

No. **19-6782**

**ORIGINAL**

**In the Supreme Court of the United States**

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ADRIENNE MALLARD

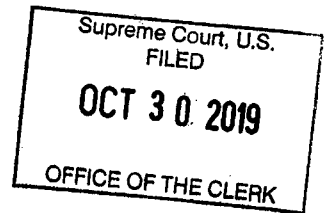
Petitioner

v.

MODEL HOME TEMPS

Respondents.

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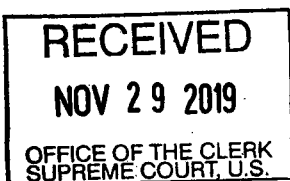
ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES SUPREME COURT OF VIRGINIA  
COURT OF APPEALS OF VIRGINIA  
AND  
THE VIRGINIA WORKERS COMPENSATION COMMISSION

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

I. The Court of Appeals of Virginia (CAVA) request all documents from Virginia Workers' Compensation Commission on my appeal. VAWCC withheld sixty-nine (69) filed documents (from 2014-2017 documenting Respondence disobeying Court Orders/neglect/abuse) from its Appendix to the CAVA. *Carter v. Commonwealth*, 2 Va. App. 392, 396, 345 S.E.2d 5, 7 (1986). Acts calculated to embarrass, hinder or obstruct court. The questions presented is as follows:

A. Whether VAWCC was unconstitutional in cherry-picking 69 filed documents from 2014-2017, not admitting a complete Appendix to the CAVA, displayed Court and Respondents bias and case manipulation against my case, if VAWCC five separately additions to Appendix filings from February 2018 – December 2018 is unconstitutional?

B. Whether CAVA was unconstitutional in not requesting all VAWCC missing filed documents, if erred in not reprimanding VAWCC for excluding filed evidence from Appendix, erred denying my submitted Brief addendum including the missing filed evidence supporting my case, whether CAVA erred affirming without all court evidence, and if unconstitutional not admitting all omitted filed case evidence after my Writ of Certiorari to CAVA requesting missing supporting evidence from court?

C. Whether against the law and/or a Federal Offence?

II. Workers' Compensation laws are against micromanaging and manipulating cases.

The U.S. Code § 9 Prohibition regarding manipulation and false information. Our Court Ordered Medical Awards are consistently denied often ignored by its own court, creating a substantial Constitutional question as a determinative issue from these violations. This matter should be addressed to protect other injured workers nationwide under our Constitutional and Human Rights from abuse when the court does not. The questions presented is as follows:

A. Whether Respondents case micromanagement/manipulation, repetitively disobeying Court Order/Awards, mishandling my health care and going against treating physicians' medical referrals under an Award are unconstitutional or against rules?

And is this a danger to my health?

B. Whether Respondents-employer Model Home Temps/Next Day Temps/Inga /Accident Fund, including their counsel (consulting them) involved in case manipulation from 2014 to present and/or responsible for harmful health decisions?

C. Whether VAWCC fail to protect my writes under the Workers' Compensation rules, the Virginia Workers' Compensation Commission rules, Constitutional or Human Rights?

III. Medical diagnosis denied, Chronic Regional Pain Syndrome Stage II (CRPS) (old medical term Reflex Sympathetic Dystrophy RSD), Major Depression, Anxiety, Agoraphobia, Knee Chondromalacia Pateelae. The questions presented is as follows:

- A. Whether denying Chronic Regional Pain Syndrome (CRPS/RSD) Stage II (Life-Long painful injury with contracture of ankle joints) harmful to my health and recovery stopping medical treatment and prescriptions, unjust, unconstitutional (right to life), violated rules or Human Rights? With evidence of multiple (5) physicians (around 100 years of experience) and CAT-SCAN with same diagnose, including causally related to June 6, 2014 work injuries.
- B. Whether denying diagnosed Major Depression, Anxiety and Agoraphobia was unjust with my treating physician diagnosis noting Depression is related to June 6, 2014 work injuries. Whether denial is harmful to my health and recovery stopping medical treatment and prescriptions, unconstitutional (right to life), violated rules or Human Rights? Whether the VAWCC and CAVA inappropriately weighed medical evidence and its consistency of diagnosis?
- C. Whether VAWCC removal of Knee Award (had about a year before taken) for - Chondromalacia Patellae (cartilage damage/loss does not grow back) unjust harmful to my health and recovery stopping medical treatment and prescriptions, unconstitutional (right to life), violated VAWCC rules or Human Rights? Whether the VAWCC and CAVA inappropriately weighed medical evidence and its consistency of diagnosis? Whether Respondents interference with my knee treatment denying all doctors request on Awarded Knee violated rules?

IV. Proving I sought employment to qualify for paid benefits. During 2017 hearing, Commissioner Kennard and I had a lengthy (5-page transcript) on how I searched for jobs, type, companies, titles and I testified to getting hired from search. VAWCC also has leeway to injured workers with heavy medical appointments/physical therapy.

The questions presented is as follows:

A. Whether Wage Loss benefits denied were unjust, unconstitutional, against rules.

B. Whether VAWCC and CAVA inappropriately weighed evidence of my job search, ultimate proof is getting hired, not considering filed job evidence missing from VAWCC Record, heavy medical appointments, catastrophic injuries, Life-Long work restrictions, erred in not continuing no-work-status from multiple injuries and depressions. Wouldn't I need to be able to get out of home more than once a week (agoraphobia/injuries) and deal with depression to be considered for Limited Work Duty?

V. Whether VAWCC and CAVA denying Awards for several diagnosis from physicians violate or impede on physician's oath (duty to care... treatment)? The Workers Compensation Commission denying physicians diagnosis stops the physician's treatment on their diagnosis to an injured patient with rights. Is this legal? Is this contradictory?

VI. Whether VAWCC Opinion misled the CAVA Opinion.

VII. Whether the U.S. Constitution, Human Right Act, Health Act or any law allows any person, company, organization, employer, defense attorney (all opposing not caring for disabled workers best interest) be in 100% control making all decisions for any persons health care, treatment, recovery, prescription type, randomly cutting on/off Court Awarded/Ordered medical. prescriptions for months, selecting all doctors, able to force an injured disabled person to go to a male doctor after abuse? The United State of America is not a dictatorship... The foundation of our Constitution in this free country prevent that and protects us. But in this secluded Workers' Compensation world, particularly in this awkward abusive case, seems to display every aspect of dictatorship, right here. Isn't this behavior Unconstitutional?

VIII. Unconstitutional for injured workers not to be informed prior to signing up with workers compensation that we will lose ALL of our rights in making our own health decisions?

#### **LIST OF PARTIES**

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows.

MODEL HOME TEMPS

NEXT DAY TEMPS

ACCIDENT FUND GENERAL INSURANCE COMPANY, ET AL.

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ADRIENNE MALLARD  
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v.

NEXT DAY TEMPS / MODEL HOME TEMPS,  
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VIRGINIA WORKERS COMPENSATION COMMISSION

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PETITION FOR A WRIT OF CERTIORARI

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**OPINIONS BELOW**

**The Judgment of the Supreme Court of Virginia (Record No. 190776).  
The Order of the Court of Appeals of Virginia is (Record No. 0028-18-4)  
The Order of the Virginia Workers Compensation Commission  
(VA00000934944 ).**

**JURISDICTION**

The judgment of the Supreme Court of Appeals was entered on August 2, 2019. The Opinion of the Court of Appeals of Virginia was entered on May 14, 2019. The Opinion of the Virginia Workers' Compensation Commission was entered on June 6, 2017.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### United States Constitution, Amendment XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### STATEMENT OF THE CASE

June 6, 2014, I suffered work injuries fracturing my leg, ankle, foot along with nerve damages and other injuries. Credible layering issues deriving from over five years of case interference by Respondents habitually disobeying Court Orders, Court medical Awards, manipulating case, harming my recovery and health. In the very secluded Workers' Compensation world, do injured disabled workers nationwide really have any protection from defendant's case abuse? Remember, the "defendants" are 100% in control over all plaintiff's medical/health/treatment... frightening.

Imagine all Defendants in every court being in total control over Plaintiff/Claimants health/life decisions. Only allowed in Workers Compensation Court.

Respondents constant case interference with court Opinions/Awards created a domino effect of errors. Denying treating physicians medical Referral Orders, ignoring doctors' calls/emails, my calls/emails, denying doctor appointments, constantly cutting

off medical treatment, physical therapy, prescriptions and seeming to encourage physicians. The VAWCC Opinion improperly weighed erroneous evidence from a one-time IME Dr. John Daken's visit in 2017 (three years after my injuries). Commissioner Kennard's Opinion heavily weighed on the three years later IME over treating physicians three years of consistent diagnosis.

Improperly weighed evidence yielding to erroneous Opinions. My side of this case has been entirely on facts and honesty. Along with Respondents disruptive case behavior, on appeal to the CAVA, the VAWCC aligned up by omitting 69 filed documents from their Appendix to the CAVA. Sixty-Nine files (68 were my filings) supporting my case were cherry-picked throughout 2014 – 2017. This is no coincident nor mistake. Leading to improper Opinions branching off to my Writ of Certiorari, pleading for help after Five plus (5+) devastatingly long unimaginable years. Most of the past three years of my life was spent in court or preparing for court from fighting for my rights and my multiple catastrophic Life-Long injuries. Hoping for accountability, corrections, justice and for decisions from this case supportive of not harming current and future disabled workers.

VAWCC 2017 Opinion denied disability benefit pay (cut off since December 2015), Chronic Regional Pain Syndrome (CRPS), Major Depression, Anxiety, Agoraphobia and baseless removal of my Knee Award after having the Award about a year. Leaving me without the VAWCC protection due to me and ending medical

treatment. What about my disabilities and medical? Which seem to not matter over defense court interference.

Overwhelmingly difficult consolidating multiple case issues in one.

All I did was just go to work, my life since flipped inside out... then shredded on June 6, 2014. Prior, I had three jobs, extremely active in the community and worked for Model Home Temps since about 2012 at multiple properties. I was excited about full-time hours after one of the new home's community managers asked me to work full-time at location. At a different community, I still can't believe it, got injured the first week of my full-time hours. I sustained compensable work injuries caused by uneven multi-colored steps not built to code. Hearing my bones pop/crack five times, scared, alone, waiting half-hour for ambulance (this brought on agoraphobia). Then taken to hospital, X-Rays on Left Ankle/Right Foot showed leg/ankle fractures (Oblique Distal Fibular), placed in cast with 2 crutches for over four months. Multiple (spiral) fractures on leg, ankle and foot. No weight bearing.

First Physical therapy order August 20, 2014 Fracture Lateral Malleolus CL/Sprain of Ankle NOS/Contusion of KNEE/ Chondromalacia Patellae (Knee)/ Contusion both Wrist/Bilateral Ankle-Injuries... Work Related: YES. Work Status: NO.

Briefly attempted to return to work end of September for three weeks (1-2 times a week) after employer Inga kept pressuring me to return to work. Inga asked me, in the filed text messages, to get my doctor to reduce my restrictions, I need to do steps and

walking. My doctors work restriction had heavy restrictions (no stairs, walking, standing) and wearing boot cast and/or firm ankle brace with crutches. After returning to work,

doctor ordered me back into boot cast again and discussing surgery.

Received Acknowledge Protective Filing December 10<sup>th</sup> and February 26, 2015 (gap from VAWCC error dismissal vacated).

December 15, 2015 filing correcting injured body parts (someone kept changing). March 9, 2016 defense attorney Akowhah files motion to dismiss my claim and decline request for Hearing, after settlement discussions. March 25, 2016 VAWCC Order (December 21, 2015 dismissal Order entered in error, vacated).

May 26, 2016 hearing on issues February 26, 2016 Acknowledge Protective Filing March 4, 2016, April 20 (27), 2016.

June 13 (14), 2016, I filed text messages between Model Home Temps owner (Inga) and myself documenting evidence I worked six-days the week of injuries and working new Full-Time hours. I lost new position and job as Realtor (since 2007) from suffering Life-Long work injuries, working for Inga. Text evidence also displays Inga and Accident Fund dangerously/unethically manipulating case, asking me to get treating physician to reduce my heavy work restrictions, need to do steps...

Social Security Disability sent me to two doctors. June 20, 2016 IME Dr. Memenatu Bangura, diagnosed Major Depression and Anxiety. Dr. Bruce Neckritz

diagnosed fractures/tendon/nerve/CRPS symptoms, injuries will be a persisting problem, difficulties with Realtor position with limitation.

July (12)13, 2016 filing, Appellees continue denying approval on Awarded medical treatment from treating physician. Symptoms, discoloration leg/ankle/foot, more swollen, ankle bulging, more pain, redness, numb and cold. Defense email to me states, it's the position of the employer that no further medical is necessary. I responded, by law medical treatment is up to my treating physician. July 20, 2016, Commissioner Plunket Opinion resulting awards in my favor for payment of benefits (temporary total disability) from June 7, 2014 through September 28, 2014. Also, medical benefits for Left Foot/Left Ankle/Right Ankle/Left Leg/Left Knee/Left Wrist/Right Wrist (correction: pain with use and crutches/not with use of crutches), Tibial Posterior Tendinitis, Achilles Tendinitis, neuralgia on left.

Expedited Hearing Request Mediation Conference Call, October 17, 2016, with Commissioner Kennard and Defense attorney concerning new diagnosis CRPS/Osteopenia/Depression/Anxiety/Plantar Fasciitis, full-time hours pay lost, no workers comp paid benefits in nine (9) months, Defense case manipulation not honoring VAWCC Medical Awards/Referrals, not responding to treating physicians' calls/emails.

During awkward (gang-up) mediation, defense contempt issues overlooked, not equal, defense decided to now honors Opinion/Awards treatment (briefly). I informed

Commissioner Kennard on Mortgage company November 1, 2016 foreclosure notice (my home of 19 years). Commissioner Kennard advised me to get hardship letter from treating physician. Dr. Phillip Omohundro (Dr. Omohundro) advised he never received such a request in 30 years. Issues not resolved.

September 27, 2016 Notice ADR Resolution Certification inaccurately stated issues resolved. Inform VAWCC notice inaccurate. October 3, 2016 VAWCC notice Commission erred in issuing ADR Certification resolved.

October 19, 2016, Dr. Omohundro visit, referrals for TENS Unit/Podiatrist/Pain Management CRPS noted/Physical Therapy. He advised me last work restrictions given late September 2014 with heavy work restrictions. Now Work status Light-Duty with limitations walking/standing 3 hours day with breaks. No one recognizing Agoraphobia.

October 20 (28), 2016 2<sup>nd</sup> Request for Expedited Hearing (original October 5, 2016) suffering eminent threat of losing home from foreclosure sale, hoping to show disability wage loss benefits income. Filed November 1, 2016 foreclosure notice, not working since June 6, 2014 from numerous injuries/treatments/test/physical therapy. Workers comp check cut-off December 2015 and utility cut off notices all while still under constant doctors' medical care under the VAWCC and lost two jobs from work injuries.

November 7, 2016, Hired from job marketing search.

January 10, 2017, hearing continued so Defense can view new medicals received on January 9, 2017 by Dr. Herman Zarate (Podiatrist Foot Ankle surgeon). February 21, 2017 I non-intentionally missed Defense IME Dr. Dakens appointment. Hearing testimony proves I received IME mail day of appointment headed to attorney to file bankruptcy to stop Foreclosure sale (February 22, 2017) on my home of 20 years.

February

22, 2017, Foreclosure sale date.

February 22, 2017, Defense Motion to Dismiss filed.

February 22, 2017 Motion to Deny Defense request to dismiss my case, health in jeopardy. Years of defense case abuse, deflecting and disobeying Court Orders.

March 2, 2017 hearing addressing issues. June 22, 2016 Social Security Disability IME diagnosed Depression/Anxiety. July 13, 2016 Request authorization of treating physicians visit/referrals all denied on Awarded injuries again/Defense not returning doctors calls for 1 ½ months among other micro-management/case manipulation issues. RSD/CRPS Stage II, Osteopenia both ankles and left foot, Major Depression, Anxiety, Plantar Fasciitis, No-Pay, hours lost/not scheduled for work, Life-Long injuries.

April 16, 2017, filed requesting IME Dr. John Dakens report and denied Awarded medical again. VAWCC April 18, 2017 letter ordering hearing left record open for IME Dr. John Daken's notes, gives seven days to submit. April 20, 2017, Defense submits their report with Dr. Daken's. Two days later, I filed in VAWCC my six-page response



on Dr. Daken's specifically detailing accurate events. Warning of extreme lengthy Three-and-a-Half-Hour forced IME visit by Defense (three-years-after-injury).

The Unethical and fabricated report as of today, still never addressed by VAWCC. May 1, 2017, pharmacy called prescription payment stopped (omitted from appendix).

June 6, 2017, Commissioner Kennard's Opinion denying everything. August 30, 2017, I filed requesting reconsideration on Opinion. September 20, 2017, filed requesting reconsideration on Opinion Part 2. December 6, 2017, Rapaport Opinion Affirming. January 3, 2018, I filed notice of appeal to VAWCC and CAVA.

However, CRPS diagnosed in 1-CAT-SCAN and by four doctors including treating physicians with three years of signed records and referrals with CRPS Pain Management. 2. VAWCC 2017 Opinion removed Knee Award with 2014-2017 treating physician notes relating causation to June 6, 2014 work injuries and prescriptions. 3. Depression/Anxiety/Agoraphobia denied with two doctors diagnosed depression and treating physician notes causally related to work injuries. 4. Dr. Zarate report not weighed equally yet consistent with treating physicians' diagnosis. 5. Wage Loss-I proved marketing, filed evidence, and hired. 6. Case manipulation.

May 22, 2018, I filed in CAVA Writ of Certiorari (also Motion for Extension on Brief/Motion to Respond to Appellee's Brief) requesting all VAWCC missing files be forwarded to the CAVA. Several of my documents missing from Record/Appendix.

June 7, 2018, filed Amended Writ of Certiorari noting sixty-nine (69) files missing. Seems VAWCC also interfered with case manipulation. July 6, 2018 CAVA letter giving seven-days from date of letter to provide detailed list describing with sufficient specificity each item not included in record. July 16, 2018, filed log of sixty-nine missing records. (Addm 121-124). October 24, 2018 CAVA & VAWCC response to Writ of Certiorari approving seven, denying twenty-seven, thirty-five left for VAWCC to decide. December 5, 2018, filed Letter from Appellant CAVA didn't respond. Oral Argument April 24, 2019. April 26, 2019, I file Supplemental Authorities/Questions to CAVA concerning Human Rights Violation, New Medicals and Incorrect Medication, listing each Human Rights Violation (#3-Right to Life, #5-Torture, #12-Right to Privacy, #17-Right to Our Own Things, #22-Rights to Social Security and #29-Responsibility/duty to other people protect their rights/freedom). CAVA didn't respond. May 14, 2019 CAVA affirming Commission's decision. Commission's findings supported by evidence in the record. Minus Addendum files attached.

### **STATEMENT OF MEDICALS**

Laurel Hospital X-Rayed left ankle and right foot. Fractured Oblique Distal Fibular Left (Lower leg above ankle). Splint/cast up to knee and 2 crutches. Was not able to train on crutches from right ankle pain.

Monday, June 9, 2014, first visit with treating physician Dr. Phillip Omohundro, electronically signed medical records indicate onset was sudden with injuries on June 6,

2014 at work. Couldn't bear weight, immediate swelling, fracture Left Lateral Malleolus-CL, Left Sprain of Ankle, right ankle severely sprained, injured right foot. Removed hospital hard cast, X-Ray then put on Boot Cast/Cam Walker (4-6 weeks) up to knee for leg/foot/ankle fracture with 2 Crutches and right wrist Brace. Told absolutely no weight bearing.

June 25, 2014 Dr. Omohundro visit. In cam walker, No Weight Bearing, crutches, pain in Lateral Left foot and medial Left Knee. Right ankle severe sprain, Left/Right Bilateral Wrist pain with use, as well with crutches, wrists contusion, Cast, crutches, Right Ankle lacer brace/right cock-up-splint. Foot/Ankles/Leg/Knee/wrists complications. Surgery options. Complex Spiral Fracture Pattern-Lateral Malleolus and Oblique Distal Fibular (leg). Spiral multiple fracture shows from Oblique Distal Fibular leg in an X shape then spirals twice going through entire ankle to the tip at Lateral Malleolus.

July 9, 2014 Dr. Omohundro visit. Work injury No Weight Bearing, Lateral Left Foot pain, Medial Left Knee with Retinaculum Plica Tenderness and crepitation, Right Ankle Sprain still painful w/ambulation, L/R Bilateral Wrist Painful using wrist also painful using crutches, fracture of Fibula. July 23, 2014 visit. Also indicating Left Knee Chondromalacia Patellae and Left Contusion of Knee. August 20, 2014 visit same notes, Tibialis Anterior tenderness on Right.

August 20, 2014 First physical therapy Order. Diagnosis: Fracture Lateral Malleolus-CL/Sprain of Ankle NOS/Knee Contusion/Chondromalacia Patellae (Knee)/L R Wrist Contusion. Further notes Work related: YES. Work Status: No Work. Phillip Omohundro, MD.

October 13, 2014 CAT-SCAN indicating Osteopenia and Reflex Sympathetic Dystrophy (RSD/CRPS stage I), healing Oblique Distal Fibula Fracture (leg) still visible. October 16, 2014 Dr. Omohundro visit, We discussed CAT-SCAN he explained RSD/CRPS complications and Osteopenia. Discussed surgery risk and benefits. Placed on Fosamax. December 10, 2014 visit ankle brace, pain third of fibula, left Hip pain sitting and rotation. February 25, 2015. Prescribed Lidocaine Patch/Voltaren for pain. Pain increased and new diagnosis of Left Posterior Tibial Tendinitis (arch drops, cannot toe rise). April 22, 2015 visit. New diagnosis Achilles Tendinitis. Also swelling/weakness/tingling/popping/instability. June 15, 2015 visit Diagnosis Left Achilles Tendon Rupture, Hip pain, Ankle Joint Contracture, Plantar Fasciitis. 4<sup>th</sup> toe on left extends different direction when extending foot with tingling in toes when rub anterior foot (CRPS), metatarsal, numbness worse, both wrists.

September 17, 2015 visit Dr. Brett Chicko Podiatrist, same diagnosis, also noting tenderness medial ankle/lateral ankle/tarsometatarsal joints, calcaneal tuberosity, 2<sup>nd</sup> metatarsal/3<sup>rd</sup> metatarsal/4<sup>th</sup> metatarsal, tarsometatarsal joints/Achilles tendon insertion/tibialis posterior/Achilles tendon/lateral anterior talofibular ligament/anterior

talofibular ligament/calcaneofibular ligament. Ordered CAT-SCAN ankle/Foot, discuss surgery. September 30, 2015 CAT-SCAN-Left Foot: Osteopenia, no fracture. CAT-SCAN-Left Ankle: Osteopenia, healed Oblique Fracture of Distal Left Fibula near-anatomic alignment, tiny well-corticated ossific at tip of medial malleolus/secondary ossification.

October 29, 2015 Dr. Omohundro visit New diagnosis Neuritis, notes Tinel's test positive at 1<sup>st</sup> web space, Hypo pigmented area foot to ankle. November 30, 2015 visit New diagnosis Neuralgia/neuritis, Trochanteric Bursitis (Hip), Ankle Joint Contracture, Achilles Tendinitis, TPT, Plantar fasciitis, Neuritis, Foot pain, hand pain. Pain/swelling after prolonged standing and walking, Arthralgias Joint pain (Hip), patellar Retinaculum nerve, Ankle and Calf pain with sitting and driving, limitations crossing left hip and pain with prolonged use of wrist.

March 21, 2017 Defense IME Dr. John Daken. Unethically forced (3 ½ hour) interrogation visit. Agoraphobia, only accurate diagnosis (home often five-ten days straight fear of getting hurt again since June 6, 2014). Dr. John Daken's fabrications, abusive nature and misconduct as I stated in my April 22, 2017 unanswered/ignored letter to Commissioner Kennard of Dr. John Daken's intentional infliction of emotional distress is medical malpractice under Rule 4:10 breached his duty to me failing to comply with applicable standards of care. *Harris v. Kreutzer*, 271 Va. 188, 624 S.E.2d 24 (2006). Virginia Code Section 65.2-607(a) governs independent medical examinations in

workers' comp claims. A cognizable cause of action in medical malpractice for conduct of Rule 4:10 examination. IME doctor still owes duty of care, even if not doctors patient.

January 20, 2016 visit New Sural nerve and superficial peroneal nerve, Greater Trochanter (Knee), 7% Permanent Partial Impairment lower extremity (not on individual parts - both Feet, both Ankles, both Legs, L Knee and both Wrist) I didn't know I had this test). Extremely low percentage giving over twenty (20) diagnosis, and Dr. Omohundro's same rating notes (same day) indicate Limited range of motion, Difficulty walking/climbing stairs: YES. Difficulty-dressing/bathing: YES. Ankle-calf pain sitting/driving-numbness...

May 11, 2016 visit Dr. Omohundro notes Neuralgia/Neuritis, Hip Bursitis. Persistent pain both ankles, L-Knee, L-Hip and L/R-Hands. Aching/burning/stabbing/sharp/throbbing. Aggravating Factors: Standing-Walking. Arthralgias Joint pain/sural nerve/carpometacarpal Joint/hypo pigmented area/Plantar Fascia/Achilles Tendon/Peroneus Longus and Bravis. May 31, 2016 Dr. Omohundro letter I've reached Maximum Medical Improvement from work injuries at November 30, 2016.

Two Social Security Disability IME's. June 20, 2016 Dr. Memunatu Bangura, Psychiatrist depressed for one year, mood depressed, affect was constricted, diagnosed Major Depressive Disorder, Single Episode with Anxious Distress Moderate. Social Security Disability IME June 30, 2016 Dr. Bruce Neckritz Physical Medicine-

Rehabilitation notes tendon damage and knee injury also occurred, 4 months in cast, hypersensitivity L-ankle/foot. Toe stiffness, walking abilities affected. Walking ability varies depending on pain level, feels better when weight off foot. Left ankle abnormalities Planta Fasciitis, drop in medial longitudinal arch of foot, Sural Sensory nerve hypersensitive to light touch on lateral of foot, left ankle dorsiflexion reduced 10 degrees, symptoms could be considered Reflex Sympathetic Dystrophy (RSD) also known as Complex Regional Pain Syndrome (CRPS). Injuries likely to be persistent, limit walking. As a Realtor, this presents difficulties with a lot of walking and steps. Working Part-Time (Realtor no pay). Note, Hour prior to appointment, mortgage company informed another foreclosure sale. Cried, wiped my tears, went to appointment. He didn't detect depression.

July 20, 2016 visit Dr. Omohundro notes CRPS Type II lower limb may experience periodic flares. Also list contracture-ankle joints and all previous diagnosis. October 19, 2016 visit long discussion on symptoms-pain. Advise TENS Unit and orthotics foot/ankle pains. Continue medications. Referred to Pain Management/Podiatrist/Physical Therapy. Work status rated Light-Duty with limitations walking/standing 3-4 hours 8-hour day intermittently with break (ignoring Major Depression, Anxiety and not leaving home). Problems with CRPS Type II Neuralgia/Neuritis/Contracture Ankle Joints/Trochanteric Bursitis/Achilles Tendinitis/Tibialis Posterior Tendinitis/ Plantar Fasciitis/Foot-Both Wrist

pains/Depression/Fracture. December 12, 2016 visit notes previous injuries and state still having multiple pain issues related to June 6, 2014 injuries including bilateral wrist pains, bilateral knee, ankle pains, left foot and ankle nerve pains, range of motion issues and depression all casually related to June 2014 injuries. Appellees ignored Dr. Omohundro's referral (TENS Unit/Pain Management/Podiatrist orthotics).

My Christmas gift money paid for appointment. January 4, 2017 Dr. Herman Zarate board certified foot/ankle surgeon. Thorough report, RSD Stage 1/CRPS Type I/Achilles Bursitis tendonitis/Arthritis, DJD/Metatarsalgia/Tibialis Tendonitis Posterior/Sprain Ankle/Tarsal Tunnel/Plantar Fasciitis/Neuralgia/Radiculopathy/Equinus: Gastrocnemius/Difficulty walking/Limb Pain/ Multiple diagnosis major is CRPS stemming from June 6, 2014 fractures.

August 28, 2017 visit Dr. Omohundro notes, numbness/tingling/swelling after prolonged standing and walking. Still list previous injuries (CRP/Contracture Ankle Joints/Achilles Tendonitis/Foot-Hand-Knee pains/lower/Major Depressive Disorder...) Left Varied Pigmentation dusky lower 1/3 and Hypo pigmentation/peroneus longus and brevis tenderness. New diagnosis: Tarsal Tunnel needing surgery. Prescriptions currently taking: Gabapentin 300/Lidocaine 5% patch/Pennsaid 20 mg (2%)/Fosamax 70 mg/Wellbutrin SR150 (depression).

Some of Dr. Omohundro diagnosed medical records: Spiral Fracture of Lateral Malleolus L, Ankle Fracture Oblique Distal Fibular, Chronic Regional Pain Syndrome



Stage II (CRPS), Hyperpigmentation L foot/ankle/ leg, Contracture of Ankle Joint L, Arthritis Ankle L, 5% range of motion ankle L, Osteopenia Bilateral Malleolus L Foot & Ankle, Achilles Tendinitis Rupture L, Tibialis Posterior Tendinitis Stage II, Neuralgia, Neuritis Ankle & Foot, Tarsal Tunnel, Equinus Gastrocnemius, Plantar Fasciitis L, Peroneus Longus Brevis Muscle Hip L, Trochanteric Bursitis Hip L, Severely Sprained Ankle R, Sural Nerve, Chondromalacia Patellae Knee L, Knee Contusion Patellar Retinaculum L, Arthralgias /Carpal Tunnel Syndrome L&R/Joint Pain Knee,... All diagnosed and signed by treating physician.

Some 1<sup>st</sup> encounters: Fracture Oblique Distal Fibular L-Leg-June 6, 2014. Fracture Lateral Malleolus L-Ankle-June 9, 2014. L/R Wrist June 25, 2014. Knee injuries-July 23, 2014. Tibialis Posterior Tendinitis Stage II-August 20, 2014. Chronic Regional Pain Syndrome-CRPS/RSD/Osteopenia-October 13, 2014. Depression Hip injuries-December 10, 2014.

### **REASON FOR GRANTING THE PETITION**

This case is of exceptional importance to injured disabled workers nationwide who have been unfairly mishandled and dangerously manipulated within the workers compensation commission court.

1. Decisions protecting injured workers fully diagnosed medical injuries from having our much-needed medical treatment abruptly ended if Commissioner

unfairly weighing medical evidence, and maybe possibly on appeal a panel of random doctors to review all medical notes.

2. Decisions supporting injured workers rights when our rights are not being protected by the Workers Compensation Commission Court.
3. Decisions to assist in the lower courts conflict between a (or several) seasoned physicians' diagnosis and their oath of due care and to "do no harm," against the Workers Compensation Commissioners decision to end or deny injured disabled medical treatment. Often unfair, but also infringing on the physician's duty and to "do no harm." Stopping diagnosed medical treatment is doing harm. Is it unethical and/or unconstitutional for a commissioner to deny or end a disabled injured patients' treatment and prescriptions?
4. Decisions on if it is unconstitutional for the defendant to be 100% (even mostly) in control of Claimants healthcare, making all crucial decisions for injured disabled workers. Protecting our interest because the "Defendant" is not looking out for any "Claimants" best interest in Court.

**THE COURT OF APPEALS ERRED IN RULING THAT FACT FINDINGS REGARDING CAUSATION, MARKETING RESIDUAL WORK CAPACITY, DENIAL OF CRPS/DEPRESSION/LOSS WAGES/ KNEE ARE SUPPORTED BY EVIDENCE IN THE RECORD. ERRED BARRING ISSUES CONCERNING DEFENSE FIVE YEAR CASE INTERFEARANCE AND MANIPULATION. ERROR OF FACT FINDING ON IME DR. DAKEN OVER DR. ZARATI AND DR. OMOHUNDRO RECORDS.**

Disabled injured workers sign up for VAWC with knowledge, under the Virginia Workers Compensation Act, they will protect our rights, not be bias. *Ellis v. Commonwealth*, 182 Va. 293, 28 S.E.2d 730 (1944). To provide compensation for loss of opportunity to engage in work. Sadly, this isn't so for many. Since I signed under VAWCC, hopes of protection demolished, feeling unsafe, life ruined, Human Rights Violated, voice not heard over strangers in 100% control of my own health... At same time, experiencing unimaginable pain/nerve damages from multiple injuries, medications, many doctor appointments, physical therapy, tests and trying to recover. Overwhelmed managing disabilities, learning new life. Defense employer/insurance company shockingly have the same attorney (red flag). The goal shifted to protect employer/insurance company, often stopping benefit checks for weeks/months, reject VAWCC Awarded injuries treatment and prescriptions, take away compensation and use confusion to distract Courts medical evidence. Violating Workers Compensation rules and Human Rights Act. Please tell me this is not normal. I'm desensitized from the entire defense (employer, insurance company and defense attorneys) tormented nightmare. I surely could never treat anyone like that. Most of my files are based on the defense defiance in contempt of court orders (never addressed). So, the abuse/Violation of my basic Human Rights and Constitutional Rights are continuously escalating in the face of the law. As my parents say, "had the defense just followed Court Orders... that's all they had to do"

**I. THE VIRGINIA WORKERS COMPENSATION COMMISSION DUTY IS TO FORWARD ALL FILES TO THE COURT OF APPEALS OF VIRGINIA. THEY DID NOT. SIXTY-NINE (69) MISSING FILED DOCUMENTS SHOULD HAVE BEEN ADMITTED BY VIRGINIA WORKERS COMPENSATION COMMISSION TO THE APPENDIX**

The Court of Appeals of Virginia Opinion erred not admitting missing files purposefully omitted from Appendix by VAWCC on the account I erred at some point in my Assignment of Errors. Sixty-Eight files of mine (Appellant), only one of Appellees medical records, documented letters... strategically cherry-picked throughout 2014-2017. Then withheld from Appendix to the CAVA. This malicious act against court evidence is extremely disturbing, blatant bias favoring Appellees, case neglect interfering with CAVA opinion and justice. Supplying a substantial constitutional question as a determinative issue violating Human Rights, act of obstructing court evidence and law.

Courts dismissiveness will only continue Respondents green light to harm current and future injured workers, disrespecting the law and court administration, offering us no protection from employers, insurance companies, defense law firms and sometime courts abuse (who was to protect my rights). Making this a matter of significant precedential value.

As I sated in my CAVA Oral Argument, not 1 or 3 files missing. 69 files missing and a very disorganized Appendix is no Oops. Virginia Workers Compensation rules provides the Commission has the power to punish contempt/disobedience of its orders.

They didn't, seemed to condone behavior. Not correcting at VAWCC level grew to selectively hiding files from CAVA. VAWC seemed to deliberately harm case validating/ possibly working with Respondents neglect.

May 22, 2018, I filed a Writ of Certiorari concerning sixty-nine (69) missing files from VAWCC Appendix purposefully cherry-picked and omitted, spread out from 2014–2017. I provided screen shot copies of VAWCC Web-File site verifying my case files were indeed in, fearing files might be tampered again after Writ of Certiorari filed, based on past experience. VAWCC seemed to interfere with judicial process with clear intent to mislead and influence the higher courts decision, harm my health and case by manipulating that much Court evidence.

VAWCC filed five (5) separate groups of the Appendix to CAVA - February 2, 2018, September 6, 2018, December 4, 2018, December 6, 2018 and December 26, 2018. Throughout eleven months. Appendix files were out of order, dates and titles not matching, sent throughout eleven (11) months. I was left to make sense of disorderly records. Was this done on purpose? Unfair. Many things are done to us to get us to quit.

I had to stop many times because of both wrist pains, mental fatigue, depressions and foot/leg cramping. As I have writing this Writ of Certiorari. Can you imagine the torment, constantly revisiting someone who abused you by talking about it, writing about it, editing, and reading about it? This is also torture. This is what we go through...

After filing the Writ of Certiorari on missing files, I amended on June 7, 2018. June 8, 2018 CAVA letter requesting me to correct my errors not certifying I mailed to Appellees. I mailed correction on June 13, 2018. July 6, 2018 CAVA letter request I give a detailed list describing with sufficient specificity each item not included in Record transmitted to Court. From VAWCC Web-file, I logged title, date, a brief description for each 69 files as requested (I felt like I was doing someone else's paid job), I filed with CAVA on July 16, 2018. Took a while from injuries and depression.

October 24, 2018, CAVA granted me only seven (7) files (out of 69), denied twenty-seven (27) files, remanded thirty-five (35) files back to VAWC Commission (who hid files) to determine if part of the record. In filing, VAWCC request both Claimants and Defense to file medical files, even if filed previously for every Hearing causing duplicate. VAWCC continues to deny missing files from the Appendix, some are in my Addendum I submitted with Brief. Still missing #6, #35-#43 and #45-#59. Totaling 25. All instrumental evidence in my case, as to reasons leading up to filing an Appeal. This is why all files are to be sent.

Forced to file an Addendum with Amended Brief with some omitted files, I detailed each file, its contents, dates and importance to case. CAVA Opinion indicates I didn't argue why Writ of Certiorari was insufficient. It apparently was good enough to stop all action in case for nearly a year. I argued in my Writ of Certiorari Addendum, justifying each, yet not admitted. (*Burlington Mills Corp. v. Hagood*, 177 Va. 204, 211, 13 S.E.2d

291,(1941) Court must interpret the Workers Comp Act in harmony to carry out humane and beneficent purpose... Code 65.2-202(A). Carter v. Commonwealth, 2 Va. App. 392, 396, 345 S.E.2d 5, 7 (1986). Acts calculated to embarrass, hinder, obstruct the court. VAWCC duty to forward all files in Appeal. Neglecting court evidence should not be barred.

**II. THE RESPONDENTS FIVE YEARS OF DANGEROUS, DESTRUCTIVE CASE MANIPULATIONS AND MICRO-MANAGEMENT SHOULD NOT HAVE BEEN BARRED. RECKLESSLY INTERFERING WITH THE LAW, EVIDENCE AND JUDICIAL SYSTEM, DISOBEYING COURT ORDERS.**

Finding of Facts overtly substantiates throughout evidence in Appendix, my testimony and Addendum, Respondents case manipulation/ micro-management is excessive. Five (5+) plus years of Defense behavior has proven their unlawful intent to manipulate courts evidence and court Opinions to their favor.

I began filing/documenting defense misconduct after VAWCC advised Commission won't know what's going on unless I file. My web-files demonstrate Appellees micro-management/Contempt of Court/case manipulation. Documenting specific event details. I grouped some for your convenience. In Court of Appeals Record. (Rec. 43, 123, 126, 161, 175, 180-181, 231-233, 246, 297-299, 504, 513-518, 581-583) (Addendum. 91-93, 100-106, 115-116, 118-119, 121-124, 130, 131, 133, 135, 144-146). At time of filings, I assumed VAWCC cared about mistreatment, contempt of court and would protect my RIGHTS-As I was informed signing up. (Bait-and-switch) I did not

sign up for abuse, to lose my rights to my own heal, to fight for true diagnosis, life ruined to benefit others. All I did was just go to work on June 6, 2014. I've learned, in Virginia's Worker's Comp, injured workers are treated worse than criminals (we just went to work), if you are on the wrong side of the law-you have what seems like a million and 1 was to get off, if you are on the right side of the law-all you have is factual evidence, apparently no enough. I have been following and chasing everyone's rules, directions. Because we are taken advantage of so, in excruciating pain, doctors, physical therapy, learning our new disability self, trying to cope with changes. We follow everyone's rules, doing what we are told, until one day we wake up... 1, 2, 3 years later, "wait one second," nothing has changed because the Defense is in total control of my heal and they don't give a about me, and I can't make not one decision on my own health and I am 52 years old (lost the better part of my 40's dealing with this horror).  
Who protects us?

Nearly all my filings are based on the Appellees' constant case manipulation. Since 2014, Appellees forcing me/treating physician's office to get approval first (to date), on Awarded injuries before I can schedule appointment. This is incorrect. Often ignoring me/treating physician's calls/emails. Harmful unlawful case manipulation/creating confusion, obstruction to distract medical issues, putting this case and court in disrepute. Commissioner Cummins January 23, 2018 Opinion (Addendum 117-119 after appeal-significant value to petition) reminded defendants



medical is not to be directed by employer once physician becomes treating physician. From June 9, 2014 to present, Dr. Omohundro has been my treating physician. July 11, 2019, I attempted to make an appointment. Both ankles/feet had uncontrollable swollen/discoloration pain worse for a week. Dr. Omohundros office informed me Appellees denied Awarded visit. "left leg only."

This is what happens when Appellees aren't punished by VAWCC court and does not protect injured workers rights from their very own Awards/Opinions given. Total neglect harming me and courts. Case stopped being just about my injuries a long time ago. My case Opinions in VAWCC and CAVA will harm other disabled injured workers like myself, giving substantial constitutional questions as a determinative issue. As well as several serious matters of significant precedential value, still not addressed.

VAWCC and CAVA also ignored critical case filing in VAWCC questioning the credibility of Appellee's one-time/2017 IME Dr. John Daken's report. I detailed Dr. Dakens numerous fabrications, intentional unethical behavior, forcefully long 3 ½ IME appointment (ave. is 15 min maybe an hour), purposefully misreporting and lying about my statements. One example (the worse), he said I said I was suicidal. I never said that. It is clear what Appellees are doing. Imagine going to psychiatrist 2<sup>nd</sup> time in life at 50 (1<sup>st</sup> at social security disability IME year prior) and he lies throughout report. I

was emotionally distraught/ shocked. This can't be legal. This is medical malpractice/defamation/ harmfully/intentional infliction of emotional distress.

Rule 4:10(a) The Supreme Court of Virginia governs independent medical examinations-IME rights under the Virginia Workers Compensation Commission. Potts v. Commonwealth 184 VA. 855, 859, 36 S.E.2d 529, 530 (1946). Code 65.2-202(A) the Virginia Workers Compensation Act specifically provides Commission has power to punish for contempt/disobedience of its orders. *Hudock v. Indus. Comm'n of Va.*, 1 Va. App. 474, 480, 340 S.E.2d 168, 172 (1986) concomitant of judicial power, necessary to proper/effective discharge of Commission's duties. Code 18.2-456 authorizes trial courts to punish officers of court for misbehavior/obstructing administration of justice. They allowed. Control over treatment remains within purview of treating physician 118 JCN. VA000009349443 physician. *Richmond Memorial Hospital v. Allen*, 3 Va. App. 314, 318, 349 S.E.2d 419, 422 (1986).

I am requesting under Code 18.2-456 and/or any other applicable rules, the misbehavior/obstruction administration of justice by officers-attorney Amanda Tapscott Belliveau and attorney Kwabena A. Akowuah, Accident Fund, employer Model Home Temps/Next Day Temps be reviewed/addressed with punishment. Appellees counsel-counseling them, they all acted. Requesting under Code 65.2-202(A) and/or any other applicable rules/law, issues on VAWCC having power to correct Appellees contempt of court Orders damaged this case by not protecting claimant (me) under the Virginia

Workers Compensation Commission Act. Also, requesting because of Respondents abusive nature the past 5 years, they be removed from my life for my protection and healing. By doing so may create a precedence to remove abusive parties from the injured workers life and hopefully reduce this devastating behavior in our court system.

**III. CRPS SHOULD BE GRANTED IN MY FAVOR, CONSIDERING DIAGNOSIS FROM 2014 CAT-SCAN, 3 YEARS TREATING PHYSICIANS DIAGNOSIS AND TWO OTHER DOCTORS DIAGNOSIS INCLUDING MEASURING THE SIGNIFICANCE OF SIGNED MEDICAL RECORDS BY BOARD-CERTIFIED FOOT AND ANKLE SURGEON DR. HERMAN ZARATE, D.P.M. DIAGNOSIS OF CRPS (CHRONIC REGIONAL PAIN SYNDROME) CASUALLY RELATED TO JUNE 6, 2014 INJURIES.**

The Court of Appeals' decision erred barring VAWCC error in fact-finding, leading to CAVA affirming denial of CRPS Chronic Regional Pain Syndrome (CRPS/RSD). Proper weight should have been given to Dr. Herman Zarate, a credible board-certified foot/ankle surgeon electronically signed medical records diagnose CRPS. Importantly, his medical diagnosis aligns with now 4 other doctors including treating physician, a CAT-SCAN, and Dr. Herman Zarate notes causally relating CRPS to work injury.

Finding of Facts overtly substantiates throughout evidence in the Appendix, and Addendum support CRPS diagnosis. Dr. Herman Zarate (Dr. Zarate) electronically signed medical records should have been given a more substantial weight in fact-finding. Improper fact-finding lead to CAVA affirming VAWCC Opinion from an incomplete fact-finding.

Judging credibility, reliability, comparable reports and voluminous of the same diagnosis, when assessing an important issue such as a human beings health and if VAWCC fairly measured all evidence in fact-finding.

Dr. Zarate January 4, 2017 report is significant, not only states CRPS, but several of his diagnosis coincides with other license physicians and test not considered. A). 2014 CAT-SCAN. B). Treating physician, Dr. Phillip Omohundro's three years of consistent CRPS Stage II diagnoses. (Addendum Rec. 187, 200, 229, 269,). C). Dr. Bruce Neckritz IME noting symptoms considered CRPS. D). Dr. Levi Pearson Pain Management diagnosing CRPS. (note: April 2018). 6. Dr. Louis Levitt Appellee's IME (Addendum. 20) notes diagnosed me having complicated CRPS. (note: after Appeal/recent November 20, 2018). Dr. Zarate records also report will need pain management, regional anesthesia/neurolysis, neuromodulation and long-term treatment. Multiple diagnosis, but major one is CRPS stemming from original ankle fracture on June 6, 2014.

Fact-finding was not fair and honest. Omitting two crucial findings. Omitting consistencies and causation. Workers Compensation, Commission heavily weighs on license physician diagnosing causation to work injuries. Omittance was damaging.

Dr. Omohundro October 16, 2014 visit, discussed CAT-SCAN results, advising on both Osteopenia/RSD (Reflex Sympathetic Dystrophy/medically know as CRPS), discussed ORIF surgery leg/ankle, explained pros/cons post-operative course. Immediately prescribed Gabapentin 100 (increased to 300) for pain from CRPS nerve damage,

Fosamax for Osteopenia. Osteopenia and Contracture of Ankle Joints are common with CRPS.

VAWCC error left CAVA erroneously stating in Opinion (Op. 9) deputy commissioner found no causal connection between her left knee complaints, any possible CRPS/RSD and compensable injuries. Incorrect. Dr. Zarate report did casually relate, stating CRPS stemming from June 6, 2014 injuries. On Knee, Dr. Omohundro stated Knee casually related to June 6, 2014 injury. The Commission relies on medical evidence for proof of causation. Clinch Valley Med. Ctr. V. Hayes, 34 Va. App. 183, 192 (2000). Commission's determination regarding causation is a finding of fact. Marcus v. Arlington County Bd. Of Sup'rs, 15 Va. App. 544, 551 (1993).

On a scale, if you weigh on one side, a 3-second comment that doesn't correlate with any evidence against his 3 year medical records with CRPS/pain-management referral indicating CRPS signed/2014 CAT-SCAN/ referral resulting in RSD/CRPS/medication for CRPS symptoms/multiple physicians diagnosed CRPS/(after appeal) Respondents own IME (Addendum. 137-140) Dr. Louis Levitt diagnosed CRPS... CRPS denial is clearly entirely baseless, bias, unreasonable. Therefore, record and addendum fully support the five-year diagnosed CRPS should be awarded.

**IV. DEPRESSION-ANXIETY-AGORAPHOBIA SHOULD BE GRANTED IN MY FAVOR, CONSIDERING DIAGNOSIS FROM TWO DOCTORS AND MY TREATING PHYSICIANS RECORDS STATING DEPRESSION IS RELATED TO JUNE 6, 2014 INJURIES.**

The CAVA decision deprives me of medical treatment and healing for major

depression, anxiety and agoraphobia diagnosed. Even after treating physician December 12, 2016 signed records and deposition (Rec. 331) reports depression is related to June 2014 work injuries, Finding of Facts overtly substantiates throughout evidence in the Appendix, my testimony and Addendum depression, anxiety and agoraphobia are causally related to work injuries. Never diagnosed with any depression/anxiety prior to June 6, 2014 work injuries. My mother's testimony at hearing (Rec. 427), Never, Never, Never diagnosed with depression or anything type of Anxiety.

I was traumatized hearing my bones pop/crack 4-5 times, waited for ambulance alone half-hour (scene from Survival) needing medical care. The CAVA states there is no requirement claimant must be at risk of harm. Just obvious sudden shock, fright, traumatic or catastrophic. Jackson v. Ceres Marine Terminals. Inc., 64 Va. App. 459S 769 S.E.2d 276 (2015). I testified at 2017 hearing (Rec. 406) depression started within first three month of work injuries. Sad, Commissioner knew something was wrong and still denied depression. Constant relentless excruciating pain from multiple fractures from leg, spiraling twice around-through entire ankle. Fractured foot, severely sprained other ankle, injured knee, hip and both wrist (carpal tunnel syndrome-both). Always experiencing different types of pain/nerve damage sensations from multiple locations always, including spasms/cramping/crawling just sitting/standing/walking every second of day/overnight still waking out of dreams holding on bed from foot/ankle/leg

cramping. First four months I wondered if I would walk again. May never dance again (Danced since six years old and musician). In tall boot cast to knee for 4 months, told to return back to cast twice (disappointing). Had to be taught how to walk again like a 5' 10" toddler in tears. Every branch of my life has changed, totally changed now I don't leave home 6-10+ days, even in on weekends to date.

I have a voice, I live this nightmare every second of the day...

First diagnosed with Major Depression/Anxiety by Social Security Disability IME psychiatrist Dr. Bangura June 20, 2016 Depression. Treating physician Dr. Omohundro prescribe medication reports on December 12, 2016 Depression is casually related to June 6, 2014 work injury. Commission's determination regarding causation is finding of fact. *Marcus v. Arlington County Bd. Of Sup'rs*, 15 Va. App. 544, 551 (1993).

2017, three-years-after-injuries, Appellees IME psychiatrist Dr. John Dakens erroneous medical record, proven to have multiple fabrications. A forced Three-and-a-Half-Hour (3 ½) long IME appointment interrogating me. I kept asking how much longer, he kept leaving and returning with test for me... Average IME 15 min. maybe 30 min. Over 3-HOURS! Unethical condescending behavior unbelievable. Also, slouching blowing on paper making noise. Dr. Daken fabricated throughout their report. Two days later, I filed detailed response to Commissioner Kennard warning fabrication. Very disturbing. To date, VAWCC never addressed my letter. However, Commissioner Kennard's Opinion erroneously and heavily favored Dr. John Daken

(untrustworthiness). Dr. Dakens dangerous intentional infliction of emotional distress worsen my depression. Fact-finding found fabrications more credible than Dr. Bangura and treating physician December 12, 2016 record casually related to June 6, 2014 work injuries. Code § 8.01-581.1, cause of action for malpractice may lie in context of Rule 4:10 examination "health care" is provided by "health care provider" to "patient" which allegedly resulted in personal injury. Commission relies on medical evidence for proof of causation. Clinch Valley Med. Ctr. V. Hayes, 34 Va. App. 183, 192 (2000). Williams Industries, Inc. v. Wagoner, 24 Va. App. 181, 188 (1997) causation need not be based solely on medical evidence may consider claimant's testimony. Dr. Omohundro 30 years with people having chronic pain testifies, depression is related to my chronic pain. Anyone with chronic pain will have depression. December 12, 2016 visit, I showed him Dr. Bangura's report. The record fully supports my claims. Depression/Anxiety/Agoraphobia should be awarded to me.

**V. MY KNEE AWARD SHOULD BE GRANTED BACK TO ME, CONSIDERING NOW FIVE CONSISTANT YEARS OF MEDICAL RECORDS AND TREATING PHYSICIAN NOTES STATING KNEE IS RELATED TO JUNE 6, 2014 WORK INJURY.**

The CAVA Opinion not reversing removed knee award deprives me of medical treatment for Chondromalacia Patellae and cartilage issues with no cure. My Knee Award unfairly taken from me just 11 months after I received it on July 20, 2016. After ignoring Appellees contempt of court rejecting doctors knee visit "only left leg." VAWCC filing knee worse on November 15, 2016 and April 16, 2017 filing on knee



swollen/worse. June 6, 2017 VAWC Order, ignoring treating physician December 12, 2016 relating Knee injury to June 2014 work injuries and my two filings on Appellees denying medical care for Awarded Knee removing award stating I had not gone on knee appointment (Not Approved). Treating physician first recorded knee injuries in June 25, 2014 notes. Soon after diagnosed me with Chondromalacia Patellae of the Knee. My first Physical Therapy order August 20, 2014 list Knee Chondromalacia Patellae as a diagnosis and marks yes for work related. Treating physician documented knee injuries for 5 years. Code 65.2-202(A) of the Virginia Workers Compensation Act specifically provides Commission has power Williams Industries, Inc. v. Wagoner, 24 Va. App. 181, 188 (1997) causation need not be based solely on medical evidence may consider claimant's testimony. The CAVA Opinion should be reversed with a return of my Knee Award in my favor.

**VI. WAGE LOSS BENEFITS SHOULD BE GRANTED IN MY FAVOR, CONSIDERING EVIDENCE I DID MARKET FOR EMPLOYMENT AND WITHIN TIME-FRAME GOT HIRED.**

Filed job searches with VAWCC as indicated on hearing testimony. I testified at hearing detailed job search with Commissioner Kennard throughout five pages. Also, one of the jobs I listed in interrogatories I actually got hired from my job search (the highest proof of marketing) signed contract (Addendum 150 missing Rec.). My testimony, record and addendum validate my job search and getting hired. I surpass satisfying my burden of persuasion when I got hired in November

2016 from my job search. I also submitted email proof of returned emails from applying to jobs (Addendum 88 missing Rec.). My last check from VAWCC was December 2015. I have no income, Life-Long work restrictions and several Life-Long injuries both from work injuries. Along with multiple injuries, I have Depression, Anxiety and Agoraphobia. Often not leaving my home for over a week last week over 10 days.

I don't think my injuries are understood. After both Depression/Anxiety diagnosed seems I should have been on total disability. Some are on total for just depression alone. I knew something was wrong, not wanting to leave my home fearing I'll get hurt again. Hard to keep up with all injuries.

Along with multiple Life-Long injuries on all four limbs, it seems I would 1<sup>st</sup> need to be able to leave my home for more than once a week before Light-Duty work is discussed. Wage Loss Benefits should be Awarded from July 2017 to present, and Permanent Disability should be considered.

#### **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted.



Adrienne Mallard  
Petitioner, Pro Se