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TRANSCRIPT MINUTES

MEETING OF THE
STATE OF NEVADA
BOARD FOR THE ADMINISTRATION OF THE
SUBSEQUENT INJURY ACCOUNT FOR
SELF-INSURED EMPLOYERS

Tuesday, February 23, 2021
10:00 a.m.

3360 West Sahara Avenue, Suite 250
Las Vegas, Nevada, 89102
in the Executive Video Conference Room

(Due to concerns with COVID-19,
the meeting was conducted via telephone.)

A P P E A R A N C E S

For the Board:

Cecilia Meyer (phone)
Board Chair, Board Member

Suhair Sayegh (phone)
Board Member

Sharolyn Wilson (phone)
Board Member

Donald Bordelove, Esq. (phone)
Deputy Attorney General
Board Counsel

For the Division of Industrial Relations:

Christopher A. Eccles, Esq. (phone)
Counsel for DIR

For the Administrator of the DIR:

Vanessa Skrinjaric (Las Vegas)
Compliance Audit Investigator
Division of Industrial Relations
Workers' Compensation Section

Also Present:

Marisa Mayfield (phone)
Hooks, Meng & Clement

Kasey McCourtney (phone)
CCMSI

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1 NEVADA, TUESDAY, FEBRUARY 23, 2021, 10:00 A.M.

2 -oOo-

3 BOARD CHAIRMAN MEYER: All right. Today is
4 February 22nd, and this is the Board for the
5 Administration of the Subsequent Injury Account for
6 Self-Insured Employers.

7 Vanessa, will you do the roll call, please.

8 MS. SKRINJARIC: Sure. Okay. So present in
9 Las Vegas is Vanessa Skrinjaric on behalf of the
10 Division of Industrial Relations.

11 Cecelia Meyer?

12 BOARD CHAIRMAN MEYER: Yes, here.

13 MS. SKRINJARIC: Suhair Sayegh?

14 BOARD MEMBER SAYEGH: Yes, here.

15 MS. SKRINJARIC: Okay. Sharolyn Wilson?

16 BOARD MEMBER WILSON: Yes, present.

17 MS. SKRINJARIC: Okay. Donald Bordelove?

18 MR. BORDELOVE: Present.

19 MS. SKRINJARIC: Christopher Eccles?

20 Christopher? Are you --

21 MR. ECCLES: Hello. Can you hear me? Here.

22 MS. SKRINJARIC: Okay. Thank you.

23 MR. ECCLES: Yep.

24 MS. SKRINJARIC: And on behalf of -- it's
25 Hooks, Meng & Clement, correct, Marisa Mayfield?

1 MS. MAYFIELD: Yes.

2 MS. SKRINJARIC: Okay. Thank you.

3 And Kasey McCourtney on behalf of CCMSI?

4 MS. MCCOURTNEY: Here.

5 MS. SKRINJARIC: Okay. Thank you.

6 And, I believe, that's everyone present on the
7 phone.

8 BOARD CHAIRMAN MEYER: All right. Public
9 comment. The opportunity for public comment is reserved
10 for any matter listed below on the agenda as well as any
11 matter within the jurisdiction of the Board. No action
12 on such an item may be taken by the Board unless and
13 until the matter has been noticed as an agenda item.
14 Comment from the public is limited to three minutes per
15 person.

16 Do we have any public present?

17 MS. SKRINJARIC: Not in Las Vegas.

18 BOARD CHAIRMAN MEYER: Not in the north,
19 either.

20 Then, we'll approve the agenda. Did everybody
21 get a copy of the agenda?

22 BOARD MEMBER WILSON: This is Sharolyn. Yes.

23 BOARD MEMBER SAYEGH: This is Suhair. Yes.

24 BOARD CHAIRMAN MEYER: And is there any
25 questions or concerns about the agenda?

1 BOARD MEMBER WILSON: Sharolyn. I have none.

2 BOARD MEMBER SAYEGH: Suhair. I have none.

3 BOARD CHAIRMAN MEYER: Does somebody want to
4 make a motion to accept the agenda?

5 BOARD MEMBER SAYEGH: This is Suhair. I will
6 make the motion to accept the agenda for February 23rd,
7 2021.

8 BOARD MEMBER WILSON: This is Sharolyn. I'll
9 second that motion.

10 BOARD CHAIRMAN MEYER: All in favor?

11 (Board members said "aye.")

12 BOARD CHAIRMAN MEYER: All right. Thank you.

13 We'll move on to the approval of the minutes
14 for the January 20th, 2021 meeting. Did everybody get a
15 copy of those minutes?

16 BOARD MEMBER SAYEGH: This is Suhair. Yes.

17 BOARD MEMBER WILSON: This is Sharolyn. Yes.

18 BOARD CHAIRMAN MEYER: Okay. And are there
19 questions, comments or concerns with the minutes?

20 BOARD MEMBER WILSON: This is Sharolyn. I have
21 none.

22 BOARD MEMBER SAYEGH: Suhair. I have none.

23 BOARD CHAIRMAN MEYER: I have none, either. So
24 I'll take a motion to accept the minutes from
25 January 20th.

1 BOARD MEMBER WILSON: This is Sharolyn.

2 BOARD MEMBER SAYEGH: This is Suhair. I'll --

3 BOARD MEMBER WILSON: I'll make the motion that
4 we accept the minutes from the January 20th, 2021 Board
5 meeting.

6 BOARD MEMBER SAYEGH: This is Suhair. I'll
7 second that motion.

8 BOARD CHAIRMAN MEYER: All in favor?

9 (Board members said "aye.")

10 BOARD CHAIRMAN MEYER: All right. We'll move
11 on to item five item 5. And the first claim on our list
12 is claim number 14D34E167400 for Las Vegas Metropolitan
13 Police Department.

14 My disclosure is that CCMSI is the third-party
15 administrator for Carson City's workers' compensation
16 plan. But that won't affect my decision today.

17 BOARD MEMBER WILSON: And this is Sharolyn. I
18 disclose that CCMSI is also the third-party
19 administrator for Washoe County's workers' compensation
20 program. But that will not affect my decision today.

21 BOARD CHAIRMAN MEYER: All right. Vanessa.

22 MS. SKRINJARIC: Okay. It is the
23 Administrator's recommendation to accept this request
24 for the lumbar spine and deny this request pursuant to
25 NRS 616B.557, subsection 4, for the cervical spine.

1 The total amount requested for reimbursement is
2 \$71,316.04. The amount that should have been requested
3 is \$71,316.02 due to an error on the calculation tapes.
4 The amount of verified costs is \$14,267.36. Explanation
5 of the disallowance is attached to this letter.

6 This request was received from Kim Price, Esq.
7 on September 9th, 2020.

8 Prior history.

9 This employee was hired by the Las Vegas
10 Metropolitan Police Department, LVMPD, on July 10th,
11 2000 as a police officer.

12 The employee had a prior nonindustrial lumbar
13 fusion at L5-S1 in 2005 performed by Dr. Kabins. Those
14 medical records were not provided with the application.

15 On November 12th, 2011, the employee was
16 attempting a dismount from his police motorcycle when he
17 was rear-ended by another officer. The employee sought
18 treatment the same day and the C-4 Form noted neck pain
19 with injuries to the right shoulder, right knee and
20 neck. The employee completed an Occupational
21 Injury/Illness/Exposure Report for the employer and the
22 injury was listed as a strain to the neck, shoulder and
23 right knee.

24 The prior injury history will be taken from the
25 PPD report penned by Dr. Perry on December 6, 2012 and

1 the addendum penned on February 26, 2013.

2 On November 29th, 2011, the employee was seen
3 by Dr. Miao for his right shoulder and right knee.
4 Physical therapy began on December 6, 2011.

5 On December 16, 2011, the employee saw
6 Dr. Daniel Lee for his cervical and lumbar complaints.
7 Physical therapy was recommended.

8 In a December 20th, 2011 follow-up with
9 Dr. Miao, it was noted that MRI of the right knee showed
10 the medial edge of the meniscus with very subtle femoral
11 condyle changes, partial change of the ACL, chronic
12 edema. On January 5th, 2012, Dr. Miao performed a right
13 knee arthroscopic medial femoral condyle chondroplasty
14 with flap debridement, arthroscopic limited synovectomy,
15 anterior medial compartments. The menisci were intact.
16 The employee underwent postoperative physical therapy.

17 On February 3rd, 2012, the employee returned to
18 Dr. Lee for his cervical and lumbar complaints. A
19 February 21st, 2012 MRI of the lumbar spine showed
20 postoperative changes at L5-S1, mild disc bulging at
21 L3-4, L4-5, no foraminal narrowing. MRI of the cervical
22 spine showed C4-5 bulge, annular tear, severe bilateral
23 foraminal narrowing, significant narrowing of the spinal
24 canal finding consistent with mild compression, no
25 evidence of abnormality of the cord. C5-6

1 intervertebral disc with annular tear.

2 On February 29th, 2012, Dr. Lee felt the
3 employee had a right upper extremity radiculopathy and
4 lower back pain. He recommended pain management for
5 epidural nerve blocks.

6 On March 29th, 2012, Dr. Erkulvrawatr performed
7 C6-7 epidural steroid injections. It did not give the
8 employee any long-term relief. The employee's attorney
9 requested a transfer of care to Dr. Flangas.

10 On May 9th, 2012, the employee underwent an
11 anterior cervical discectomy and fusion, ACDF, at C4-5,
12 C5-6 with interbody biomechanical device and allograft
13 with synthesis vector plating. He began post-operative
14 physical therapy on June 27th, 2012.

15 On October 30th, 2012, Dr. Flangas determined
16 the employee had reached maximum medical improvement and
17 was stable and ratable. He was released to full duty.

18 On December 6th, 2012, Dr. Perry performed his
19 PPD evaluation. He submitted an addendum on February
20 26, 2013. He found the following:

21 Cervical spine: 18 percent plus 11 percent for
22 loss of range of motion equals 27 percent whole person
23 impairment.

24 Lumbar spine: DRE Category II 5 percent whole
25 person impairment less prior nonindustrial fusion

1 20 percent whole person impairment equals net 0 percent.

2 Right shoulder: 5 percent, 3 percent prior.

3 Right elbow: 2 percent equals a combined value
4 4 percent right upper extremity.

5 Right knee: ACL tear equals 4 percent.

6 Total equals 30 percent whole person
7 impairment.

8 Present claim.

9 On March 27, 2014, the employee was injured in
10 a head-on collision. He sought treatment on March 28th,
11 2014 and the C-4 Form noted cervical and lumbar
12 sprain/strain, muscle spasm and headache. An LVMPD
13 Occupational Injury/Illness/Exposure Report was
14 completed on March 27, 2014 and noted prior neck fusion
15 surgery.

16 The subsequent injury history will be taken
17 from the PPD report penned by Dr. Quaglieri on
18 December 7, 2016.

19 The employee was referred to Dr. Nagy on
20 April 24th, 2014. Dr. Nagy recommended physical therapy
21 and MRIs.

22 The lumbar spine MRI on May 5th, 2014 revealed
23 mild degenerative changes, mild spondylolisthesis, prior
24 fusion at L5-S1 and no disc bulging. The cervical spine
25 MRI revealed a prior fusion at C4 to 6, mild central

1 canal stenosis at C3-4 with associated moderate right
2 side and mild left-sided neural foraminal narrowing.

3 A CT of the lumbar spine on June 3rd, 2014
4 showed no evidence of hardware loosening and
5 postsurgical changes and bony foraminal stenosis at
6 L5-S1.

7 On June 5th, 2014, Dr. Nagy referred him to
8 pain management.

9 On June 19, 2014, Dr. Erkulvrawatr performed
10 bilateral L4-5 lumbar facet joint injections. On
11 July 17, 2014, he performed bilateral C3-4 cervical
12 facet joint injections. On July 31, 2014,
13 Dr. Erkulvrawatr noted the employee did not receive any
14 long-term benefit from the injections and decided to
15 hold off on any more injections.

16 A September 10, 2014 CT of the cervical spine
17 with contrast revealed asymmetric annular bulging at
18 C3-4, more prominent to the right of midline with spinal
19 canal narrowing, a well-incorporated interbody fusion at
20 C4-5, C5-6 without spinal canal or foraminal narrowing,
21 moderate foraminal narrowing more prominent on the right
22 at C3-4, mild foraminal narrowing at C5-6 on the left.

23 On September 11, 2014, Dr. Erkulvrawatr
24 performed bilateral L5 transforaminal epidural steroid
25 injections.

1 On September 23rd, 2014, Dr. Mashhood performed
2 NCV/EMG of the upper extremities which revealed evidence
3 of moderate chronic bilateral C5-6 radiculopathy. On
4 September 30th, 2014, the lower extremities revealed
5 chronic bilateral L4-5 radiculopathy without evidence of
6 ongoing denervation.

7 On September 2nd, 2014, Dr. Erkulvrawatr
8 performed a right SI joint injection.

9 On December 4th, 2014, Dr. Erkulvrawatr
10 performed bilateral C5-6 transforaminal epidural steroid
11 injections.

12 On December 8th, 2014, Dr. Nagy noted the
13 employee only received two weeks of relief from the
14 injections.

15 On February 19, 2015, Dr. Nagy's office noted a
16 diagnosis of cervicalgia. It is noted that the employee
17 wanted an anterior cervical discectomy and fusion at
18 C3-4. X-rays were taken on March 23rd, 2015 which
19 revealed no complications for the prior fusion at
20 C4 to 6.

21 The employee was then sent to Dr. Peoples on
22 April 24th, 2015. Dr. Peoples requested a new cervical
23 MRI and flexion/extension views to ascertain the
24 instability of C3-4. X-rays were performed on May 27,
25 2015. The MRI, performed on June 18, 2015, revealed a

1 new 5 millimeter right paracentral disk protrusion at
2 C3-4 with mild compression on the right lateral aspect
3 of the spinal cord with no cord edema, mild central
4 canal stenosis, surgical changes at C4-6.

5 On July 2nd, 2015, Dr. Erkulvrawatr performed a
6 bilateral C4 transforaminal epidural steroid injection.

7 On July 27, 2015, Dr. Peoples removed the plate
8 at C4-6, explored the graft at C4-6, discectomy at C3-4,
9 arthrodesis at C3-4, anterior stabilization plate at
10 C3-4 and demineralization bone matrix at C3-4.

11 X-rays performed on August 24th, 2015 showed a
12 new anterior fusion at C3-4 with no acute abnormality.

13 At a follow-up appointment on September 11,
14 2015, the employee reported to Dr. Peoples that he had
15 numbness and tingling on the right side of his face and
16 the inability to maintain an erection. An MRI of the
17 cervical spine and brain were ordered and performed on
18 September 17 and 30 of 2015. They were otherwise
19 unremarkable.

20 On October 21, 2015, Dr. Peoples released the
21 employee as stable.

22 On November 30th, 2015, Dr. Muir performed
23 facet joint injections at L3-4. The employee only
24 received one week of relief.

25 On March 31, 2016, Dr. Erkulvrawatr performed

1 left medial branch blocks at L2-L4. On June 16, 2016,
2 he performed right medial branch blocks at L2-4.

3 On July 28th, 2016, Dr. Erkulvrawatr performed
4 right L2-4 radiofrequency ablations. On September 30th,
5 2016, he released the employee as maximally medically
6 improved, stable and ratable.

7 On December 7, 2016, Dr. Quaglieri performed a
8 PPD evaluation in which he found the following:

9 Central nervous system: 0 percent.

10 Cervical spine: 32 percent less 27 percent
11 prior impairment equals 5 percent.

12 Lumbar spine: 6 percent less prior
13 nonindustrial fusion 20 percent equals net 0 percent.

14 Total equals 5 percent.

15 The injured employee took this in a lump sum.

16 Temporary total disability was paid on this
17 claim for the period of July 25th, 2015 to October 20th,
18 2015 for the employee's cervical spine surgery and
19 recovery.

20 Findings.

21 Medical reporting under this claim shows that
22 the subsequent injury to the cervical and lumbar spines
23 made the costs substantially greater by reason of the
24 combined effects of the prior pathology in the cervical
25 and lumbar spines and the subsequent injury than what

1 would have transpired with the subsequent injury alone.
2 This is supported by the second fusion surgery to the
3 cervical spine and the multiple epidural steroid
4 injections, rhizotomies, medial branch blocks and facet
5 blocks to the lumbar spine. These would not normally
6 have occurred in the normal sprain/strain.

7 Therefore, NRS 616B.557, subsection 1, has been
8 satisfied.

9 For the employee's November 12th, 2011 claim,
10 he was awarded 27 percent whole person impairment for
11 the cervical spine. It is noted that he had a prior
12 nonindustrial lumbar fusion which would amount to a
13 20 percent whole person impairment under the AMA Guides.
14 This was subtracted from the 5 percent whole person
15 impairment found under the 2011 claim for the lumbar
16 spine and resulted in a net 0 percent impairment for the
17 2011 claim.

18 Both the cervical and lumbar spines amounted to
19 greater than 6 percent whole person impairment based on
20 Dr. Perry's December 6, 2012 PPD evaluation.

21 Therefore, NRS 616B.557, subsection 3, has been
22 satisfied.

23 The employer submitted the following documents
24 to satisfy the requirement of written records:

25 One. Annual Physical Medical Examination dated

1 June 17, 2008. There is a question which states, quote,
2 "In the past five years, have you been hospitalized
3 overnight for any reason?" End quote. The employee
4 answered, quote, "Low back surgery," end quote.

5 Two. C-3 Form dated November 16, 2011 signed
6 by the employer which lists, quote, "strain neck,
7 shoulder, right knee," end quote. Quote, "specific
8 injury, sprain/strain," end quote.

9 Number three. C-4 Form dated November 12th,
10 2011 with a "received November 15, 2011, CCMSI,
11 Las Vegas" stamp on it which notes body parts injured as
12 "right shoulder, right knee and neck" with a diagnosis
13 of "neck pain."

14 Four. Occupational Injury/Illness/Exposure
15 Report dated November 12th, 2011 and signed by
16 employer's representative William Marsh. This notes a
17 strain to the neck/shoulder/right knee.

18 Number five. CCMSI Notice of Claim Acceptance
19 dated December 14, 2011 addressed to the employee for
20 the body parts right shoulder, right elbow, right knee,
21 cervical spine and lumbar spine. This was allegedly
22 copied to LVMPD.

23 Number six. Medical Evaluation Form dated
24 February 9th, 2012 faxed to PFelicia at 702-828-1509.
25 This is the fax number for the LVMPD health detail.

1 This form states the employee has a cervical/lumbar
2 sprain, is released to full duty on February 9th, 2012,
3 recommends physical therapy twice a week for one month
4 and an MRI of the cervical and lumbar spine.

5 Number seven. Letter from CCMSI to the
6 employee dated January 22nd, 2013 holding the PPD award
7 in abeyance. This was allegedly copied to the employer.

8 Number eight. Election of Method of Payment of
9 Compensation and Reaffirmation of Lump Sum Request
10 signed on January 23rd, 2013.

11 Number nine. Election of Method of Payment of
12 Compensation and Reaffirmation of Lump Sum Request
13 signed on March 28th, 2013.

14 Number 10. Email from Lisa Koehler of CCMSI to
15 Jeffrey Roch at LVMPD dated January 24th, 2018
16 forwarding documents regarding the November 12th, 2011
17 date of injury and offering the remaining 5 percent.

18 The annual physical shows that the employer was
19 aware that the employee had a prior low back surgery
20 prior to the subsequent injury. Under North Lake Tahoe
21 Fire Protection District vs. Board of Administration,
22 this document satisfies the written record requirement
23 that the employer can infer a 6 percent whole person
24 impairment for the lumbar spine.

25 The C-3 Form, the Occupational Injury/Illness

1 Report and the Medical Evaluation Form all note neck
2 strain or cervical sprain and the employer cannot infer
3 any permanent impairment from these documents.

4 The C-4 Form cannot be determined to be in the
5 employer's possession nor can it be inferred from the
6 this document that a permanent impairment occurred as
7 only neck pain is listed.

8 The Notice of Claim Acceptance cannot be
9 determined to be in the employer's possession nor can it
10 be inferred from this document that a permanent
11 impairment occurred as only the body parts are listed
12 not any type of condition from which a permanent
13 impairment can be inferred.

14 The January 22nd, 2013 letter from CCMSI to the
15 employee holding the PPD award in abeyance to the
16 employee, the election of method signed on January 23rd,
17 '13 and the election of method signed on March 28th,
18 2013 cannot be determined to be in the employer's
19 possession.

20 The email from Lisa Koehler of CCMSI to Jeffrey
21 Roch at LVMPD dated January 24th, 2018 forwarding
22 documents regarding the November 12th, 2011 date of
23 injury and offering the remaining 5 percent occurred
24 after the subsequent injury and cannot be considered
25 pursuant to Section 9 of R025-18 adopted on February 27,

1 2020. Additionally, these emails show that the employer
2 did not have the documents listed in the email in their
3 possession prior to the subsequent injury, but rather
4 after the subsequent injury, as provided to them by
5 their TPA.

6 Therefore, NRS 616B.557, subsection 4, has been
7 satisfied regarding the lumbar spine.

8 Therefore, NRS 616B.557, subsection 4, has not
9 been satisfied regarding the cervical spine.

10 Subsection 5 does not need to be satisfied in
11 order for this claim to be considered for reimbursement
12 since the date of injury is after the October 1, 2007
13 change in the requirements of the statute.

14 That's all.

15 BOARD CHAIRMAN MEYER: All right. Does anybody
16 have any questions about this claim?

17 BOARD MEMBER SAYEGH: This is Suhair. I have
18 none.

19 BOARD CHAIRMAN MEYER: Sharolyn, do you have
20 any questions?

21 BOARD MEMBER WILSON: Sorry. This is Sharolyn.
22 I also do not have any.

23 BOARD CHAIRMAN MEYER: Okay. I'll go ahead and
24 taking a take a motion on this.

25 BOARD MEMBER SAYEGH: This is Suhair. I'll go

1 ahead and make the motion to accept the Administrator's
2 recommendation to -- where did it go? Oh. Oh, here it
3 is. For \$14,267.36 on claim number 14D34E167400.

4 BOARD CHAIRMAN MEYER: I think, we should
5 clarify that this is, the recommendation is to accept
6 the request for lumbar spine and deny the request for
7 cervical spine.

8 BOARD MEMBER SAYEGH: Okay. Thank you for
9 clarifying that. As stated, the recommendation is to
10 accept the request for the lumbar spine. And then there
11 is also a recommendation to deny the request for the
12 cervical spine. So the motion is to accept the lumbar
13 spine reimbursement.

14 BOARD MEMBER WILSON: This is Sharolyn. I will
15 second that motion to accept the recommendation of the
16 subsequent injury of the Administrator regarding this
17 claim to accept the lumbar spine and deny the cervical
18 spine.

19 BOARD CHAIRMAN MEYER: All in favor?

20 (Board members said "aye.")

21 BOARD CHAIRMAN MEYER: All right. Thank you.

22 We'll move on now to Las Vegas Metropolitan
23 Police Department, claim number 16D34G875553.

24 I have the same disclosure regarding CCMSI as
25 on the last claim.

1 BOARD MEMBER WILSON: This is Sharolyn. I also
2 have the same disclosure regarding CCMSI as on the last
3 claim.

4 BOARD CHAIRMAN MEYER: All right. Vanessa.

5 MS. SKRINJARIC: Okay. It is the
6 Administrator's recommendation to accept this request
7 pursuant to NRS 616B.557 for the right knee only. The
8 right hip, right fourth finger and left wrist were not
9 requested and are specifically excluded.

10 The total amount requested for reimbursement is
11 \$62,461.02. The amount that should have been requested
12 is \$62,985.66 as there were amounts listed on the paid
13 transactions sheets that were not included on the
14 calculator tapes. The amount of verified costs is
15 \$32,771.34. Explanation of the disallowance is attached
16 to this letter.

17 Background.

18 This request was received from Kim Price, Esq.
19 on December 29th, 2020. On April 25th, 2018, the
20 Administrator recommended acceptance of this employee's
21 June 22nd, 2012 claim for the right knee with verified
22 costs of negative \$69,630.88. This Board approved that
23 recommendation after a de novo hearing on
24 September 28th, 2018. Findings of Fact, Conclusions of
25 Law and Determination of the Board were entered on

1 August 19th, 2020. The employer appealed that
2 determination to the District Court.

3 Prior history.

4 The prior history will be taken from the
5 Administrator's Amended Recommendation of April 25th,
6 2018.

7 This employee was hired by the Las Vegas
8 Metropolitan Police Department, LVMPD, on July 18th,
9 2006.

10 On September 29, 2006, while he was in the
11 academy, this gentleman injured his right knee. The
12 C-3 Form listed a right knee strain. The C-4 Form,
13 dated September 29th, 2006, listed sprain/strain of the
14 right knee.

15 The insurer submitted several documents to be
16 considered for the requirement of employer knowledge of
17 the preexisting permanent physical impairment and they
18 are as follows:

19 Occupational Injury/Illness/Exposure Report
20 from the LVMPD dated October 3rd, 2006 and signed by a
21 supervisor. This report listed the right knee as the
22 injured body part and was received by the employer on
23 October 3rd, 2006.

24 A LVMPD Officer's Report, dated September 29,
25 2006, that described the nature of the injury to the

1 right knee. This form was received by the employer on
2 October 3rd, 2006.

3 And a LVMPD Medical Evaluation Form, dated
4 October 3rd, 2006 and received by the employer on
5 October 3rd, 2006, that noted a meniscal tear to the
6 right knee.

7 This is the extent of the employer's documents
8 concerning this date of injury. The injured employee
9 sought treatment at UMC and was diagnosed with
10 sprain/strain of the right knee and x-rays were normal.
11 He was taken off work through October 3rd, 2006 and then
12 released to modified duty.

13 The patient saw Dr. Higgins on October 3rd,
14 2006. His impression was a bucket handle tear, medial
15 semilunar cartilage and he requested surgery. The
16 patient had partial debridement of the anterior cruciate
17 ligament, ACL, with partial synovectomy and medial
18 meniscorrhesis on October 4th, 2006.

19 In follow-up reports, Dr. Higgins released the
20 patient to full duty on October 23rd, 2006 and noted he
21 was still working through the academy and an ACL repair
22 after he finished would be considered. The patient
23 attended physical therapy and was given a knee brace.
24 As of February 13, 2007, the patient had an ACL
25 deficient knee. He was working in the field and could

1 continue as long as he protected the knee. He was
2 released from care. This is the extent of the medical
3 records for this date of injury. It should be noted the
4 injured employee was not rated.

5 On January 6, 2008, during a foot pursuit, this
6 employee fell into a hole and twisted his right knee.
7 The C-3 Form indicated right knee strain and the
8 January 7, 2008 C-4 Form also noted right knee strain.
9 The C-4 Form was received by the employer on January 14,
10 2008.

11 The insurer submitted several documents to be
12 considered for the requirement of employer knowledge of
13 the preexisting permanent physical impairment and they
14 are as follows:

15 A LVMPD Occupational Injury/Illness/Exposure
16 Report, dated January 6, 2008 and signed by a
17 supervisor. This form noted right knee pain with
18 meniscus tear in October 2006 and surgeries. This form
19 was received by the employer on January 7, 2008.

20 A February 25th, 2008 Application for Leave for
21 the right knee and off work status from February 2nd,
22 2008 through February 25th, 2008. This was sent to the
23 payroll department from a senior LEST with the employer.
24 The form was also copied to the Risk Management Section
25 for the employee's file. Please note this form

1 coincides with a surgical procedure.

2 A June 30th, 2008 Application for Leave for the
3 right knee and off work status from June 16, 2008
4 through June 25th, 2008. This form was sent to the
5 payroll department from a senior LEST with the employer
6 and also copied to the employee's file. This timeframe
7 also coincides with a surgery date.

8 A November 24th, 2008 PPD evaluation penned by
9 Dr. Perry. This report does not show that it was
10 received by the employer.

11 And a January 11, 2010 PPD offer letter for
12 7 percent whole person impairment for the 2008 right
13 knee injury. This letter was copied to the employer.
14 However, there is no indication it was received by the
15 employer.

16 History for this injury was taken from the
17 November 24th, 2009 PPD evaluation penned by Dr. Perry.
18 The injured employee had three additional surgeries
19 under this claim and treated with Doctors Patti, Miao
20 and Tingey. The last surgery was done in December 2008
21 with follow-up under Dr. Tingey. Reporting under the
22 PPD only goes through September 21, 2009 and the patient
23 continued to follow up. He had been released to full
24 duty and as of October 27, 2009 the patient had reached
25 MMI and was stable and ratable.

1 Dr. Perry evaluated this injured employee for
2 permanent impairment and found 7 percent whole person
3 impairment and did not apportion for the prior injury or
4 surgery. Please note that the rater was not furnished
5 with any medical reporting prior to the 2008 date of
6 injury and the patient denied any previous injuries to
7 the right knee.

8 This gentleman continued to work for the LVMPD
9 and, on June 22nd, 2012, he was involved in a motor
10 vehicle accident and injured his cervical and lumbar
11 spine and right knee. The C-4 Form noticed central cord
12 syndrome.

13 The patient was taken to the hospital via
14 ambulance, treated and released to follow up with
15 Dr. Tingey for his knee and Dr. Flangas for the spine.
16 MRI of the knee was done and the impression was
17 sprain/strain with a history of ACL reconstruction and
18 microfracture.

19 On September 5th, 2012, the patient was taken
20 to surgery for the right knee and underwent arthroscopic
21 chondroplasty, medial femoral condyle with compartment
22 synovectomy. He attended physical therapy and as of
23 October 18th, 2012, Dr. Tingey released him to full duty
24 and he had reached MMI and was stable and ratable.

25 The injured employee was rated for the cervical

1 and lumbar spine as well as the right knee. He was
2 found to have 12 percent whole person impairment,
3 combined, for the cervical and lumbar spine and no
4 additional impairment for the right knee.

5 The claim was successfully subrogated and the
6 insurer received reimbursement in the amount of
7 \$83,325.00 to be applied to the claim.

8 Present claim.

9 While working for the LVMPD on October 5th,
10 2016, the employee was trying to restrain a suspect when
11 he went to the ground, injuring his right knee, right
12 hip, left wrist and sustaining a laceration or bite on
13 the fourth, right fourth finger.

14 The medical reporting will be taken from
15 Dr. Villanueva's August 30th, 2017 PPD report.

16 The employee was taken by ambulance to UMC
17 where x-rays of his hip and knee were taken. He was
18 also given antibiotics for the suspected bite wound.

19 On October 7th, 2016, the employee began
20 treatment with Dr. Tingey for his right knee. On
21 October 10th, 2016, he began treatment with Dr. Lee for
22 his left wrist. An MRI of the right knee on October 21,
23 2016 revealed trace joint effusion and a partially torn
24 ACL graft.

25 On November 3rd, 2016, the employee received a

1 cortisone injection in his knee.

2 On November 17, 2016, an MRI of the left wrist
3 revealed degenerative changes of the left wrist
4 involving the lunate and trapezium with associated
5 subchondral cystic changes.

6 January 4th, 2017, Dr. Tingey performed a right
7 knee arthroscopic microfracture of the medial femoral
8 condyle and compartment synovectomy. Postoperative
9 physical therapy occurred from January 30th, 2017 to
10 April 14, 2017.

11 On February 13, 2017, Dr. Lee performed a left
12 wrist arthroscopy with synovectomy, TFC debridement,
13 scapholunate ligament repair and reconstruction and
14 pinning.

15 On April 17, 2017, Dr. Tingey determined the
16 employee had reached maximum medical improvement, stable
17 and ratable for the right knee. However, it was noted
18 the employee was still treating the left wrist.

19 On August 30th, 2017, Dr. Villanueva determined
20 the employee had 4 percent whole person impairment for
21 the left wrist. He also determined the employee had
22 13 percent whole person impairment for the right knee.
23 He subtracted 10 percent whole person impairment --
24 incorrect, it should have been 7 percent whole person
25 impairment -- which left a net 3 percent whole person

1 impairment for the right knee. 4 percent whole person
2 impairment for the left wrist combined with 3 percent
3 whole person impairment for the right knee equals
4 7 percent whole person impairment on this claim. The
5 employee took this in a lump sum.

6 Findings.

7 Medical reporting supports a substantial
8 increase in the costs of this claim for the right knee
9 due to testing, evaluations and additional surgery.

10 Therefore, NRS 616B.557, subsection 1, has been
11 satisfied.

12 This gentleman was rated at 7 percent whole
13 person impairment under his 2008 claim for the right
14 knee.

15 Therefore, NRS 616B.557, subsection 3, has been
16 satisfied.

17 This Board accepted this employee's right knee
18 in claim number 12D34C229979 based upon written records
19 the employer previously submitted. See the April 25th,
20 2018 Administrator's Amended Recommendation for a full
21 list of documents presented.

22 Therefore, NRS 616B.557, subsection 4, has been
23 satisfied.

24 Subsection 5 does not need to be satisfied in
25 order for this claim to be considered for reimbursement

1 since the date of injury is after the October 1, 2007
2 change in the requirements of the statute.

3 That's all.

4 BOARD CHAIRMAN MEYER: All right. Any
5 questions, Board members?

6 BOARD MEMBER WILSON: This is Sharolyn. I have
7 none.

8 BOARD MEMBER SAYEGH: This is Suhair. I have
9 none.

10 BOARD CHAIRMAN MEYER: Does somebody want to
11 make a motion?

12 BOARD MEMBER WILSON: This is Sharolyn. I'll
13 make a motion that we accept the recommendation of the
14 Administrator in the verified, in the amount of verified
15 costs of \$32,771.34 regarding claim number 16D34G875553,
16 Las Vegas Metro Police Department.

17 BOARD MEMBER SAYEGH: This is Suhair. I'll
18 second that motion.

19 BOARD CHAIRMAN MEYER: All in favor?

20 (Board members said "aye.")

21 BOARD CHAIRMAN MEYER: All right. Thank you so
22 much.

23 We will move on now to claim number
24 14C52E063827, for City of Henderson.

25 Again, my disclosure regarding CCMSI is the

1 same as in the last two claims.

2 BOARD MEMBER WILSON: And this is Sharolyn. My
3 disclosure regarding CCMSI remains the same as well.

4 BOARD CHAIRMAN MEYER: All right. Vanessa.

5 MS. SKRINJARIC: Okay. It is the
6 Administrator's recommendation to accept this request
7 pursuant to NRS 616B.557 for bilateral hearing loss and
8 tinnitus.

9 The total amount requested for reimbursement is
10 \$60,147.55. The amount of verified costs is \$30,979.32.
11 An explanation of the disallowance is attached to this
12 letter.

13 This request was received from CCMSI on
14 December 15, 2020.

15 Prior history.

16 The employee was hired on September 12th, 2005
17 as a police officer. The employee had an audiogram on
18 August 29th, 2005 prior to his employment. It revealed
19 a decibel sum loss at 500/1000/2000/3000 hertz on the
20 right side of 185 decibels. On the left the decibel sum
21 loss at the same frequencies was 130 decibels.

22 According to the 5th Edition of the Guides at
23 Table 11-2, this results in 14.7 percent hearing loss,
24 which converts to 5 percent whole person impairment.
25 The employee was not awarded this impairment at this

1 time, but rather this was discussed by Dr. Quaglieri
2 when he performed the PPD in the claim that is under
3 review.

4 The employee continued to have yearly hearing
5 exams as part of his employment.

6 On September 17, 2013, he was seen by Dr. Lomax
7 for sudden hearing loss after a tire exploded next to
8 his right ear. Dr. Lomax noted the employee had a long
9 history of hearing loss, which was thought to be
10 hereditary, in nature with some noise exposure in the
11 past. An MRI performed in June of 2009 noted normal
12 internal auditory canals but moderate left mastoid
13 opacification. The employee had a childhood history of
14 severe eustachian tube dysfunction and tympanostomy tube
15 insertion. The audiogram performed on September 17m,
16 2013 revealed a 225 decibel loss on the right side and a
17 215 decibel loss on the left side. This is 43.8 percent
18 hearing loss, which converts to 15 percent whole person
19 impairment per the Guides. This also was not awarded to
20 the employee at this time, but was discussed by
21 Dr. Quaglieri when he performed the PPD in the claim
22 that is under review.

23 Present claim.

24 On January 1st, 2014, a fire engine truck blew
25 its air horn for an extended period of time while the

1 employee was approximately 35 feet away. The employee
2 went to Concentra on January 16, 2014 and was diagnosed
3 with acoustic trauma, bilateral ears, and hearing loss.
4 He was given an ENT referral.

5 On January 17, 2014, he saw Dr. Mitchell who
6 noted pain and ringing bilaterally with the left being
7 worse. He noted new onset tinnitus.

8 On January 28th, 2014, Dr. Mitchell penned a
9 letter in which he noted that it would be prudent for
10 the employee to change positions in the police
11 department to a desk job or one that did not require him
12 to be exposed to daily loud noise.

13 Dr. Quaglieri performed a PPD evaluation on
14 May 8th, 2014. He used the January 17, 2014 audiogram
15 which revealed a 210 decibel loss on the right side and
16 a 235 decibel loss on the left side. This resulted in a
17 42.8 percent hearing loss which converts to a 15 percent
18 whole person impairment. Additionally, the employee had
19 speech discrimination loss and tinnitus, good on the
20 left ear and fair on the right. Dr. Quaglieri awarded
21 the employee half of the maximal 5 percent allowable.
22 After rounding, this resulted in an additional 3 percent
23 whole person impairment. Dr. Quaglieri combined the
24 15 percent with the 3 percent for a total of 18 percent
25 whole person impairment. He then subtracted the

1 5 percent whole person impairment for the employee's
2 preexisting hearing loss that was documented upon his
3 2005 hire to the police department. This resulted in a
4 net 13 percent whole person impairment.

5 On May 21, 2014, Dr. Quaglieri felt taking the
6 audiogram at the beginning of the employee's career and
7 subtracting it from the audiogram taken after the
8 industrial injury was the most reasonable impairment.

9 On May 27, 2014, Dr. Quaglieri clarified his
10 PPD even further. Since the hearing loss claim was only
11 for the incident of 1-1-14, Dr. Quaglieri used the
12 audiogram performed on September 17, 2013 as a baseline.
13 As noted above, it revealed a 15 percent whole person
14 impairment. Also, the employee was noted to have very
15 poor speech discrimination on the right and good speech
16 discrimination on the left. Therefore, he would have
17 been allowed 2.5 percent extra for tinnitus and
18 impairment of speech discrimination which rounds to
19 3 percent whole person impairment. Combining the
20 15 percent and the 3 percent results in 18 percent whole
21 person impairment prior to the incident on 1-1-14.
22 Therefore, Dr. Quaglieri apportioned all 18 percent,
23 leaving a net 0 percent whole person impairment for the
24 incident on 1-1-14.

25 On May 29th, 2014, CCMSI notified the employee

1 he had a net 0 percent whole person impairment related
2 to the 1-1-14 claim. The employee appealed this to the
3 hearing officer. This was bypassed to the appeals
4 officer. The appeals officer issued an interim order in
5 which another PPD evaluation was to occur.

6 On August 5th, 2014, Dr. Quaglieri felt the
7 claim qualified for subsequent injury relief.

8 On August 13, 2014, the employee submitted a
9 claim for bilateral knee strains, claim number
10 14C52E387015, which CCMSI accepted for bilateral knee
11 strain only. CCMSI closed this claim without an
12 impairment rating. The employee appealed this
13 determination and this matter was eventually
14 consolidated with the PPD appeal in the bilateral
15 hearing loss claim. By way of reference, the employee
16 obtained a PPD on his own from Dr. Wagner which resulted
17 in a 5 percent whole person impairment. Pursuant to
18 interim order, Dr. Cestkowski performed a PPD evaluation
19 of the employee's bilateral knees and found 0 percent
20 whole person impairment. Note, this claim is not
21 submitted for reimbursement before the Board.

22 On October 25th, 2016, Dr. Cestkowski performed
23 a PPD evaluation pursuant to interim order. He agreed
24 with Dr. Quaglieri's May 27, 2014 PPD clarification
25 except as regard to the 3 percent for tinnitus and

1 impairment of speech. Dr. Cestkowski felt that these
2 conditions stemmed directly from the incident on 1-1-14
3 and should not be apportioned. He therefore awarded the
4 employee 3 percent whole person impairment for tinnitus
5 and impairment of speech and apportioned 15 percent
6 whole person impairment for bilateral hearing loss.

7 On November 9th, 2017, the appeals officer
8 issued a decision and order in which she found
9 Dr. Cestkowski's October 25th, 2016 PPD to be the most
10 persuasive and ordered the 3 percent whole person
11 impairment for bilateral tinnitus to be offered. She
12 also found Dr. Cestkowski's 0 percent whole person
13 impairment for the bilateral knees to be more persuasive
14 than Dr. Wagner's 5 percent whole person impairment.

15 The employee appealed the appeals officer's
16 November 9th, 2017 Decision and Order to the District
17 Court. On August 2nd, 2019, the District Court denied
18 the petition for judicial review. On September 11,
19 2019, the employee appealed to the Nevada Supreme Court.

20 On December 7th, 2017, in compliance with the
21 appeals officer's November 9th, 2017 Decision and Order,
22 CCMSI offered the 3 percent PPD for bilateral hearing
23 loss and tinnitus to the employee. The employee
24 appealed to the hearing officer, who affirmed the
25 3 percent PPD offer on March 30th, 2018. The employee

1 appealed to an appeals officer, who affirmed the award
2 on September 18th, 2019. On September 23rd, 2019, the
3 employee appealed to the District Court who dismissed
4 this case on May 19th, 2020 after the employee advised
5 the court of the global settlement in the Nevada Supreme
6 Court case. See below.

7 On October 15, 2019, the employee filed a new
8 claim for bilateral hearing loss, claim number
9 19C52J11D0372. This claim is not submitted for
10 reimbursement to the Board.

11 On February 7th, 2020, in the Nevada Supreme
12 Court matter, the parties signed an Agreement for
13 Voluntary Dismissal after signing an Agreement for
14 Settlement and Addendum to Agreement for Settlement.
15 The settlement is for the following:

16 6 percent whole person impairment to be paid
17 under claim number 14C52F063827, this claim.

18 Claim number 19C52J11D0372, date of injury
19 10-15-19, is to be accepted for bilateral ear noise
20 exposure.

21 Claim number 14C52F063827, this claim, is to be
22 closed after payment of 6 percent PPD.

23 Claim number 14C52E387015, bilateral knee
24 claim, to be closed after payment of 6 percent PPD in
25 the bilateral hearing loss claim.

1 Dismissal of Supreme Court case number 79621.

2 The 6 percent whole person impairment was paid
3 to the employee in May 2020 in a lump sum.

4 The Administrator recommends that reimbursement
5 of the PPD be paid at 3 percent whole person impairment.
6 This Board is not bound by settlements entered into by
7 the parties. The 3 percent whole person impairment was
8 determined to be correct by the following:

9 Dr. Cestkowski's October 25th, 2016 PPD.

10 November 9, 2017 Appeals Officer Decision and
11 Order.

12 August 2nd, 2019 District Court Decision and
13 Order.

14 March 30th, 2018 Hearing Officer Decision and
15 Order.

16 September 18, 2019 Appeals Officer Decision and
17 Order.

18 There is no medical evidence presented which
19 supports awarding 6 percent whole person impairment to
20 the injured employee. All court decisions affirmed
21 awarding 3 percent whole person impairment. While the
22 costs and uncertainties of litigation were dismissed by
23 settling for 6 percent whole person impairment, there
24 were two claims involved in that litigation, the
25 bilateral hearing loss and the bilateral knee strain,

1 and only one of those claims is before this Board for
2 reimbursement. The PPD is addressed in the disallowance
3 sheet.

4 Findings.

5 On August 5th, 2014, Dr. Quaglieri stated,
6 quote, "He, employee, has a preexisting impairment that
7 is qualifying. I believe his police career and his
8 inability to protect his hearing at all times engendered
9 by his work produced a scenario in which his current
10 impairment is substantially greater by the combined
11 effects of the preexisting impairment, present when he
12 started his career, and the subsequent constant
13 day-to-day noise exposures related to his job duties.
14 After all, this is why annual audiograms are part of the
15 police physical exams and not part of most other
16 physical exams," end quote.

17 Therefore, NRS 616B.557, subsection 1, has been
18 satisfied.

19 Both Dr. Quaglieri and Dr. Cestkowski rated the
20 employee's bilateral hearing loss at 15 percent whole
21 person impairment based on his audiogram performed on
22 September 17th, 2013, which was just prior to the date
23 of this claim on January 1, 2014.

24 Therefore, NRS 616B.557, subsection 3, has been
25 satisfied.

1 The employer provided the following pertinent
2 records to show knowledge of permanent impairment:

3 Number one. 2-5-14 email from Julie Vacca,
4 CCMSI, to Amy Wong, City of Henderson, which states,
5 quote, "It does appear that I am going to need all of IW
6 prior annual physicals in order for Dr. Mitchell to
7 determine if IW hearing loss was worsened due to this
8 incident on January 2014 or if this was a genetic
9 preexisting issue prior and just bound to happen as he
10 ages," end quote.

11 Number two. 2-5-14 email from Amy Wong to
12 Julie Vacca which states, quote, "included hearing
13 tests, baseline and last three years, 2013, 2012, 2011,
14 2005, new hire-baseline hearing exam. Please let me
15 know if you need any others," end quote.

16 Number three. Audiology testing results which
17 were referenced in item two. The sates are 8-29-05,
18 6-25-12, 7-24-13.

19 While the emails occurred shortly after the
20 subsequent injury and cannot be considered as written
21 records as they occurred after the subsequent injury,
22 they clearly demonstrate that the employer had the
23 annual audiology test results in their possession and
24 provided them to the TPA upon request to forward to the
25 employee's doctor. The records came from no other

1 place.

2 As noted above, both Dr. Quaglieri and
3 Dr. Cestkowski used these prior audiology tests to
4 determine the employee had a 15 percent whole person
5 impairment prior to the subsequent injury.

6 North Lake Tahoe Fire Protection District vs.
7 Board of Administration does not require the employer's
8 perfect knowledge of a 6 percent permanent impairment.
9 It requires that an employee's preexisting permanent
10 physical impairment be fairly and reasonably inferred
11 from the written record and the impairment must amount
12 to at least 6 percent whole person impairment. That is
13 the case here.

14 Based on the totality of the documents
15 presented, it is reasonable to conclude that the
16 employer was aware the employee suffered serious
17 bilateral hearing loss prior to his industrial injury of
18 January 1, 2014. In fact, the employer was aware on
19 July 24th, 2013 that the employee was using hearing aids
20 at his annual hearing exam. As stated by two doctors,
21 the hearing loss on this date amounted to 15 percent
22 whole person impairment. While the employer may not
23 have known the exact percentage of impairment, it is
24 reasonable to conclude the employer knew it was above
25 6 percent whole person impairment.

1 Therefore, NRS 616B.557, subsection 4, has been
2 satisfied.

3 Subsection 5 does not need to be satisfied in
4 order for this claim to be considered for reimbursement
5 since the date of injury is after the October 1, 2007
6 change in the requirements of the statute.

7 That is all for the Administrator's
8 recommendation. However, just prior to this meeting,
9 the applicant forwarded some records they would like you
10 to consider. One of the records is already part of the
11 Administrator's packet, and that is Dr. Cestkowski's
12 1-1-14 PPD evaluation. So, again, that is already in
13 the packet.

14 The other documents are a kind of like an Excel
15 spreadsheet that's in color, with all of the audiology
16 reports.

17 There is also a PPD exam completed by
18 Dr. Quaglieri in the 2019 claim that is not before this
19 Board.

20 And then there is a 2019 audiology report in
21 the claim, again not before this Board.

22 So if you could pull those up in the email I
23 sent you, I believe, the applicant also would like to
24 speak.

25 BOARD CHAIRMAN MEYER: They would like to

1 speak?

2 MS. SKRINJARIC: Yes.

3 MS. MCCOURTNEY: Yes. Thank you guys very
4 much.

5 Although this claim had a 6 percent PPD
6 outlined as part of the settlement, the DIR felt that
7 there was only enough evidence to warrant reimbursement
8 of 3 percent whole person impairment related to the
9 bilateral tinnitus, as outlined in Dr. Cestkowski's
10 report from October 25th, 2016.

11 Litigation related to the PPD proceeded up
12 until the settlement was signed in 2020. During that
13 period, the claimant had additional annual audiology
14 tests completed, and October 15th, 2019 subsequent
15 injury for hearing loss was filed. And like Vanessa
16 said, this one isn't before the Board currently.

17 These additional records that I provided were
18 not initially given to the DIR as part of this
19 application as the 2019 subsequent claim didn't qualify
20 for recovery, but the records do give weight to the
21 argument that the full 6 percent whole person impairment
22 related to the hearing impairment should be awarded.

23 During the 2016 PPD evaluation with
24 Dr. Cestkowski, he noted that the decibels on hearing
25 loss with the SHL for the right ear was 240, the left

1 ear was 210. This qualified, as previously stated by
2 Vanessa, for 42 percent bilateral hearing loss, which
3 equates to 15 percent whole person impairment.

4 He was also awarded 3 percent for bilateral
5 tinnitus.

6 And from there, Dr. Cestkowski apportioned the
7 whole 15 percent relates to the hearing loss as
8 preexisting and he felt that the 3 percent related to
9 the tinnitus was appropriate to award as this was a new
10 condition brought on by the January 1st, 2014 industrial
11 injury, which is what is before you today.

12 During the rating evaluation for the claimant's
13 October 2019 subsequent injury, Dr. Quaglieri reviewed
14 the August 16th, 2018 audiology report as well as the
15 December 10th, 2019 audiology report and found that the
16 SHL, for both reports, on the right to be 245 and on the
17 left to be 235. And this resulted in a 51.3 percent
18 impairment for hearing loss. He added an additional
19 5 percent for the tinnitus, which combines to 56.3. And
20 this equals 20 percent whole person impairment for the
21 bilateral hearing loss and tinnitus.

22 He apportioned the full 20 percent on this
23 October 2019 claim that's not before you, and as he was
24 made aware of the 6 percent whole person impairment that
25 was awarded for the hearing loss as part of the 2014

1 settlement agreement, which is currently before you, and
2 he noted there's no increase in hearing loss from the
3 test, prior to the October 15th, 2019 industrial
4 industry.

5 This shows that the claimant continued to have
6 an increase in hearing loss after he was released from
7 care for his 2014 hearing loss claim. And while it
8 remained in litigation over the percentage of
9 impairment, they argued that the claimant did, in fact,
10 have an increase in hearing loss when comparing the 2016
11 PPD evaluation with the August 2018 and June 2019,
12 December 2019 audiology reports, and as well as the 2020
13 PPD evaluation from Dr. Quaglieri.

14 This attorney attempted to mitigate the costs
15 of impairment and settlement for the 2014 claim, but
16 attempted to show good faith as the claimant did, in
17 fact, have an increase in bilateral hearing loss prior
18 to the October 15th, 2019 subsequent claim, as well as
19 impairment for the tinnitus.

20 We're asking that the full 6 percent PPD, which
21 is outlined in the settlement agreement, be reimbursed
22 under this application.

23 And that's it.

24 BOARD CHAIRMAN MEYER: Thank you.

25 Board members, do you have questions or

1 comments?

2 BOARD MEMBER SAYEGH: This is this is Suhair.
3 I do. I have a question for CCMSI.

4 Are you going to be submitting to the Board for
5 the subsequent hearing claim, the 2019 claim?

6 MS. MCCOURTNEY: No, I'm not. As I previously
7 stated, it doesn't meet all the requirements for
8 recovery for that October 2019 claim. So that won't be
9 submitted for recovery.

10 BOARD MEMBER SAYEGH: Okay. Thank you.

11 BOARD CHAIRMAN MEYER: Sharolyn, do you have
12 any questions?

13 BOARD MEMBER WILSON: No. Thank you.

14 BOARD CHAIRMAN MEYER: All right. I will take
15 a motion. I believe, and please correct me if I'm
16 wrong, Mr. Bordelove ("Breed-love"), we need to address
17 whether we're accepting the 3 percent or the 6 percent.

18 MR. BORDELOVE: Correct, Bordelove, but it
19 doesn't really matter.

20 BOARD CHAIRMAN MEYER: I'm sorry. I'm sorry.

21 MR. BORDELOVE: This isn't really a time. This
22 is just addressing the Administrator's recommendation.
23 The claimant doesn't have --

24 BOARD CHAIRMAN MEYER: Okay.

25 MR. BORDELOVE: -- an opportunity to be asked

1 to present evidence. If they want to request a hearing
2 after this, you know, that's perfectly acceptable.

3 Alternatively, you know, if Vanessa thinks that
4 that additional information submitted to her is going to
5 change her recommendation, you know, it would be
6 appropriate, then, to continue this to another date and
7 get an updated recommendation from Vanessa.

8 So I'll defer to Vanessa on what she thinks on
9 that.

10 BOARD CHAIRMAN MEYER: Very good. Thank you.
11 Vanessa.

12 MS. SKRINJARIC: Well, my thought is that I'm
13 recommending 3 percent, and the reason is 3 percent is
14 what is supported by the documents. The fact is, he did
15 have another claim in there that is not before this
16 Board, that doesn't qualify, according, you know, to
17 Ms. McCourtney, doesn't qualify. They rolled the dice
18 and they chose to have a settlement. You know, there
19 are uncertainties that go with the settlement. So.

20 But, you know, it's up to the Board. If they
21 chose to go ahead and pay the 6 percent, it's really a
22 matter of it's just one disallowance.

23 MR. BORDELOVE: I'm confused. So, Vanessa, the
24 additional documents that were submitted to the Board
25 just now, that doesn't affect your recommendation. Is

1 that what you're saying?

2 MS. SKRINJARIC: No, because this is a PPD
3 that's done in a subsequent claim.

4 MR. BORDELOVE: Oh, that's fine. I was just
5 clarifying.

6 So, again, this is not a proper place for the
7 claimant to submit additional evidence, especially at
8 this late juncture. They don't have an opportunity to
9 present evidence at this recommendation stage. So you
10 can go ahead and either accept or deny the
11 Administrator's recommendation based on what was
12 previously submitted to you.

13 And, you know, if you accept the
14 Administrator's recommendation, then they can go ahead
15 request a hearing, have ability to actually present
16 evidence and seek it to be admitted, assuming there's no
17 objections that are proper.

18 So it's the Board's preference how they want to
19 handle that.

20 BOARD CHAIRMAN MEYER: Oh, thank you,
21 Mr. Bordelove. Bordelove. I got it that time.

22 Okay. Board members?

23 BOARD MEMBER WILSON: This is Sharolyn. I'm
24 ready to make a motion.

25 BOARD CHAIRMAN MEYER: Thank you.

1 BOARD MEMBER SAYEGH: This Suhair. Same here.

2 BOARD MEMBER WILSON: I make a motion that the
3 Board accept the Administrator's recommendation
4 regarding claim number 14C52E063827, City of Henderson,
5 in the amount of verified costs of \$30,979.32.

6 BOARD MEMBER SAYEGH: This is Suhair. I second
7 that motion.

8 BOARD CHAIRMAN MEYER: All in favor?

9 (Board members said "aye.")

10 BOARD CHAIRMAN MEYER: Okay. Thanks, everyone,
11 for that.

12 We'll move on now to claim number
13 4D616356314022, Caesar's Entertainment Corporation.

14 Is there any disclosures for this claim?

15 All right. Vanessa, do you want to proceed?

16 MS. SKRINJARIC: Okay. It is the
17 Administrator's recommendation to accept this sixteenth
18 supplemental request pursuant to NRS 616B.557 for the
19 spine.

20 The total amount requested for reimbursement is
21 \$238,571.46. The amount of verified costs is
22 \$158,796.82. An explanation of the disallowance is
23 attached to this letter.

24 This request was received by -- from, sorry,
25 from Dalton Hooks, Esq. on October 6, 2020. This claim

1 was originally approved by the Board on December 17th,
2 1998. The last submission was in March 2017.

3 This request contains payment and reporting for
4 the following. And I'm not going to read all of that,
5 because that's just for me to keep track of what was
6 submitted.

7 The applicant signed D-14 Forms, Permanent
8 Total Disability Report of Employment, for the years
9 2016, 2017 and 2018.

10 On December 8th, 2015, Dr. Lanzkowsky performed
11 right L3-4, L4-5 transforaminal epidural steroid
12 injections. The employee did not receive any
13 significant relief from the injections.

14 On February 1, 2016, Dr. Smith felt the
15 employee had a coronal displacement of approximately
16 10 centimeters. Her Cobb angle by Dr. Smith's review
17 was approximately 45 degrees, despite two radiologists'
18 review that it was only 15 degrees. If surgery was to
19 be performed, it would be an anterior/posterior
20 decompression and fusion. It would need to be performed
21 from the ilium up to T6. He stated, quote, "With the
22 patient's underlying medical problems, I think that her
23 chance of surviving this operation would be
24 questionable," end quote. He recommended a spinal cord
25 stimulator trial. On July 27, 2016, Dr. Lanzkowsky

1 inserted the SCS trial. The employee reported to
2 Dr. Smith that he did not receive any relief from the
3 trial. That she did not receive any relief from the
4 trial.

5 Records from Dr. Smith were not submitted after
6 August 22nd, 2016, so it is unknown why he decided to
7 perform surgery. In any event, on May 27, 2017,
8 Dr. Smith performed an anterior discectomy and fusion
9 from C4 to 7. He also performed a posterior revision
10 and pediclectomy from C5 to C7 with a bony fusion with
11 instrumentation from C4 to T5. The employee was in the
12 hospital and then a rehabilitation hospital from May 27,
13 2017 until June 16, 2017. Thereafter, she had physical
14 therapy and occupational therapy at her home from
15 June 21, 2017 to July 11th, 2017.

16 The employee continued to complain of
17 unbearable pain. CTs of the cervical and thoracic spine
18 performed on August 23rd, 2017 revealed that the
19 superior aspect of the posterior fusion rods were not
20 transfixed to the cervical spinal vertebral bodies and
21 project posteriorly in the soft tissues of the neck.

22 On August 29th, 2017, Dr. Smith performed a
23 re-exploration for removal of hardware from T4 to 6 with
24 revision of fusion C1 to T6 and placement of cranial
25 skull 3-point fixation. Dr. Smith stated, quote,

1 "Patient pulled all her screws out from the cervical
2 region, which left the patient in severe kyphoscoliosis
3 again" end quote. The employee was in the hospital and
4 rehabilitation hospital from August 29, 2017 to
5 September 9th, 2017.

6 The employee continued to complain of severe
7 pain after the second surgery. At the employee's last
8 visit with Dr. Tang on September 28th, 2018, it was
9 reported that Dr. Smith was contemplating another
10 surgery for revision of the shunt.

11 That's all.

12 BOARD CHAIRMAN MEYER: Thank you, Vanessa.

13 Board members, does anybody have any questions
14 on this claim?

15 BOARD MEMBER WILSON: This is Sharolyn. I have
16 none.

17 BOARD MEMBER SAYEGH: Suhair. I have none.

18 BOARD CHAIRMAN MEYER: Okay. Does somebody
19 want to make a motion?

20 BOARD MEMBER SAYEGH: This is Suhair. I will
21 make a motion to accept the Administrator's
22 recommendation on claim number 4D616356314022 in the
23 amount of -- the verified costs amount of the
24 \$158,796.82.

25 BOARD MEMBER WILSON: This is Sharolyn. I

1 second that motion.

2 BOARD CHAIRMAN MEYER: All in favor?

3 (Board members said "aye.")

4 BOARD CHAIRMAN MEYER: Thank you.

5 Now we'll move on to claim 12853C073355 for
6 City of Reno.

7 My disclosure regarding CCMSI remains the same
8 as in the previous claims.

9 BOARD MEMBER WILSON: And this is Sharolyn. My
10 disclosure regarding CCMSI remains the same as well.

11 BOARD CHAIRMAN MEYER: All right. Vanessa.

12 MS. SKRINJARIC: Okay. It is the
13 Administrator's recommendation to accept this second
14 supplemental request pursuant to NRS 616B.557 for the
15 lumbar spine.

16 The total amount requested for reimbursement is
17 \$1,483.68. The amount of verified costs is \$1,483.68.

18 This request was received from CCMSI on
19 December 8th, 2020 and contains payment and reporting
20 for the following expenses:

21 Yearly permanent partial disability payments
22 from September 1, 2016 through August 30th, 2020 in the
23 amount of \$370.92.

24 That's all.

25 BOARD CHAIRMAN MEYER: All right. Thank you.

1 Board members, questions or comments?

2 BOARD MEMBER WILSON: This is Sharolyn. I have
3 none.

4 BOARD MEMBER SAYEGH: This is Suhair. I have
5 none.

6 BOARD CHAIRMAN MEYER: All right. I'll take a
7 motion.

8 BOARD MEMBER WILSON: This is Sharolyn. I make
9 a motion that we accept the recommendation of the
10 Administrator regarding claim number 05853A376918 in the
11 amount of verified costs of \$2,776.08.

12 BOARD MEMBER SAYEGH: This is Suhair. I'll
13 second that motion. Wait a minute.

14 BOARD CHAIRMAN MEYER: All in favor? I'm
15 sorry.

16 BOARD MEMBER SAYEGH: Oh, hold on a second.
17 I'm sorry. I'm confused. There are two claims from the
18 City of Reno, two second supplements. Which, are we
19 looking at claim number 128, or are we looking at the
20 058 claim number?

21 BOARD CHAIRMAN MEYER: This one, 12853C073355.

22 BOARD MEMBER SAYEGH: Okay. Because those
23 verified costs are different than what was the motion
24 that was made.

25 BOARD MEMBER WILSON: Absolutely, you're right.

1 I made a mistake. I was looking at the wrong one. I'll
2 restate that motion.

3 I make a motion that we accept the
4 Administrator's recommendation regarding claim number
5 12853C073355, City of Reno, in the amount of verified
6 costs of \$1,483.68.

7 BOARD MEMBER SAYEGH: This is Suhair. I'll
8 second that motion.

9 BOARD CHAIRMAN MEYER: All in favor?

10 (Board members said "aye.")

11 BOARD CHAIRMAN MEYER: All right. Thank you.

12 And we'll move on to claim number 11C52B492221,
13 City of Henderson.

14 Again, CCMSI is the third-party administrator
15 for Carson City, but that won't affect my decision
16 today.

17 BOARD MEMBER WILSON: And this is Sharolyn. I
18 have the same disclosure regarding CCMSI as well. Thank
19 you.

20 BOARD CHAIRMAN MEYER: All right. Vanessa.

21 MS. SKRINJARIC: It is the Administrator's
22 recommendation to accept this fourth supplemental
23 request pursuant to NRS 616B.557 for the left shoulder.

24 The total amount requested for reimbursement is
25 \$73,377.85. The amount of verified costs is \$73,377.85.

1 This request was received from CCMSI on
2 January 18th, 2021. This claim was originally approved
3 by the Board on August 27th, 2014.

4 This request contains payment for PPD
5 installments from January 2020 to October 2020 in the
6 monthly amount of \$714.71, with a final PPD lump sum in
7 the amount of \$66,230.75 payable to the injured
8 employee's widow on December 2nd, 2020.

9 The injured employee passed away on April 15th,
10 2020. The cause of death was pending but listed
11 atherosclerotic and hypertensive cardiovascular disease
12 as a possible cause.

13 That's all.

14 BOARD CHAIRMAN MEYER: All right. Does anybody
15 have any questions on this claim?

16 BOARD MEMBER WILSON: This is Sharolyn. I do
17 not.

18 BOARD MEMBER SAYEGH: Suhair. I do not.

19 BOARD CHAIRMAN MEYER: All right. Let's move
20 ahead with a motion.

21 BOARD MEMBER SAYEGH: This is Suhair. I'll
22 make the motion to accept the Administrator's
23 recommendation for the verified costs of \$2,776.08 on
24 claim number 05853A as in apple 376918.

25 MS. SKRINJARIC: Um.

1 BOARD CHAIRMAN MEYER: Well, Suhair, we're on
2 City of Henderson, claim 11C52B --

3 BOARD MEMBER SAYEGH: Oh.

4 BOARD CHAIRMAN MEYER: -- 492221.

5 BOARD MEMBER SAYEGH: Okay. So now it's my
6 turn. Okay. Hold on. Okay. Now I'm the one confused.

7 Got it. Okay. I'm sorry. It's stapled
8 together.

9 Okay. Let me retract that motion and make a
10 new motion for the Administrator's recommendation on
11 claim number 11C52B492221 in the amount of verified
12 costs in the amount of \$73,377.85.

13 BOARD MEMBER WILSON: This is Sharolyn. I
14 second that motion.

15 BOARD CHAIRMAN MEYER: All right. All in
16 favor?

17 (Board members said "aye.")

18 BOARD CHAIRMAN MEYER: All right. Last claim.
19 And this is claim number 05853A376918, for City of Reno.

20 And my disclaimer for CCMSI remains the same as
21 in previous claims.

22 BOARD MEMBER WILSON: And this is Sharolyn. My
23 disclaimer regarding CCMSI remains the same, also.

24 BOARD CHAIRMAN MEYER: All right. Vanessa.

25 MS. SKRINJARIC: It is the Administrator's

1 recommendation to accept this fifth supplemental request
2 pursuant to NRS 616B.557 for the lumbar spine.

3 The total amount requested for reimbursement is
4 \$2,776.08. The amount of verified costs is \$2,776.08.

5 This request was received from CCMSI on
6 January 12, 2021. The claim was originally approved by
7 the Board on February 27th, 2014.

8 This request contains payment for permanent
9 partial disability installment payments from January 1,
10 2020 through December 31, 2020 in the monthly amount of
11 \$231.34.

12 That's all.

13 BOARD CHAIRMAN MEYER: Very good. Anybody have
14 questions or comments on this?

15 BOARD MEMBER WILSON: This is Sharolyn. I have
16 none.

17 BOARD MEMBER SAYEGH: Suhair. I have none.

18 BOARD CHAIRMAN MEYER: All right. Let's make a
19 motion.

20 BOARD MEMBER WILSON: This is Sharolyn. I'll
21 make a motion that we accept the Administrator's
22 recommendation regarding claim number 05853A376918, City
23 of Reno, in the amount of verified costs of \$2,756.08.

24 BOARD MEMBER SAYEGH: This is Suhair. I'll
25 second that motion.

1 BOARD CHAIRMAN MEYER: All in favor?

2 (Board members said "aye.")

3 BOARD CHAIRMAN MEYER: All right. Very good.

4 That concludes the claims review.

5 And that moves us to item 7, additional items,

6 general matters of concern to the Board members

7 regarding matters not appearing on the agenda.

8 Does anybody have any additional matters to

9 discuss?

10 BOARD MEMBER WILSON: This is Sharolyn. I have

11 none.

12 BOARD MEMBER SAYEGH: Suhair. I have none.

13 BOARD CHAIRMAN MEYER: All right. And item b.,

14 old and new business.

15 BOARD MEMBER WILSON: None.

16 BOARD CHAIRMAN MEYER: I have none.

17 BOARD MEMBER SAYEGH: None.

18 BOARD CHAIRMAN MEYER: Vanessa or Suhair?

19 MS. SKRINJARIC: Nope.

20 BOARD CHAIRMAN MEYER: All right.

21 BOARD MEMBER SAYEGH: I have none.

22 BOARD CHAIRMAN MEYER: All right. And then, in

23 item c., the schedule of the next meetings. At glance

24 at this time, does anybody have any conflicts that have

25 popped up for any of these dates for the rest of the

1 year?

2 BOARD MEMBER WILSON: March has been cancelled.
3 Is that correct?

4 MS. SKRINJARIC: At this time, I have not done
5 any subsequent injuries that would be eligible to be put
6 on the March meeting. So, yes, cancelled.

7 BOARD MEMBER WILSON: Okay.

8 BOARD CHAIRMAN MEYER: Okay. Perfect. Very
9 good. Thank you for that.

10 And item 8, public comment. The opportunity
11 for public comment is reserved for any matter within the
12 jurisdiction of the Board. No action on such an item
13 can be taken by the Board unless and until the matter
14 has been agendized as an action item. Comment from the
15 public is limited to three minutes per person.

16 I assume that we have no public present now, at
17 this time?

18 MS. SKRINJARIC: Nobody is here.

19 BOARD CHAIRMAN MEYER: Okay. And item 9,
20 adjournment. Does somebody want to make a motion to
21 adjourn?

22 BOARD MEMBER WILSON: This is Sharolyn. I make
23 a motion that we adjourn today's meeting.

24 BOARD MEMBER SAYEGH: This is Suhair. I second
25 that motion.

1 BOARD CHAIRMAN MEYER: All in favor.

2 (Board members said "aye.")

3 BOARD CHAIRMAN MEYER: All right. Thank you,
4 everybody, for your attendance today.

5 BOARD MEMBER SAYEGH: Thank you.

6 BOARD CHAIRMAN MEYER: And, Vanessa, I will
7 expect the forms for me to sign sometime this afternoon.
8 I will be out of the office the rest of the week,
9 Wednesday, Thursday and Friday. So I'm guessing I'll
10 probably have those today?

11 MS. SKRINJARIC: Yes. I will get them to you
12 probably within the next 20 minutes.

13 BOARD CHAIRMAN MEYER: Okay. Sounds great.

14 MS. SKRINJARIC: Okay.

15 BOARD CHAIRMAN MEYER: I'll get them back to
16 you right after lunch, then.

17 MS. SKRINJARIC: All right.

18 BOARD CHAIRMAN MEYER: Thank you, everybody.

19 MS. SKRINJARIC: Thank you.

20 BOARD CHAIRMAN MEYER: And we will talk again
21 in April.

22 MS. SKRINJARIC: Okay. Bye-bye.

23 BOARD MEMBER WILSON: Thank you. Bye-bye.

24 BOARD MEMBER SAYEGH: Bye. Thank you.

25 -oOo-