physicians and surgeons, optometrists, podiatrists, chiropractic physicians, and members of any other healing profession licensed or authorized by the statutes of this state to practice such profession within the scope of their practice as defined by the statutes of this state and as authorized by their licenses." (Emphasis added).

Psychologists are not normally recognized as a "healing professions", but rather a probing, study, research type profession. They are not regarded as a "healing profession" as that term is understood to mean. Rather and in all respects, psychologists are engaged in the application of established principles of learning, motivation, perception, thinking and emotional relationships to problems of personal evaluation, group relations and behavioral adjustments, measuring and testing personality, intelligence, aptitudes, emotions, public opinion, attitudes and skills. They may undertake to counsel, to diagnose and to treat mental problems in that context, but they are not a healing profession, and the characteristic of any healing capabilities has been reserved to members of psychiatry, who are licensed physicians, and can perform independent medical examinations, as is statutorily authorized. These "psychiatrists" are specifically the ones who have been vested with the authority to counsel, diagnose, and treat mental and emotional disorders and disabilities with the use of therapeutic means, psychotherapy and drug therapy. They can do this because they are allowed to prescribe medications, as they are physicians.

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Psychologists are not licensed psychiatrists; they frequently do research on problems relating to human behavior, but are not authorized to prescribe medications and must be careful not to enter into the arena of what a practicing psychiatrist is authorized to do as a matter of law.

The concept of "healing" is not the objective of psychology; rather it is the objective of psychiatry. Fundamentally, psychology involves the study of the mind, principles of learning, motivation, perception, thinking, emotional relationships, personal relationships, and the measurement of and testing of personalities, levels and degrees of intelligence, basic and fundamental aptitudes, attitudes, skills and research projects relating to human behavior in society. To cure or heal a disorder of the mind typically requires the involvement of a licensed psychiatrist, one who is licensed to administer appropriate medical treatment, and the idea of an independent medical examination using their training, is within the scope of statutory authority.

By no means does Claimant attempt to undermine the "practice of psychology" but Claimant does harbor very strong reservations about being obligated to undergo an intense, intrusive, interrogation or endeavor by a "forensic psychologist" to get a psychological evaluation, who is neither a physician, nor a surgeon, and more importantly not a psychiatrist, and it remains a concern whether Claimant could be compelled to undergo a psychological evaluation under the statutory context of an independent medical examination. This would not be an appropriate medical examination of Claimant's diagnosed disorder (PTSD), and it appears to be an attempt to stretch the purpose and intent of § 72-434, Idaho

Code. It would be our position that Defendants' right to an independent medical examination must be undertaken in the context of a psychiatrist, not a forensic psychologist.

It is important for this Commission to inquire and determine if a psychologist would be beneficial to examine a patient suffering from a diagnosed disorder made by a psychiatrist, and whether it is of any healing benefit to expose Claimant to the effect of being further traumatized by the intrusive evaluation of a psychologist. This Claimant was severely injured, both physically, emotionally, biologically and mentally, while she was employed at the Ada County Sheriff's Office. She was diagnosed by a physician, Dr. Stephen E. Spencer, shortly after July 20, 1999, and was determined to have been traumatized to such a state she did suffer from the inflicted trauma to the point of being left with a severe state of depression and anxiety. Further analysis by Dr. F. LaMarr Heyrend was undertaken, and Dr. Heyrend confirmed Claimant had Post Traumatic Stress Syndrome dysfunction (PTSD) from that trauma experience. By virtue of the content from the letter submitted by Dr. Cynthia Brownsmith on June 5, 2003, she has confirmed to us part of her evaluation (not examination) is "offering her (Claimant) to complete the paper and pencil testing part of the evaluation on June 20th." Ms. Brownsmith is a psychologist engaged in the study of the mind, not qualified to address PTSD or treat such diagnosed disorders of the mind as is a psychiatrist, and for that definitive difference, she should not be allowed to qualify as a psychiatrist to meet the definition of a physician or surgeon.

The combination of acts, brought about by various Ada County personnel and their chosen course of misconduct, is what created Ms. Gibson's diagnosed disorder, and the basis for her Worker's Compensation claim. That same basic attitude of arrogance throughout the Sheriff's regime has served to perpetuate what has been Ada County's ongoing failure to perform their mandatory employer obligation and responsibility of maintaining proper pay records under the *Fair Labor Standards Act* (FLSA), Title 29 U.S.C., § 201 *et seq.* Ada County's "behavior" has stemmed from their arrogant "attitude", a condition that could be avoided with proper training and management practices. Their very behavior and attitude may benefit from psychological analysis, to ascertain how they deal with personal relationships, but the damage they caused to Claimant is the proper subject of a medical examination of a physician and a psychiatrist, in order to address the resulting PTSD condition.

As the federal statute indicates, in accordance with § 215 (e)(3) of that Act, the action pursued by Ada County agents was in clear violation of the Act, which makes it "unlawful for any person to discharge or in any other manner discriminate against any employee. All Ms. Gibson did with the County was to invoke her employee rights, by telling them the payroll error was the consequence of their ongoing record discrepancies, which she, and all other employees, had become familiar with early on in their employment and everyone just accepted it and signed the voucher without concern, as that had been their instruction. In her situation, however, and probably because of the size of the error Payroll made in their disbursements to her direct deposit account under their pay benefit program, the

Sheriff's Office personnel became "overly reactive" from what has been internal dictates from the Sheriff, and by the choice of their conduct, Ms. Gibson was traumatized, threatened with prosecution, told to resign or she would be criminally charged, and was then later terminated because she would not resign or show the requisite fear of their threats, all of which was retaliatory conduct to her voiced assertion of her employment expectations. Unfortunately, this County arrogance later translated into their "under concerns" and resulting repercussions of this misconduct, and the County simply tried to "blow her off" with their apathetic attitude about her right of Work Comp benefits and her right of medical benefits coverage, all because of their choice of reaction to her continual expression of her right to pursue her protected status and retain her right of employment.

Ms. Gibson has never obstructed, nor is she presently obstructing anyone authorized under the statute; rather she has been the subject of constant abuse, which has left her with PTSD. As you can appreciate, and as a matter of law, the administrative errors (wage record-keeping) created and perpetuated by Ada County, were violations of the *Fair Labor Standards Act*, § 211 (c), which requires every employer subject to any provision of the Act to make, keep and preserve accurate wage, pay and hourly records to avoid false allegations and violations of protected rights. No employer may delegate that record-keeping responsibility to any employee or hide behind an integrated payroll system of inadequately entered data.

Claimant's PTSD disorder is the result of these poor choices in management and supervision practices, and this attitude of attacking employees because of

overpayment administrative payroll errors, does serve to create very poor personal relationships, of which no one would now question. The County has never said it is the result of a "non-policy", and has never isolated this misconduct as an act of malicious and intentional infliction of personal injury by a conspiratorial effort of a Department Head (the Sheriff), and his aggressive detectives (Glenn and Johnson) to undermine an employee (Claimant) and deny her of her employment rights and benefits coverage.

To date, no one has been willing to admit any of this County attitude was pursued outside the scope of standard Sheriff's Office operating procedures, under the direction of the Sheriff, or confirm it was not "policy" to threaten Claimant with prosecution and termination, when she would not resign her employment over this administrative payroll error.

As the record indicates, Claimant had no misconduct or role in the administrative error, and there had been no criminal investigation of Ms. Gibson until she spoke out and said the entire mess was caused from the failure of the County Payroll Department to maintain proper pay records, and she then expressed her concern Ada County was regularly violating their mandatory record-keeping duties under the terms and provisions of FLSA.

Ms. Gibson was an exemplary employee throughout the entire time she had been with the Sheriff's Office. It was only after the County ascertained their own administrative errors on July 19, 1999, that County agents interrogated Ms. Gibson on July 20, 1999, and it was that situation that brought the occasion for Ms. Gibson

to express her rights and voice her concerns, and assert her employment rights and the statutory protection provided to her by the terms and conditions of FLSA.

All action taken by Ada County agents after July 19, 1999, must be viewed under all existing circumstances as retaliatory conduct, because of her voiced concerns over the FLSA violations.

Those proceedings (interrogations, threat of extortion, attempted malicious prosecution, and eventual employment termination) did include Ada County agents falsely accusing her, and then threatened her with felony grand theft charges and threatened to put her in jail. All of these actions are clear violations of the *Fair Labor Standards Act*, § 215 (a) (3), and were the traumatic source, basis, cause, and foundation for all of her physical, emotional and psychological injuries, and now the basis of her claim for Worker's Compensation, for which a psychiatrist is authorized to examine her for this PTSD condition under Idaho law as a qualifying IME.

We have no desire to belittle a right to have an IME by a qualified physician or surgeon. We recognize a psychologist might be helpful in a panel evaluation for determining degrees of skill deterioration, but nonetheless, only a psychiatrist can examine the medical condition of Claimant.

We would respectfully request the Commission to demonstrate in what manner the statute would allow Ada County and the State Insurance Fund to use a psychologist to perform an IME of Ms. Gibson and in what manner a forensic psychologist, who is not a physician or surgeon, can become vested with healing capabilities pursuant to § 72-434, or empowered to cure Post Traumatic Stress

Disorder (PTSD) under case law. According to the attributed definition of PTSD, it is "a psychiatric disorder that can occur following the experience or witnessing of life-threatening events such as military combat, natural disasters, terrorist incidents, serious accidents, or violent personal assaults like rape..." PTSD is marked by clear biological changes as well as psychological symptoms. PTSD is complicated by the fact it frequently presents itself within the framework and frailty of other mental conditions that are affected by related disorders of depression, fear, phobias, substance abuse or sensitivity to substances or conditions, and surrounded at times with problems of memory and cognition, and other problems of physical and mental health.

There is an article from the Department of Veterans Affairs that talks about the subject on their National Center for Post-Traumatic Stress Disorder website, and we have enclosed as an attachment to this response for the convenient review by the Commission. It presents a brief summary, and a limited assessment of PTSD, but you gather the focus of the concept, as it defines the issue to be a "psychiatric" condition, a diagnosed disorder, which is addressed by psychiatrists who are medical doctors, not limited to the training of psychologists, who usually deal in a fundamental way with the study of the mind, usually involving principles of measuring and testing the mind, not able to prescribe medications for healing or curing disorders, like a psychiatrist does with a medical examination.

The article adopts the belief "PTSD is treated by a variety of forms of psychotherapy and drug therapy." Psychologists are not permitted to prescribe any drug for medicinal or healing purposes, and in contrast to that of a licensed

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physician or surgeon. Ms. Gibson has been prescribed medication by Dr. Stephen E. Spencer, and has been diagnosed by and considered for drug treatment for her PTSD condition by Dr. F. LaMarr Heyrend, a psychiatrist and a physician.

The recent Idaho Supreme case of Brewer v. LaCrosse Health and Rehab, 2003 Opinion No. 63 (May 28, 2003), a copy of which is attached, would appear to confirm Claimant's position that an IME scheduled by a Surety must be in conformity with Idaho Code, § 72-434. Dr. Ronald Vincent, as was identified in that case, is a doctor who is a physician and a surgeon (see attached credential reference), who undertook a physical examination of the Claimant, Cynthia L. Brewer. He is a qualified IME, and for purposes of that case, and relevance of that law to this dispute, would hold that Dr. Cynthia Brownsmith does not meet the threshold criteria to be qualified to make an examination, to constitute an obstruction under § 72-434.

There is ongoing concern as to the objective being sought by Dr. Brownsmith, especially from the letter of February 24th sent by Mr. Bauman, indicating Dr. Brownsmith wanted three (3) or more individuals acquainted with her prior to July 20, 1999 to the present, to be available for interview. The attitude demonstrated from the Sheriff's Office was to the effect co-workers were told not to be contacted, and there was a deliberate effort undertaken to prevent any "fallout" or "collateral damage" to the other employees, from their supportive reaction from this inappropriate action, and their future employment was at risk if they chose to preserve their relationship with Claimant.

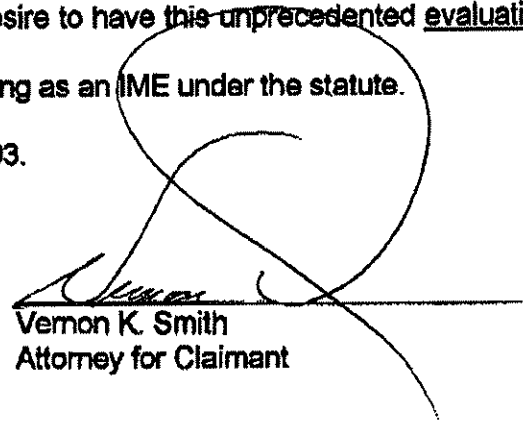
Besides these ongoing concerns, there remains uncertainties, and misgivings on what Dr. Brownsmith's objectives or instructions are from Ada County. We must add to the concern the confusion created by the reference in her "experience resume", listing the case number from the Ada County case (overpayment collection case) with her reference to the Workers' Comp case. This is going to be another interrogation process of renewed fear and helplessness and horror, and will be a two (2) day marathon ordeal of intensive interrogation. We are concerned as to Ms. Gibson's fragile state of mind and being now advised through various sources that this psychologist is rather tenacious, unrelenting, opinionated, strong willed and "tough" in her confrontational setting, it leaves concern for need to consider the presence of another professional with her, such as Dr. F. LaMarr Heyrend, a psychiatrist, and a doctor of medicine, who would understand any particular focus or direction undertaken during this intrusive encounter, if it were ever allowed to occur, so the opportunity exists to alter the interview, and prevent any behavioral modification efforts that could have a very detrimental impact upon Claimant's present psychosis.

Further concern is now expressed this attempt of Defendants has been to unilaterally decide Ms. Gibson should be subjected to an appointment with Dr. Brownsmith (not a qualifying IME) and it constitutes another forward and manipulative attitude, just as was the conduct as before used on her by the County, specifically the genuine controlling attitude Vaughn Killeen took on various occasions, as his attitude was to do it his way, and if she did not do it his way, and

accept his demand she resign, he would destroy her, and she could not find another job because of what he would do to her personnel file.

This Commission must surely agree it is important to consider the healing profession of a psychiatrist, not an intrusive evaluation of a psychologist, to examine a patient suffering from a diagnosed disorder that was made by a psychiatrist. Neither we, nor the Commission, would want to traumatize Ms. Gibson, nor jeopardize her limited employment or compromise her employer, Mr. Bernie Rakozy. Consideration must be given to all issues and matters of concern, and especially the lack of IME status, and need for the availability of her own psychiatrist, if it be the Commission's desire to have this unprecedented evaluation conducted by a psychologist, not qualifying as an IME under the statute.

Dated this 19th day of June 2003.



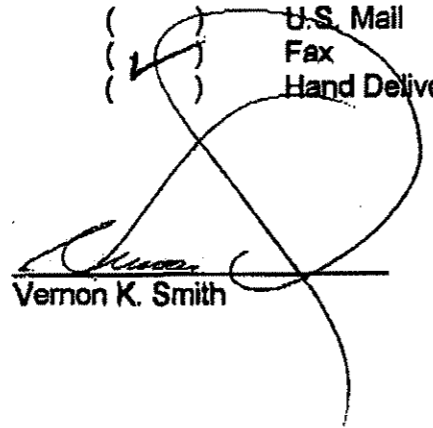
Vernon K. Smith
Attorney for Claimant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on the 19th day of June 2003, I caused a true and correct copy of the above and foregoing to be delivered to the following persons at the following addresses as follows:

Idaho Industrial Commission	()	U.S. Mail
P.O. Box 83720	(✓)	Fax
Boise, Idaho 83720-0041	()	Hand Delivered

Jon M. Bauman	()	U.S. Mail
Elam & Burke	(✓)	Fax
P.O. Box 1539	()	Hand Delivered
Boise, Idaho 83701		



 Vernon K. Smith



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CURRENT PRACTITIONER INFORMATION

Name:	VINCENT, RONALD L
Year of Birth:	1937
Credential Number:	MD00011740
Credential Type:	Physician And Surgeon
Current Credential Status:	Active
First Credential Date:	02/08/1971
Expiration Date:	04/14/2005
Last Renewal Date:	03/26/2003
Action Taken:	No

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IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 28218

CYNTHIA L. BREWER,)
)
 Claimant-Appellant,)
)
 v.) Boise, March 2003 Term
)
 LA CROSSE HEALTH & REHAB,) 2003 Opinion No. 63
 Employer, and ARGONAUT INSURANCE)
 COMPANIES, Surety,) Filed: May 28, 2003
)
 Defendants,) Frederick C. Lyon, Clerk
)
 and)
)
 LIFE CARE CENTER OF AMERICA,)
 Employer, and OLD REPUBLIC)
 INSURANCE COMPANY, Surety,)
)
 Defendants-Respondents.)

Appeal from the Industrial Commission of the State of Idaho, Chairman James F. Kile presiding.

The decision of the Industrial Commission is affirmed.

Elsaesser, Jarzabek, Anderson, Marks & Elliott, Chtd., Sandpoint, for appellant. Joseph Jarzabek argued.

Bowen & Bailey, Boise, for respondents. W. Scott Wigle argued.

KIDWELL, Justice

Cynthia L. Brewer (Brewer) appeals from a decision of the Idaho Industrial Commission (Commission) in which the Commission found that Old Republic Insurance Company (Old Republic) was justified in terminating Brewer's benefits because Brewer obstructed an Independent Medical Exam (IME). The decision of the Commission is affirmed.

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I.

FACTS AND PROCEDURAL BACKGROUND

On September 13, 2000, Brewer injured her back in the course of employment with Life Care Center of America (Life Care). As a result, Brewer received Total Temporary Disability (TTD) benefits. In order to determine whether Brewer's TTD benefits should continue, Life Care's surety, Old Republic, asked Brewer to submit to an IME scheduled for February 8, 2001, with Dr. Ronald Vincent.

On February 8, 2001, Brewer arrived at the clinic designated for the IME. She refused to fill out the intake form and would not give information regarding her medical history or present injury. She cooperated with the doctor in the course of the physical portion of the examination. The doctor sent a report to Old Republic. Old Republic examined the report and, based on the physician's inability to illicit complete information from Brewer, Old Republic alleged that Brewer obstructed the IME in violation of I.C. § 72-434. Therefore, Old Republic discontinued Brewer's benefits.

On April 4, 2001, Old Republic filed a motion to compel Brewer's attendance of, and participation in, another IME. On April 25, 2001, based on the affidavits and briefs submitted by the parties, the Commission granted the motion. On May 2, 2001, Brewer moved for reconsideration and requested a hearing. The Commission scheduled an expedited hearing for July 2, 2001. On November 21, 2001, the Referee who heard the matter entered findings of fact, conclusions of law, and recommendation. The Referee recommended that the Commission order another IME on the grounds that Brewer obstructed the first IME. The Referee also recommended that the Commission find that Old Republic did not need an order of the Commission to suspend payment of benefits for obstruction of an IME. The Commission adopted the Referee's findings of fact and conclusions of law.

On December 14, 2001, Brewer again moved for reconsideration. On December 31, 2001, the Commission denied Brewer's second motion for reconsideration, finding: "Claimant reasserts her position that she adequately participated in an IME Based on the foregoing, the Commission finds no factual or legal basis to reconsider its previous decision in this matter."

Brewer timely filed this appeal.

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II.

STANDARD OF REVIEW

The Commission's findings of fact will be upheld if supported by substantial, competent evidence. *Jensen v. City of Pocatello*, 135 Idaho 406, 412, 18 P.3d 211, 217 (2000). "Substantial evidence is more than a scintilla of proof, but less than a preponderance. It is relevant evidence that a reasonable mind might accept to support a conclusion." *Id.* (citing *Zapata v. J.R. Simplot Co.*, 132 Idaho 513, 515, 975 P.2d 1178, 1180 (1999)). This Court will not "re-weigh the evidence or consider whether it would have reached a different conclusion from the evidence presented." *Id.* at 409, 18 P.3d at 214 (citing *Warden v. Idaho Timber Corp.*, 132 Idaho 454, 457, 974 P.2d 506, 509 (1999)).

This Court freely reviews the Commission's conclusions of law. *Hamilton ex rel. Hamilton v. Reeder Flying Serv.*, 135 Idaho 568, 569, 21 P.3d 892, 893 (2001) (citing *Taylor v. Soran Rest., Inc.*, 131 Idaho 525, 527, 960 P.2d 1254, 1256 (1998)). Constitutional issues are questions of law also subject to free review by this Court. *Hamilton*, 135 Idaho at 569, 21 P.3d at 893 (citing *Struhs v. Prot. Tech.'s Inc.*, 133 Idaho 715, 722, 992 P.2d 164, 171 (1999)).

III.

ANALYSIS

A. A Wholesale Refusal To Fill Out An Intake Questionnaire Or Answer Any Of A Doctor's Questions Constitutes Unreasonable Obstruction Of An IME.

I.C. § 72-433(1) provides that a claimant must submit to an IME if requested by the employer or ordered by the Commission. Brewer argues that "[t]here is nothing in that statute which requires a Claimant to complete any written forms or provide additional written information outside the presence of her attorney." Thus, she contends, refusal to respond to an intake questionnaire or to answer a physician's questions cannot constitute unreasonable obstruction of an IME. In contrast, Old Republic contends filling out paperwork and answering a doctor's questions are part of an IME; refusal to do so constitutes unreasonable interference with an IME because it "is akin to asking a physician to 'guess what's wrong with me.'"

This Court may determine, as a matter of law, whether a particular type of conduct constitutes an unreasonable obstruction of an IME for purposes of suspending benefits pursuant to I.C. § 72-434. *Hewson v. Asker's Thrift Shop*, 120 Idaho 164, 167, 814 P.2d 424, 427 (1991). Whether an employee actually conducted his or herself in a manner constituting an unreasonable obstruction presents a factual issue reserved for the Commission. *Id.* Whether a wholesale, blanket refusal to respond to written or verbal inquiries at an IME is conduct that unreasonably obstructs an IME turns on whether answering questions is an integral part of an "examination" as the term is used in I.C. §§ 72-433 and -434.

Section 72-433(1), Idaho Code, states, in part: "After an injury . . . and during the period of disability the employee, if requested by the employer or ordered by the commission, shall submit himself for examination at reasonable times and places to a duly qualified physician or surgeon . . ." Section 72-434, Idaho Code, states:

If an injured employee unreasonably fails to submit to or in any way obstructs an examination by a physician or surgeon designated by . . . the employer, the injured employee's right to take or prosecute any proceedings under this law shall be suspended until such failure or obstruction ceases, and no compensation shall be payable for the period during which such failure or obstruction continues.

Where possible, the words of the statute "should be given [their] plain, obvious, and rational meaning." *Williamson v. City of McCall*, 135 Idaho 452, 455, 19 P.3d 766, 769 (2001). The plain, obvious and rational meaning of "examination" as used in I.C. § 72-433(1) and 72-434 includes not only physical manipulation and palpitation, it also includes customary oral and written inquiries relevant to one's past and present health. I.C. § 72-433(2) supports this conclusion because it expressly provides that an employee may bring a personal physician¹ to an IME and entitles the "employee and the examining physician . . . to have an audio recording of any examination." The intent of I.C. § 72-433(2) is to "protect an employee compelled to undergo a medical examination by physicians whom he or she did not select against potential intrusive questions and techniques." *Hewson*, 120 Idaho at 167, 814 P.2d at 427.

¹ Notably, nothing in the statute prevents a claimant from bringing an attorney or other third party to observe an IME. See *Hewson*, 120 Idaho at 167, 814 P.2d at 427. The statute merely ensures that a physician may attend.

Based on the plain, obvious, and rational meaning of "examination" as used in I.C. §§ 72-433(1) and -434, read in context, this Court finds that responding to intake questionnaires and answering questions regarding one's past or present medical condition constitutes an integral part of an IME. Consequently, a *wholesale, blanket refusal* to respond to written and oral inquiries regarding past and present medical conditions constitutes an unreasonable obstruction of an IME. This is not, however, to say that refusal to answer certain, specific overly-intrusive and/or irrelevant questions included on an intake questionnaire, or asked by a doctor as a matter of course, would constitute an unreasonable interference with an IME.

B. Substantial, Competent Evidence Supports The Commission's Finding That Brewer Unreasonably Obstructed The IME.

Brewer argues that the facts do not support a finding that she unreasonably interfered with an IME because it is undisputed that the medical and neurological examinations of her were completed. Old Republic, however, points to the hearing transcript which shows that Brewer refused to fill out an intake form or respond to questions about her past or present medical conditions at the IME.

Ample testimonial and documentary evidence supports the conclusion that Brewer unreasonably obstructed the IME by a wholesale, blanket refusal to respond to the intake questionnaire or to answer questions regarding her past or present medical condition. Stacey Stenseth, a registered nurse and case manager with Concentra Managed Care, testified that "Ms. Brewer was not willing to answer any of the questions" posed to her at the IME, "either written or verbally." Wendy L. Kimble, an attending nurse at Brewer's IME, testified that Brewer would not respond to questions about her medical history or how her symptoms had changed since the accident causing the injury at issue in the IME. Brewer testified: "I did everything they asked me to do. The only thing I did not do was fill out the paperwork. I did the physical examination." Respondents' Exhibit C, the report of Dr. Vincent, states: "Because the patient was not to cooperate with any written information or questions by me [sic], she refused to answer any questions, and refused to complete the Patient Intake Form, I am unable to provide a History of Present Injury, Current Symptoms, Medical History, etc."

Testimonial and documentary evidence clearly shows that Brewer wholly refused to fill out the patient intake form or answer questions regarding her past or present medical condition. The fact that the evidence at hearing showed that Brewer complied with the physical portion of the examination does not change this. Therefore, we hold that substantial, competent evidence supports the Commission's finding that Brewer unreasonably obstructed the IME.

C. The Commission Did Not Err By Finding That A Surety May Terminate Benefits For Obstructing An IME Without An Order Of The Commission.

Brewer relies on *Hewson* for the proposition that only the Commission may make the factual determination of unreasonable obstruction of an IME *vis a vis* the employer/surety. The portion of *Hewson* relied upon by Brewer states:

Whether or not an employee's conduct rises to the level of an unreasonable obstruction is a factual question reserved for the Industrial Commission to determine. *Profitt v. Deatley-Overman, Inc.*, 86 Idaho 207, 384 P.2d 473 (1963).

Hewson, 120 Idaho at 167, 814 P.2d at 427.

The controlling statute states:

If an injured employee unreasonably fails to submit to or in any way obstructs an examination by a physician or surgeon designated by . . . the employer, the injured employee's right to take or prosecute any proceedings under this law shall be suspended until such failure or obstruction ceases, and no compensation shall be payable for the period during which such failure or obstruction continues.

I.C. § 72-434. The statute neither expressly nor implicitly requires that an employer/surety obtain an order of the Commission prior to suspending benefits for obstruction of an IME. *Hewson* does nothing to change this. Rather, read in context, the portion of *Hewson* Brewer relies upon simply stands for the proposition that this Court will not invade the Commission's fact-finding role:

Whether or not an employee's conduct rises to the level of an unreasonable obstruction is a factual question reserved for the Industrial Commission to determine. *Profitt v. Deatley-Overman, Inc.*, 86 Idaho 207, 384 P.2d 473 (1963). However, we, as a matter of law, may determine the threshold level of conduct that will be deemed as unreasonable. An obstruction is defined as "a hindrance, obstacle or barrier and as delay, impeding or hindering." *Black's Law Dictionary*, 6th

ed., p.1078 (1990). There are many and diverse ways in which an employee may obstruct a compelled examination. The question that arises in this case is whether the taping of a compelled examination rises to the level of an unreasonable obstruction. We hold that it does not.

Id. at 167, 814 P.2d at 427.

Neither I.C. § 72-434 nor *Hewson* require that an employer/surety obtain an order of the Commission prior to suspending benefits. Therefore, we affirm the Commission's conclusion that it was appropriate for the respondents to suspend Brewer's benefits without an order of the Commission.

D. This Court Will Not Consider Constitutional Issues Raised By Brewer.

1. Brewer's Due Process Issue.

Brewer argues that the Commission's decision has left her in "a legal 'limbo' without any way to remove the suspension of her right to prosecute her claim" because the Commission's order suspended Brewer's right to pursue her claim until she participated in an IME, but it did not order Life Care or Old Republic to reschedule the IME. Thus, Brewer alleges she "could file no pleading because her right to further prosecute her claim was suspended." According to Brewer, because the Commission's order left Brewer without any recourse, it violated her right to due process.

Old Republic, on the other hand, contends that whether the examination was or was not rescheduled is not evident from the record. Additionally, Brewer could have avoided this whole mess if she had complied with the initial IME or voluntarily agreed to fully participate in a second IME. Also, Old Republic asserts that Brewer has offered no authority on point in support of her contention that her due process rights have been violated.

Brewer has not shown how the Commission's order placed her in "legal 'limbo.'" If Life Care and Old Republic refused to reschedule the IME—a proposition which cannot be determined from the record—Brewer has not shown any legal impediment precluding her from filing a motion to compel or other similar motion with the Commission in order to compel rescheduling of the IME.

The only legal authority Brewer cites to in her opening brief, aside from the Fourteenth Amendment and the Idaho Constitution, is *White v. Idaho Forest Industries*, 98 Idaho 784, 572 P.2d 887 (1977). She cites *White* for the proposition that "[t]his Court

has previously held the Industrial Commission violated the due process requirements of *Idaho Const. Art. 1, § 13.*" *Id. White* offers no support for her position. Instead, *White* stands for the proposition that due process may be violated by an Order of the Commission deciding an issue about which a party to the action had no notice:

Idaho case law . . . is equally insistent that an administrative tribunal may not raise issues without first serving the affected party with fair notice and providing him with a full opportunity to meet the issue. The order of the Industrial Commission, because it rests upon an issue of which the claimant had no fair notice, violates the due process requirements of this State's Constitution . . . and must be reversed.

Id. at 786, 572 P.2d 889 (citations omitted).

Where a party fails to produce authority supporting an issue raised on appeal, the issue is waived. *State v. Zichko*, 129 Idaho 259, 263, 923 P.2d 966, 970 (1996). This Court finds Brewer lacks authority for her constitutional claim because the authority she cites is so tenuously related to her argument that it offers no support for her position. Therefore, this Court will not address the merits of Brewer's constitutional issue.

2. Self-incrimination and attorney client privilege.

Brewer's remaining constitutional issues—the IME violated her Fifth Amendment right to be free from self-incrimination and violated attorney client privilege—were first raised in her reply brief. Therefore, we will not address the merits, if any, of these issues. See *Hawley v. Green*, 124 Idaho 385, 392, 860 P.2d 1, 8 (Ct. App. 1993).

IV.

CONCLUSION

Wholesale, blanket refusal to answer written or oral questions during an IME is an "unreasonable obstruction" of an IME for purposes of I.C. § 72-434. Substantial, competent evidence supports the Commission's finding that Brewer unreasonably obstructed an IME. And, a surety may suspend benefits pursuant to I.C. § 72-434 without first obtaining an order of the Commission. We will not consider the merits of the constitutional issues Brewer raises on appeal. Thus, we affirm the decision of the Commission and award costs to the respondents. No attorney fees are requested on appeal.

Chief Justice TROUT and Justices SCHROEDER, WALTERS, and EISMANN
CONCUR.

National Center for Post-Traumatic Stress Disorder, Department of Veterans Affairs

What is Posttraumatic Stress Disorder?

A National Center for PTSD Fact Sheet

Posttraumatic Stress Disorder, or PTSD, is a psychiatric disorder that can occur following the experience or witnessing of life-threatening events such as military combat, natural disasters, terrorist incidents, serious accidents, or violent personal assaults like rape. People who suffer from PTSD often relive the experience through nightmares and flashbacks, have difficulty sleeping, and feel detached or estranged, and these symptoms can be severe enough and last long enough to significantly impair the person's daily life.

PTSD is marked by clear biological changes as well as psychological symptoms. PTSD is complicated by the fact that it frequently occurs in conjunction with related disorders such as depression, substance abuse, problems of memory and cognition, and other problems of physical and mental health. The disorder is also associated with impairment of the person's ability to function in social or family life, including occupational instability, marital problems and divorces, family discord, and difficulties in parenting.

Understanding PTSD

PTSD is not a new disorder. There are written accounts of similar symptoms that go back to ancient times, and there is clear documentation in the historical medical literature starting with the Civil War, when a PTSD-like disorder was known as "Da Costa's Syndrome." There are particularly good descriptions of posttraumatic stress symptoms in the medical literature on combat veterans of World War II and on Holocaust survivors.

Careful research and documentation of PTSD began in earnest after the Vietnam War. The National Vietnam Veterans Readjustment Study estimated in 1988 that the prevalence of PTSD in that group was 15.2% at that time and that 30% had experienced the disorder at some point since returning from Vietnam.

PTSD has subsequently been observed in all veteran populations that have been studied, including World War II, Korean conflict, and Persian Gulf populations, and in United Nations peacekeeping forces deployed to other war zones around the world. There are remarkably similar findings of PTSD in military veterans in other countries. For example, Australian Vietnam veterans experience many of the same symptoms that American Vietnam veterans experience.

PTSD is not only a problem for veterans, however. Although there are unique cultural- and gender-based aspects of the disorder, it occurs in men and women, adults and children, Western and non-Western cultural groups, and all socioeconomic strata. A national study of American civilians conducted in 1995 estimated that the lifetime prevalence of PTSD was 5% in men and 10% in women.

How does PTSD develop?

Most people who are exposed to a traumatic, stressful event experience some of the symptoms of PTSD in the days and weeks following exposure. Available data suggest that about 8% of men and 20% of women go on to develop PTSD, and roughly 30% of these individuals develop a chronic form that persists throughout their lifetimes.

The course of chronic PTSD usually involves periods of symptom increase followed by remission or decrease, although some individuals may experience symptoms that are unremitting and severe. Some older veterans, who report a lifetime of only mild symptoms, experience significant increases in symptoms following retirement, severe medical illness in themselves or their spouses, or reminders of their military service (such as reunions or media broadcasts of the anniversaries of war events).

How is PTSD assessed?

In recent years, a great deal of research has been aimed at developing and testing reliable assessment tools. It is generally thought that the best way to diagnose PTSD-or any psychiatric disorder, for that matter-is to combine findings from structured interviews and questionnaires with physiological assessments. A multi-method approach especially helps address concerns that some patients might be either denying or exaggerating their symptoms.

How common is PTSD?

An estimated 7.8 percent of Americans will experience PTSD at some point in their lives, with women (10.4%) twice as likely as men (5%) to develop PTSD. About 3.6 percent of U.S. adults aged 18 to 54 (5.2 million people) have PTSD during the course of a given year. This represents a small portion of those who have experienced at least one traumatic event; 60.7% of men and 51.2% of women reported at least one traumatic event. The traumatic events most often associated with PTSD for men are rape, combat exposure, childhood neglect, and childhood physical abuse. The most traumatic events for women are rape, sexual molestation, physical attack, being threatened with a weapon, and childhood physical abuse.

About 30 percent of the men and women who have spent time in war zones experience PTSD. An additional 20 to 25 percent have had partial PTSD at some point in their lives. More than half of all male Vietnam veterans and almost half of all female Vietnam veterans have experienced "clinically serious stress reaction symptoms." PTSD has also been detected among veterans of the Gulf War, with some estimates running as high as 8 percent.

Who is most likely to develop PTSD?

1. Those who experience greater stressor magnitude and intensity, unpredictability, uncontrollability, sexual (as opposed to nonsexual) victimization, real or perceived responsibility, and betrayal
2. Those with prior vulnerability factors such as genetics, early age of onset and longer-lasting childhood lack of functional social support, and concurrent stressful life events
3. Those who report greater perceived threat or danger, suffering, upset, terror, and horror or fear
4. Those with a social environment that produces shame, guilt, stigmatization, or self-hatred

What are the consequences associated with PTSD?

PTSD is associated with a number of distinctive neurobiological and physiological changes. PTSD may be associated with stable neurobiological alterations in both the central and autonomic nervous systems, such as altered brainwave activity, decreased volume of the hippocampus, and abnormal activation of the amygdala. Both the hippocampus and the amygdala are involved in the processing and integration of memory. The amygdala has also been found to be involved in coordinating the body's fear response.

Psychophysiological alterations associated with PTSD include hyper-arousal of the sympathetic nervous system, increased sensitivity of the startle reflex, and sleep abnormalities.

People with PTSD tend to have abnormal levels of key hormones involved in the body's response to stress. Thyroid function also seems to be enhanced in people with PTSD. Some studies have shown that cortisol levels in those with PTSD are lower than normal and epinephrine and norepinephrine levels are higher than normal. People with PTSD also continue to produce higher than normal levels of natural opiates after the trauma has passed. An important finding is that the neurohormonal changes seen in PTSD are distinct from, and actually opposite to, those seen in major depression. The distinctive profile associated with PTSD is also seen in

Individuals who have both PTSD and depression.

PTSD is associated with the increased likelihood of co-occurring psychiatric disorders. In a large-scale study, 88 percent of men and 79 percent of women with PTSD met criteria for another psychiatric disorder. The co-occurring disorders most prevalent for men with PTSD were alcohol abuse or dependence (51.9 percent), major depressive episodes (47.9 percent), conduct disorders (43.3 percent), and drug abuse and dependence (34.5 percent). The disorders most frequently comorbid with PTSD among women were major depressive disorders (48.5 percent), simple phobias (29 percent), social phobias (28.4 percent), and alcohol abuse/dependence (27.9 percent).

PTSD also significantly impacts psychosocial functioning, independent of comorbid conditions. For instance, Vietnam veterans with PTSD were found to have profound and pervasive problems in their daily lives. These included problems in family and other interpersonal relationships, problems with employment, and involvement with the criminal justice system.

Headaches, gastrointestinal complaints, immune system problems, dizziness, chest pain, and discomfort in other parts of the body are common in people with PTSD. Often, medical doctors treat the symptoms without being aware that they stem from PTSD.

How is PTSD treated?

PTSD is treated by a variety of forms of psychotherapy and drug therapy. There is no definitive treatment, and no cure, but some treatments appear to be quite promising, especially cognitive-behavioral therapy, group therapy, and exposure therapy. Exposure therapy involves having the patient repeatedly relive the frightening experience under controlled conditions to help him or her work through the trauma. Studies have also shown that medications help ease associated symptoms of depression and anxiety and help with sleep. The most widely used drug treatments for PTSD are the selective serotonin reuptake inhibitors, such as Prozac and Zoloft. At present, cognitive-behavioral therapy appears to be somewhat more effective than drug therapy. However, it would be premature to conclude that drug therapy is less effective overall since drug trials for PTSD are at a very early stage. Drug therapy appears to be highly effective for some individuals and is helpful for many more. In addition, the recent findings on the biological changes associated with PTSD have spurred new research into drugs that target these biological changes, which may lead to much increased efficacy.

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For more information call the PTSD Information Line at (802) 298-8300 or send email to ncptsd@ncptsd.org. This page was last updated on Wed May 14 15:15:48 2003.

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STACY A. GIBSON,)	
)	
Claimant,	)	IC 01-015332
v.)	
)	
ADA COUNTY SHERIFF'S OFFICE,	)	ORDER
)	
Employer,)	
and)	
	)	FILED
STATE INSURANCE FUND,	)	JUN 19 2003
)	
Surety,	)	INDUSTRIAL COMMISSION
Defendants.)	
_____)	

Pursuant to the Referee's Order dated June 18, 2003, Claimant made a written submission to show cause why the order should not be enforced to require Claimant to attend the evaluation on June 20 and 27, 2003. Claimant alleges the psychological evaluation is not authorized by Idaho Code § 72-434 because the psychologist is not a psychiatrist, the evaluation is not a medical examination, and a psychological evaluation is not relevant to post-traumatic stress disorder ("PTSD") which Claimant is alleged to suffer from.

The Industrial Commission routinely recognizes psychologists as "members of [a] healing profession" within the definition of "physician" pursuant to Idaho Code § 72-102 for purposes of applying Idaho Code § 72-434. A psychological evaluation by a qualified psychologist is a medical examination. An Independent Medical Examination ("IME") is not designed to cure or heal a patient. Indeed, IME providers usually disavow any doctor/patient relationship and explain to a claimant that no such relationship is created by the IME. Rather, the IME is "medical" primarily in the sense that it is performed by one or more physicians as defined by the Idaho Workers'

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Compensation Law. At best, Claimant's argument addresses the potential weight to be given testimony from a psychologist versus a psychiatrist.

Claimant alleges potential harm from being required to attend this evaluation. Such allegations do not show cause for vacating the evaluation. Claimant's condition is at issue in this matter. Defendants are entitled by statute to evaluate her condition via this IME. Claimant's "reservations" about it are no basis for avoiding it.


Therefore, the Referee finds Claimant failed to show cause why the Order dated June 18, 2003, should not be enforced. Claimant is required to appear and cooperate as scheduled and previously ordered.

DATED in Boise, Idaho, on this 19th day of June, 2003.

INDUSTRIAL COMMISSION


Douglas A. Donohue, Referee

ATTEST:


Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 19th day of June, 2003, a true and correct copy of the foregoing ORDER was Sent by Facsimile Machine Process upon each of the following:

Vernon K. Smith
1900 West Main Street
Boise, ID 83702

Fax #: 345-1129

Ryan P. Armbruster
P.O. Box 1539
Boise, ID 83701-1539

Fax #: 384-5844

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