

12-4-2014

# Chavez v. Stokes Transcript v. 2 Dckt. 42589

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**BEFORE THE SUPREME COURT OF THE STATE OF IDAHO**

SOHAR CHAVEZ,

Claimant-Respondent,

v.

KEVIN STOKES,

Defendant-Appellant.

**SUPREME COURT NO. 42589**

**HEARING TRANSCRIPT  
TAKEN OCTOBER 30, 2013**

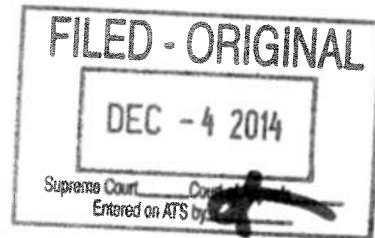
**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

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Attorney for Respondent

Richard S. Owen  
PO Box 278  
Nampa, ID 83653



10.30.13  
Hearing

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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SOHAR CHAVEZ,	)	
	)	
Claimant,	)	
	)	
vs.	)	IC 2012-025814
	)	
KEVIN STOKES,	)	
	)	
Employer,	)	
	)	
Defendant.	)	
	)	

HEARING BEFORE  
Michael E. Powers, Referee  
Boise, Idaho  
October 30, 2013

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INDUSTRIAL COMMISSION

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Hearing before the Industrial  
Commission in Case No. IC 2012-025814 at the Industrial  
Commission hearing room, 700 Clearwater Lane, in the  
City of Boise, State of Idaho, commencing at 9:00 a.m.,  
on Wednesday, October 30, 2013, before CONSTANCE S. BUCY,  
CSR #187, a Notary Public in and for the State of Idaho,  
pursuant to Notice and in accordance with the Idaho Rules  
of Civil Procedure and the Rules of the Industrial  
Commission.

A P P E A R A N C E S

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1 BOISE, IDAHO, WEDNESDAY, OCTOBER 30, 2013, 9:00 A.M.

2  
3  
4 REFEREE POWERS: All right, why don't we  
5 go on the record this morning in the matter of Sohar  
6 Chavez, who is the Claimant, versus Kevin Stokes, who is  
7 the Employer. I understand the only issue we'll be  
8 dealing with here today is the reasonableness of a  
9 medical charge by Saint Alphonsus Life Flight regarding  
10 the transport of the Claimant from somewhere near Payette  
11 to St. Al's in Boise --

12 MR. OWEN: Correct.

13 REFEREE POWERS: -- as a result of a  
14 partially amputated pinkie finger.

15 MR. OWEN: That's correct, yes. If you  
16 don't mind, Your Honor, let me give me just a little bit  
17 of the basics so we have a record of the basic facts  
18 here.

19 REFEREE POWERS: All right.

20 MR. OWEN: Mr. Chavez was working for  
21 Mr. Stokes in September of 2012 and on the 8th of  
22 September while moving sprinkler lines, he slipped. His  
23 left hand was caught in the chain of the motor that  
24 drives the pivot and he ended up with a partially  
25 amputated left pinkie finger. He was taken to the

1 hospital by Life Flight, stitched up and his medical care  
2 was fairly mundane after that.

3           The original Answer filed by a different  
4 lawyer than present counsel denied that Mr. Chavez was an  
5 employee, that worker's comp applied and all that stuff.  
6 Mr. Bowen was engaged and filed an Amended Answer in  
7 December 2012 and admitted compensability of the case.  
8 After that, Mr. Chavez's hospital bills were paid.  
9 Consultation was arranged for the local orthopedic doctor  
10 and on temporary benefits, impairment benefits were paid.  
11 The only bill that's outstanding, the only benefit Mr.  
12 Chavez could have claimed that's not paid, is this Life  
13 Flight bill.

14           Mr. Chavez doesn't have any real stake in  
15 whether or not that's paid, except for his liability in  
16 another forum if he's brought into court by the provider,  
17 the Life Flight people, so Mr. Chavez's reason for being  
18 here and my participation is to basically protect him so  
19 that if he's brought into court in another forum, we'll  
20 have some evidence that the Industrial Commission has  
21 assumed jurisdiction over this dispute and has the right  
22 to make a decision on whether or not this bill should  
23 have been paid and whether or not it was reasonable and  
24 necessary, so that's my spiel, Your Honor.

25           REFEREE POWERS: All right, that's your



1 opening statement?

2 MR. OWEN: Yes, sir.

3 REFEREE POWERS: All right. I understand  
4 that Mr. Stokes is uninsured, is that correct --

5 MR. BOWEN: Yes.

6 REFEREE POWERS: -- for worker's  
7 compensation purposes.

8 MR. BOWEN: He was.

9 REFEREE POWERS: Okay, and yet, out of his  
10 own pocket, he stepped up to the plate and basically  
11 accepted this claim and paid the appropriate benefits,  
12 with the exception, of course, of this Life Flight --

13 MR. BOWEN: Yes.

14 REFEREE POWERS: -- bill, and you are to  
15 be commended for that, sir, because we don't see that  
16 very often, at least I don't. Do you want to do an  
17 opening statement at this point, Mr. Bowen, or do you  
18 want to deal with exhibits?

19 MR. BOWEN: I think I'll do them both at  
20 one time, how is that? I'll walk you through the  
21 exhibits in the context of an opening statement and we'll  
22 start right at the get-go, I want to make it clear, we're  
23 not sure who the Life Flight entity is. Exhibit No. 8 is  
24 the bill from something that purports to be Life Flight  
25 Network. The bill is in the amount of \$21,201. There is

1 a P.O. box address for this entity in Pittsburgh,  
2 Pennsylvania on this bill and there is an Aurora, Oregon  
3 address for this outfit where they want you to send the  
4 money and that's all I know about them.

5           Now, I noticed Dr. Clawson who actually  
6 ended up looking at Mr. Chavez's finger and concluding  
7 that it was not an option to try to revascularize the  
8 finger, he characterized this as being St. Luke's error.  
9 I don't know. I can tell and represent to the Commission  
10 that I called Life Flight Network at, I believe, their  
11 Oregon address twice. I talked to two different young  
12 women there who could not tell me what their relationship  
13 was to any sort of an air service in Boise, Idaho, or  
14 what the status was of this matter.

15           I wanted the name -- actually, what I was  
16 looking for was the name of someone I could talk to about  
17 our concerns with the bill, because early on, I had  
18 shared with Mr. Stokes I thought that the counsel he had  
19 received was perhaps mistaken, his accountant and his  
20 lawyer were wrong, that Mr. Chavez was going to be deemed  
21 to be an employee, that the claim was compensable, and  
22 that exclusive jurisdiction lay with the Industrial  
23 Commission to determine issues and he wasn't surprised at  
24 that.

25           I think he was uncomfortable with the

1 advice that he had been receiving in any event, so we  
2 filed the Amended Answer and got all the bills together  
3 and paid them, but early on, I told him I was  
4 uncomfortable with the Life Flight bill because of all  
5 the matters that had happened. Mr. Chavez was, I think,  
6 9.8 miles from Holy Rosary Hospital when and where this  
7 accident occurred and, we'll put on a little testimony  
8 here today from Mr. Stokes who has driven from that  
9 accident site to Holy Rosary Hospital three different  
10 times to make sure that he had the mileage right and it's  
11 taken him between 12 and 15 minutes on those three  
12 occasions to get from where Mr. Chavez was hurt to Holy  
13 Rosary Hospital.

14                   Mr. Stokes was there at the scene before  
15 this helicopter showed up and tried to talk to these  
16 EMTs, in the first place, why isn't Sohar on the  
17 ambulance on his way to Holy Rosary, what are we doing.  
18 He couldn't get a response out of any of them, nobody  
19 would tell him why, and then he found out from a deputy  
20 sheriff that this bird was in the air to haul this fella  
21 off for the pinkie finger and, again, he asked them what  
22 that was all about and nobody would respond or answer his  
23 inquiries, so from the get-go, Mr. Stokes had concerns  
24 about this particular service that was being provided, if  
25 you will.

1                   We got the Form 1 in there as Exhibit No.  
2 1. We've got the Payette, Fruitland/Payette County  
3 Paramedic records in there as Exhibit No. 2. Those  
4 records show that indeed the gentleman had a mangled  
5 little finger and that it happened at 4515 Speas,  
6 S-p-e-a-s, Road outside of Fruitland, that he was Spanish  
7 speaking and they couldn't communicate with him. The  
8 records are modest, but they established that there was  
9 no active bleeding in the finger. It isn't like this  
10 gentleman was bleeding out or something from the pinkie  
11 finger.

12                   They did take his vitals. The vitals  
13 appeared to me to be normal, certainly nothing that would  
14 raise concerns that this gentleman was in shock or in  
15 some life-threatening condition. He was in a lot of pain  
16 because he had just gotten his pinkie finger chewed up  
17 by, you know, a sprocket in a chain. There's nothing in  
18 those records that establish who made the call or who all  
19 was consulted with in deciding to use this extraordinary  
20 service.

21                   Then there are the actual Life Flight  
22 transport records. I apologize, the copies that I was  
23 able to provide as Exhibit No. 3, or maybe it's 2, no,  
24 it's 3, as I recall, some of them aren't that great, but  
25 that's what we were able to get and they're really hard

1 to read. You can actually read them, especially if you  
2 have a magnifying glass, but they are very, very  
3 difficult to read. There's nothing extraordinary that I  
4 can see in those records.

5                   We have included the records from Saint  
6 Alphonsus Medical Center as Exhibit 4. We have provided  
7 the records of Dr. Mark Clawson, the specialist, the  
8 orthopedic hand surgeon that was brought in in  
9 consultation at St. Al's to see if in fact they could  
10 save the finger. He said no, but the reality is even  
11 before Dr. Clawson saw this gentleman, the ER room  
12 physician Dr. Elliott had determined it was not likely  
13 that the finger was viable because it was a crush injury,  
14 of course, and a mangle injury and those are exactly the  
15 ones that aren't viable.

16                   It's our contention that that could just  
17 as easily have been done by the ER room physician at Holy  
18 Rosary, and there are four or five orthopedic surgeons  
19 that a simple Google will reveal have service at Holy  
20 Rosary and that all those folks, whether it's the ER  
21 physicians or orthopedic surgeons, could have provided  
22 the same service to this gentleman, and even if they had  
23 concluded that there was some sort of a revascularization  
24 procedure that should be attempted and that was beyond  
25 their capabilities, we still could have put the gentleman

1 on an ambulance and hauled him over to St. Al's. There  
2 again, a simple Google search will reveal to anybody that  
3 this finger tissue remains viable for hours, up to 12  
4 hours as a matter of fact is what anyone who bothers to  
5 check is going to find. So in any event, Clawson only  
6 saw this gentleman, Mr. Chavez, I think, once in  
7 follow-up, but all his records have been provided as  
8 Exhibit 5.

9                   At some point I did solicit an opinion  
10 from Dr. Paul Collins as to what he thought about these  
11 matters and particularly whether or not the utilization  
12 of the Life Flight service was reasonable and necessary  
13 as contemplated by Idaho Code section 72-432. Dr.  
14 Collins responded to my inquiry with his letter of April  
15 9th, 2013, which is included as Exhibit 6, and he  
16 concluded that it was not reasonable, nor was it  
17 necessary.

18                   Now, Exhibit No. 7 are copies of the  
19 checks made by Kevin Stokes in payment of the claim,  
20 along with letters from my office and myself to Dick and  
21 in the one instance to Dr. Clawson's office. The one  
22 check was, as is outlined in my letter, it's for payment  
23 of the impairment, the appropriate penalties, the TTD's,  
24 et cetera. That check was in the amount of \$16,083.43.  
25 The second check was just for the follow-up visit and was

1 for \$321.36, and finally, or not finally, we've got a  
2 couple more, but Exhibit 8 is the Life Flight Network  
3 invoice that we are contesting.

4           Exhibit 9 -- as the Commission is aware,  
5 we're in an unusual setting because the Life Flight folks  
6 aren't here and indeed, there are significant questions  
7 as to whether they could actively participate in any  
8 event. They don't appear to have standing, as I see it,  
9 from the Worker's Compensation Act, but I did want to  
10 make them aware that we were going to be reviewing and  
11 asking the Industrial Commission to determine some issues  
12 that might be of interest to them. To that, to further  
13 that, I sent Life Flight letters telling them about the  
14 case and what we were doing and when the hearing was, and  
15 I've had marked as Exhibit No. 9 the affidavit of my  
16 legal assistant documenting that she sent those letters  
17 and including a copy of the letters that I sent to the  
18 two different addresses I had available to me and that we  
19 sent those by certified mail, and I've also attached the  
20 returns from those indicating that indeed they were  
21 received at both these addresses by Life Flight Network,  
22 so on October 9th -- this thing kind of got quick set, so  
23 I was a little bit taken aback, but as soon as I found  
24 out about it, I did send these folks copies of all the  
25 pleadings. I outlined all of the nature of our concerns

1 and that's all available for the Industrial Commission so  
2 you know that we didn't try to pull something over on  
3 these people or anything like that.

4           We're here today because of Dick's  
5 concerns and his client's concerns. He doesn't want to  
6 be hung out to dry for this bill, and so what we're  
7 really asking the Industrial Commission to do is to  
8 acknowledge that the issue posed, whether this bill is  
9 compensable, whether it is reasonable and necessary under  
10 72-432, is within the Industrial Commission's  
11 jurisdiction to determine and, in fact, exclusively so,  
12 and then to make a substantive ruling as to what the  
13 Industrial Commission thinks about whether or not the  
14 Life Flight bill was indeed reasonable or necessary as  
15 envisioned under 72-432.

16           REFEREE POWERS: All right, and to be  
17 clear, you have not heard back from any representative or  
18 anybody from this flight service outfit?

19           MR. BOWEN: No, I have not and that is in  
20 spite of the fact that my letter, of course, has all my  
21 contact information, including my email address, my fax  
22 number, my phone number, et cetera.

23           REFEREE POWERS: Okay. All right, I would  
24 like the record to reflect that I believe it was you, Mr.  
25 Bowen, that had requested that the entire Commission hear



1 this matter.

2 MR. BOWEN: Yes.

3 REFEREE POWERS: Based upon that, I  
4 invited them to do so and they respectfully declined my  
5 invitation.

6 MR. BOWEN: And that's fine.

7 REFEREE POWERS: All right. Claimant's  
8 Exhibit A and B, are you offering those at this time,  
9 Mr. Owen?

10 MR. OWEN: Yes, I am, Your Honor.

11 REFEREE POWERS: Any objection, Mr. Bowen?

12 MR. BOWEN: What are they?

13 REFEREE POWERS: Well, A would be a letter  
14 from R. Daniel Bowen to Richard S. Owen dated November  
15 29, 2012, and B is a letter from the same dated December  
16 21, 2012.

17 MR. BOWEN: A couple of my letters?

18 REFEREE POWERS: Yes.

19 MR. OWEN: Yeah.

20 MR. BOWEN: No, I don't have any problem  
21 with anything I would have written Mr. Owen.

22 MR. OWEN: Your Honor, we also would like  
23 the Industrial Commission to take judicial notice of the  
24 pleadings, the Complaint, and the Amended Answer filed by  
25 Mr. Bowen.

1 REFERENCE POWERS: We can do that.

2 MR. OWEN: Those are all my exhibits.

3 REFERENCE POWERS: So Claimant's Exhibits A  
4 and B are admitted, and with the comments of Mr. Owen  
5 regarding judicial notice, the Commission will so take  
6 it.

7 (Claimant's Exhibits A & B were admitted  
8 into evidence.)

9 REFERENCE POWERS: And the Defendants have  
10 proposed Exhibits 1 through 10, are you offering those at  
11 this time, Mr. Bowen?

12 MR. BOWEN: I am.

13 REFERENCE POWERS: Any objections, Mr.  
14 Owen.

15 MR. OWEN: No, sir.

16 REFERENCE POWERS: All right, Defendant's  
17 Exhibits 1 through 12 are entered.

18 (Defendant's Exhibit Nos. 1-12 were  
19 admitted into evidence.)

20 REFERENCE POWERS: I don't know who has the  
21 burden of persuasion here, but I'll just ask you, Mr.  
22 Owen, do you have any witnesses today for this hearing?

23 MR. OWEN: We do not.

24 REFERENCE POWERS: All right, Mr. Bowen?

25 MR. BOWEN: I would call Kevin Stokes.

1 REFERENCE POWERS: Okay, if you would step  
2 forward and be sworn in here, we'll proceed.

3  
4 KEVIN STOKES,  
5 produced as a witness at the instance of the Defendant,  
6 having been first duly sworn, was examined and testified  
7 as follows:

8 REFERENCE POWERS: Please be seated and you  
9 may proceed, Mr. Bowen.

10 MR. BOWEN: Thank you very much, Mr.  
11 Powers.

12  
13 DIRECT EXAMINATION  
14

15 BY MR. BOWEN:

16 Q Mr. Stokes, will you please tell us your  
17 full name, sir?

18 A Kevin Dan Stokes.

19 Q What do you do for a living?

20 A I farm.

21 Q Where?

22 A In Fruitland, Idaho.

23 Q Do you know Sohar Chavez?

24 A I do.

25 Q How did you meet him?

1           A     Through an employee of my uncle. I was  
2 looking for someone to help me irrigate and he was  
3 friends or an associate with Mr. Chavez at one time and  
4 that's how we met.

5           Q     And when was this?

6           A     It was early in April of 2012.

7           Q     My recollection was that you were wearing  
8 quite a few hats in the spring of 2012 and found yourself  
9 a bit overextended and realized you were going to need  
10 some help to cover all your bases.

11          A     That's correct.

12          Q     And you ended up talking to and hired  
13 Mr. Chavez to do what?

14          A     To help change pipes, to irrigate.

15          Q     On any particular piece of ground?

16          A     On -- well, I was -- I worked full time  
17 for my uncle on his farm and I rented two separate or  
18 three separate pieces of property that I farmed on my own  
19 as well, and so he -- it wasn't on any particular piece.  
20 It was the three pieces that I had rented.

21          Q     Okay, and was one of those pieces 4515  
22 Speas Road?

23          A     It was actually across the street from  
24 there. 4515 is actually, I believe, the sheriff deputy's  
25 house.

1           Q     Okay, and I don't know if this is  
2 particularly relevant, but you weren't insured, I gather,  
3 when this gentleman got hurt?

4           A     No.

5           Q     Why not?

6           A     Ignorance on my part mainly, but I had  
7 talked to my accountant who is rather new at accounting  
8 early on about what do I do, I've never had an employee,  
9 what do I do about payroll and, you know, she recommended  
10 that I hire him as a contract laborer using a 1099 so  
11 that I wouldn't have to bother with payroll taxes. This  
12 wasn't a full-time job for Mr. Chavez. It was two hours  
13 in the morning and two hours in the evening, so it was  
14 just a part-time position anyway and anyway, then I  
15 wouldn't have to worry -- from what she had told me, I  
16 wouldn't have to worry about the insurance and the  
17 payroll taxes and actually paying an accountant to help  
18 me with payroll.

19           Q     Okay, and how was it you became aware that  
20 Mr. Chavez got injured?

21           A     A phone call from the Payette County  
22 Dispatch had called me and I was in Fruitland about seven  
23 miles, six, seven miles, away at the time and drove  
24 immediately to where they were.

25           Q     And when you got there, who all was

1 there?

2 A There were three Payette County  
3 paramedics, the sheriff's deputy, and my uncle and  
4 myself.

5 Q Did you -- Mr. Chavez was there?

6 A And Mr. Chavez was there, yes.

7 Q When you got there, what was Mr. Chavez's  
8 situation?

9 A He was sitting on a bench on the deck of  
10 the sheriff deputy's house. One of the paramedics had  
11 his hand up in the air, had Mr. Chavez's hand up in the  
12 up air, elevated. It was bandaged. You know, I talked  
13 to him briefly, Mr. Chavez, asked, you know, how he was,  
14 and then tried to talk to the paramedics, you know,  
15 what's happening, you know, what are we doing now. They  
16 didn't respond to me, basically brushed me off, but  
17 eventually one of the paramedics who was brand new on the  
18 job said she didn't know what was happening, so...

19 Q The reason you were inquiring was you were  
20 wondering why he wasn't already being taken to Holy  
21 Rosary?

22 A Exactly. You know, like I said, they had  
23 him already bandaged and, you know, their ambulance was  
24 sitting there, you know, five, ten yards away and, you  
25 know, doors open, and I thought well, let's get him

1 going, you know, and like I said, no one would answer me.  
2 I asked the sheriff's deputy and he said the bird was on  
3 its way, and that's when I asked, you know, why and no  
4 one would answer that. I got nothing from anyone after  
5 that.

6 Q So you were asking them why they called a  
7 helicopter?

8 A Yeah. Mr. Chavez was not -- I mean, he  
9 was in pain, but he wasn't screaming or writhing in pain.  
10 You know, you could tell that they had given him  
11 medication to help with the pain. Like I said, I did  
12 have a short conversation with him and, you know, told  
13 him we'd take care of him and, you know, they just -- to  
14 me, Life Flight just was extremely unreasonable. You  
15 know, I couldn't figure out why they would call them.

16 Q And those were the nature of the concerns  
17 you were expressing to these people?

18 A Yes.

19 Q And they wouldn't respond to you?

20 A Not one word.

21 Q Now, I gather, Mr. Stokes, that after you  
22 and I talked about this, you took the time to make the  
23 drive from the scene of the accident to Holy Rosary  
24 Hospital on several occasions.

25 A Yeah, I did it three different times. I

1 thought well, I want to make sure that my mileage was  
2 correct and time was correct and, you know, depending on  
3 the time of day, and I didn't do it all the same time of  
4 day either. I did it several different times of the day.  
5 The longest was 15 minutes at noon during, you know,  
6 lunch traffic, which this accident didn't happen at noon.  
7 In the evening, you know, I think the quickest time I had  
8 was 12 minutes driving and hitting the lights right.

9 Q And you did this on three different  
10 occasions?

11 A That's correct.

12 Q You also measured the mileage --

13 A Yes.

14 Q -- using, what, the odometer in your  
15 car?

16 A The odometer in my pickup, yes.

17 Q And what was the mileage between the scene  
18 of the accident where Mr. Chavez was injured and Holy  
19 Rosary Hospital?

20 A 9.8 miles from where the helicopter landed  
21 to the emergency room door at Holy Rosary.

22 Q After you arrived at the scene of the  
23 accident, how much more time transpired before this  
24 helicopter even showed up?

25 A It was at least 10 minutes, at least 10



1 minutes, if not longer.

2 Q Okay. Now, you acknowledge you're  
3 responsible for this worker's compensation claim?

4 A Yes, I do.

5 Q You were presented with medical bills and  
6 letters that told you what the penalties were and all  
7 those kinds of things?

8 A Yes.

9 Q And you paid those?

10 A Yes.

11 Q Are these your checks that appear as  
12 Defendant's Exhibit No. 7?

13 A Yes.

14 Q The one in the amount of \$16,083.43,  
15 that's your check?

16 A Yes.

17 Q And then the second one in the amount of  
18 \$321.36, that's your check?

19 A Yes.

20 Q Okay. Has anyone from St. Al's Life  
21 Flight, St. Luke's Life Flight, St. Luke's Air Care, Life  
22 Flight Network, has anybody affiliated with this  
23 helicopter got ahold of you?

24 A Never.

25 Q How long have you lived in the

1 Payette/Fruitland area?

2 A Most of my life.

3 Q Do you folks over there have orthopedic  
4 surgeons?

5 A Yes.

6 Q More than one?

7 A Yes.

8 Q Have you ever been to any of them?

9 A No.

10 Q Do you know any of them?

11 A I believe Dr. Foote, I know him just  
12 from -- he lives in the neighborhood where I farm, so,  
13 you know, he runs up and down the road and I've visited  
14 with him a few times.

15 Q If you got hurt, would you let him work on  
16 you?

17 A I believe so, yeah.

18 Q I think he's a pretty nice guy, too. Do  
19 you see any reason why someone like Dr. Foote couldn't  
20 help Mr. Chavez out?

21 A No, and that was my quandary over the  
22 whole sending him to Boise. I didn't understand why  
23 Ontario wasn't, you know, the first option.

24 MR. BOWEN: I don't think I have any more  
25 questions for you, Mr. Stokes. These gentlemen may.

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REFEREE POWERS: Mr. Owen?

CROSS-EXAMINATION

BY MR. OWEN:

Q Mr. Stokes, I've only got one series of questions. It looks like the ambulance got there about military time 1701. That's about 5:00 p.m. Did you make the run from the sheriff's house to the hospital after work about 5:00 o'clock to see what the time would be?

A Yeah. That's not after work for me, but yes, I did.

Q Okay, and what was it? Was it between that 12 and 15 minutes?

A Yes, the 12 minutes was at 5:00 o'clock.

MR. OWEN: Okay. That's all I've got.

EXAMINATION

BY REFEREE POWERS:

Q I take it when you made these runs to the hospital from the scene of the injury you were driving at or near the speed limit?

A I made sure that I was at the speed limit each time so that I did not -- you know, I don't have

1 lights and sirens on my pickup. Anyway, I wanted to make  
2 sure that, you know, even driving the speed limit what  
3 the time would be.

4 Q So reasonable inference would be that if  
5 the ambulance was in an emergency mode, it would no doubt  
6 be exceeding the speed limit and would make that trip a  
7 bit faster?

8 A Exactly, yes.

9 Q As far as the ambulance goes, was it  
10 capable in your opinion of hauling injured folks?

11 A Oh, yes.

12 Q I mean, it didn't have a flat tire or  
13 anything like that?

14 A No.

15 REFEREE POWERS: Mr. Bowen, does that  
16 bring up anything?

17

18 REDIRECT EXAMINATION

19

20 BY MR. BOWEN:

21 Q For that matter, Mr. Stokes, do you see  
22 any reason why you couldn't have hauled him to Holy  
23 Rosary?

24 A No, none whatsoever.

25 Q Do you think Mr. Chavez would have had any

1 issues with that?

2 A No.

3 Q He probably would have preferred getting  
4 somewhere quicker, wouldn't he?

5 A I would, yes, I would think so. He called  
6 me that evening and had me come and pick him up in Boise  
7 and was asking me on the way home why did I fly to Boise,  
8 so...

9 Q So he didn't know either?

10 A No.

11 MR. BOWEN: Well, thank you so much for  
12 your time this morning, Mr. Stokes.

13 MR. OWEN: Thank you, Mr. Stokes, for  
14 stepping up.

15 REFEREE POWERS: We appreciate your  
16 participation and your willingness to accept this claim  
17 and do the right thing.

18 (The witness left the stand.)

19 REFEREE POWERS: Any more witnesses today,  
20 Mr. Bowen?

21 MR. BOWEN: No, I don't have any more  
22 witnesses today and really, I think I preserved the  
23 possibility of calling Dr. Paul Collins and I will do so  
24 if the Industrial Commission feels it's somehow for some  
25 reason necessary or, you know, maybe if you could take a

1 second and look at it, it's a one-page report. If  
2 there's some ambiguities or things that are of concern to  
3 you in his letter that would be better addressed, I would  
4 be willing to hunt Dr. Collins down and get him on the  
5 record, but I didn't perceive it was necessary myself  
6 looking at his report.

7 REFeree POWERS: All right, I don't know  
8 why you would need to incur that extra expense, so I'm  
9 not going to worry about it.

10 MR. BOWEN: Well, then I really don't plan  
11 on having any further witnesses.

12 REFeree POWERS: Okay. Do you gentlemen  
13 want to write briefs?

14 MR. OWEN: I'd be repeating basically the  
15 same thing I already said here today.

16 MR. BOWEN: I really don't -- would it be  
17 of benefit to the Commission?

18 REFeree POWERS: Not in this case I don't  
19 think. I think it is clear.

20 MR. BOWEN: I don't see the need for it.

21 REFeree POWERS: I could rule from the  
22 Bench if I could rule, but I can't, so I won't.

23 MR. OWEN: You can recommend from the  
24 Bench.

25 REFeree POWERS: I can what?

1 MR. OWEN: You can recommend from the  
2 Bench.

3 REFEREE POWERS: All right, I'll probably  
4 need to review the evidence before I do so, but if  
5 there's nothing else, then we're adjourned. Thank you.

6 MR. BOWEN: Thank you so much.

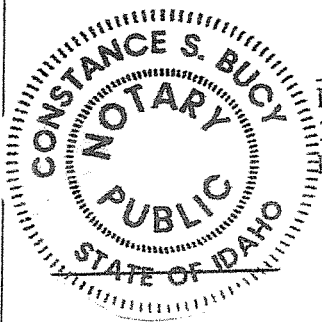
7 MR. OWEN: Thank you.

8 (The Hearing adjourned at 9:40 a.m.)  
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A U T H E N T I C A T I O N

This is to certify that the foregoing proceedings held in the matter of Sohar Chavez, Claimant, versus Kevin Stokes, Employer, Defendant, commencing at 9:00 a.m., on Wednesday, October 30, 2013, at the Industrial Commission hearing room, 700 Clearwater Lane, Boise, Idaho, is a true and correct transcript of said proceedings and the original thereof for the file of the Industrial Commission.



*Constance S Bucz*

Notary Public in and for the State of Idaho, residing in Wilder, Idaho. My commission expires 8-25-12. CSR #187