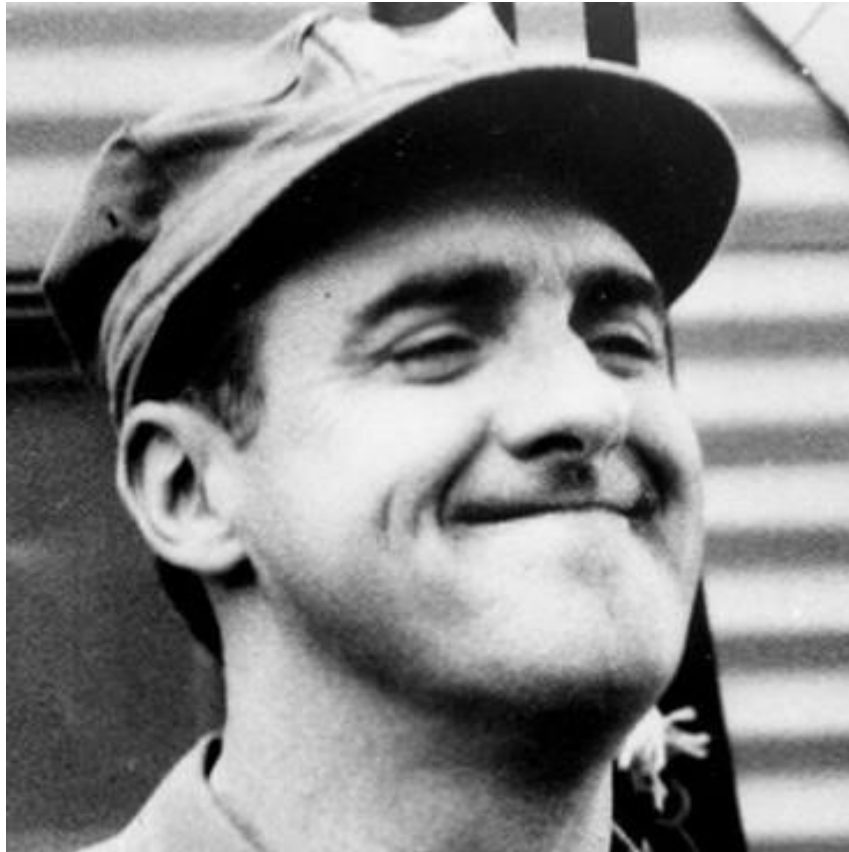


The 2022 Wisconsin Worker's Compensation College

Monday, May 16 through Wednesday, May 18, 2022

Chula Vista Resort
Wisconsin Dells, Wisconsin



Materials For:

Pyle v. Wally's Service Station and Mount Airy Mutual Insurance Company;
Pyle v. County of Mayberry and Blue Devil Municipalities Insurance Company

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FACTUAL BACKGROUND



Pyle v. Wally's Service Station and Mount Airy Mutual Insurance Company

Gomer Pyle, born February 26, 1964, claims entitlement to worker's compensation benefits for traumatic left knee and right shoulder injuries he allegedly sustained on September 1, 2017 while working for Wally's Service Station. Mount Airy Mutual Insurance Company was on the risk for worker's compensation claims against Wally's Service Station on September 1, 2017.

Mount Airy Mutual contends that Gomer was a loaned employee (to the County of Mayberry) at the time of the occurrence giving rise to his claim, and was not working for Wally's Service Station, and disputes his worker's compensation claim on that basis. Mount Airy Mutual asserts that even if Gomer was not working as a loaned employee for the County of Mayberry at the time of the occurrence, he was not performing services growing out of or incidental to employment with Wally's Service Station at the time. Mount Airy Mutual also asserts that medically speaking, the left knee and right shoulder conditions for which Gomer claims worker's compensation did not arise out of the September 1, 2017 occurrence, and has denied his claims on that basis as well. Mount Airy Mutual disputes the claims made by Gomer as to the nature and extent of his disability, regardless of causation, and asserts entitlement to apportionment for his pre-existing disability. An intoxication defense has also been asserted by the insurer.

Prior History

While attending Mayberry High School, Gomer participated in football, basketball, baseball and track. He injured his left knee playing football in 1981, and treated in the emergency room at Mayberry Memorial Hospital for what was diagnosed as a strain/sprain injury. X-rays taken at the hospital were reportedly negative. He followed with Dr. Robert Benson at the Mayberry Clinic, who treated him conservatively with rest, ice, compression, elevation and anti-inflammatory, over-the-counter medication. Records from the Mayberry Clinic reveal that Gomer also complained of

pain in his right shoulder from time to time associated with high school athletic activities including throwing a football, pitching a baseball, and lifting weights overhead. He treated for these complaints under the supervision of Dr. Benson with over-the-counter anti-inflammatory medication, ice, and on one occasion in the spring of 1982, physical therapy at Mayberry Memorial Hospital.



After graduating from Mayberry High School in 1982, Gomer served in the United States Marine Corps between 1982 and 1987. He received an honorable discharge from the United States Marine Corps in 1987. While in basic training at Parris Island in South Carolina in 1982, he sustained a twisting injury to his left knee when he fell while descending a rope on an obstacle course. He subsequently was diagnosed at the Naval Hospital in Beaufort as having sustained a medial meniscus tear. He undertook an arthroscopic meniscectomy to repair the tear. He returned to duty in six weeks, and served out his tour as a Marine, participating in Operation "Urgent Fury" in Grenada in October of 1983.

While in rehabilitation for his knee injury, Gomer was prescribed hydrocodone by his orthopedist, Dr. Paul Smith, and he developed a "liking" for it. He called and asked for refills of "lost" or "stolen" prescriptions on more than one occasion, and ultimately, Dr. Smith cut off the prescription for what he described as "drug seeking behavior." Gomer and his USMC bunkmate, Corporal Duke Slater, became "drinking buddies," and on one occasion, the duo went on a wild drinking spree in Fayetteville, North Carolina which lead to Gomer's arrest by MPs and incarceration in the brig. On discharge, it was noted that Gomer had demonstrated "an addictive personality" at times, but the examining physician stopped short in his report of characterizing Gomer as having "a substance abuse issue." Prior to September 1, 2017, Gomer had been convicted on two occasions of operating while intoxicated, and on September 1, 2017, he was driving with an occupational license following his second conviction.

After discharge from the military, Gomer applied for and was awarded a 10% disability by the Department of Veterans Affairs in relation to his left knee surgery. Although he denied recent difficulties with his left knee in a recorded statement given to Mount Airy Mutual after the September 1, 2017 occurrence, medical records from the VA Hospital at which Gomer treated

reveal that he periodically complained about pain in multiple joints, including his right shoulder and left knee, and that he told doctors that he was taking over-the-counter anti-inflammatory medication and glucosamine chondroitin for his complaints. He also reportedly told his VA physician, Dr. Edith Gibson that from time to time, he “self-medicated” for his pain with “White Lightning” (moonshine). In late 2016 Gomer made application to the Department of Veterans Affairs for an increase in his service-connected disability on the basis that his left knee was becoming arthritic and more painful, but administrative action by the VA on his request was still pending on September 1, 2017.

Despite his sunny disposition, there was a darker side to Gomer’s personality: he clearly developed a problem with opiates following his discharge from the military. Records from several local health care providers including the Mayberry Clinic, Mayberry Memorial Hospital, and Mount Pilot Hospital and Clinics, reveal that periodically prior to September 1, 2017, Gomer requested prescriptions for OxyContin (also called “Hillbilly Heroin”) in urgent care or emergency departments for joint pain, including pain in his left knee and his right shoulder. His name was included on a “Known Drug Seekers” list circulated among health care providers and pharmacies in the area. Gomer successfully kept this dark secret from his friends and associates in Mayberry.



Gomer applied for and obtained work as a gas station attendant at Wally’s Service Station in Mayberry beginning in 1987, after he was discharged from the military. He was later promoted to automobile mechanic. At the time of the September 1, 2017 occurrence, Gomer was paid \$15.00 per hour, and worked a 40-hour week for Wally’s Service Station, with time-and-one-half for overtime. In the 52-week period prior to September 1, 2017, he had earned (and reported to the IRS) \$27,031 in wages. Gomer was also permitted to live in sleeping quarters at the rear of the service station as additional consideration; this was not reported as compensation to the IRS.



From time to time over the years after returning to Mayberry in 1987, Gomer was deputized for the County of Mayberry by Sheriff Andy Taylor or by his deputy, Barney Fife. He served (without pay or drug testing) as a volunteer deputy on a number of occasions, assisting with manhunts, guarding prisoners in the Mayberry County Jail, and standing watch when Barney was threatened by an escaped convict, among other things. He even made a “citizen’s arrest” of Barney himself when Barney executed an illegal U-turn on Main Street in the squad car. On most occasions when he was asked to serve, he was sworn in by Andy or Barney, but this was not always done. As was frequently the case, given the “relaxed” administrative style of Andy, there was no written or electronic record maintained by the County of Mayberry identifying Gomer as an employee or as ever having served as a volunteer deputy.

Records obtained from the Department of Natural Resources dating back to 1999, reveal that prior to the September 1, 2017 occurrence, Gomer had been an avid outdoorsman. He annually obtained licenses from the DNR to hunt deer with a bow, deer with a gun, turkeys, pheasants and waterfowl. He owned a fishing boat, and obtained a fishing license each year in April, in anticipation of going fishing on Myers Lake Opening Day, the first Saturday in May. Gomer, who is right-handed, pitched horseshoes, bowled on the Floyd’s Barber Shop bowling team, and was a pitcher on the Walker’s Drugstore softball team as well. DNR records reveal that after September 1, 2017, he applied for and obtained a bow hunting license in September of 2017 and 2018, a fishing license (including an inland waters trout stamp) in May of 2018, and a gun deer hunting license in November of 2018.

Business Relationship Between Wally’s Service Station and County of Mayberry

Wally’s Service Station contracted with the County of Mayberry to maintain and repair all county-owned vehicles, including the squad cars operated by the Sheriff’s Department, at a preferred rate. Under the terms of the contract, Wally’s Service Station was obliged to pick up and drop off vehicles being maintained or repaired.

As the only full-time employee of Wally’s Service Station, Gomer was the person who ended up picking up or dropping off vehicles as part of the service contract. Gomer usually timed his trips to and from Mayberry Courthouse and County Jail for the early morning or late afternoon,

respectively, so that he could eat breakfast or dinner at the Bluebird Diner on his walk to or from the jail, as his only means of cooking at Wally's Service Station was the microwave oven used for heating frozen burritos and other convenience items sold in the gas station.

The Occurrence

On Friday, September 1, 2017, Gomer left Wally's Service Station on foot at 6:00 a.m., and headed for downtown Mayberry, a distance of about a mile. He stopped at the Bluebird Diner, where everyone's favorite waitress, Juanita,¹ served him the Bluebird Blueberry Pancake Special. Juanita was favored by Gomer for another reason: she slipped shots of whiskey into his coffee with his breakfast. After finishing breakfast (including several liquid "eye-openers" served up by Juanita) at 7:45 a.m. (and leaving a very generous tip), he arrived at the Mayberry County Jail at 8:00 a.m. to pick up a squad car which was to be serviced that day.



Upon arriving at the jail, Gomer encountered Barney, Andy, Opie Taylor (the sheriff's son), and Opie's friend, Arnold Winkler. The boys were upset, telling this story:

"We were playing baseball in front of the old Rimshaw house, and Opie hit one that went through a window. We walked in to get the ball, and we saw some creepy eyes looking at us from a painting on the wall, and an ax floating in mid-air. We heard groaning noises, and smelled a really weird smell. It seems like people are right when they say that place is haunted! We ran out of there without the ball, and all the way down here."

¹ In addition to her work as a waitress at the Bluebird Diner, Juanita was well known for exotic dancing at "Pea Picker's," a local gentlemen's club owned by Howard Sprague and his mother, under the stage name "Tar Heel Tess."



Andy reassured the boys that the Rimshaw house was not haunted, and suggested that there must have been a logical explanation for what they saw. Barney and Gomer were not so sure; like everyone in Mayberry, they had heard lots of stories of strange, unexplainable “goings on” at the old Rimshaw house over the years. Andy decided that he and Barney would drive the squad car over to the Rimshaw house to investigate and retrieve the ball. Andy suggested that Gomer accompany them, indicating that he could “help them look around” and then drop them off back at the jail after they were done, on his way to Wally’s Service Station to service the squad car.

Gomer realized that he had little choice in the matter: he needed the squad car to do the work he had been assigned to do by Wally that day, and if it was being used for county business, he would have to wait until that business was done to do his work anyway. The County was an important customer for Wally’s Service Station, and he felt that he should probably not jeopardize the account by contradicting the sheriff, although he had mixed feelings about going in the old Rimshaw house. He was accustomed to taking orders from Andy and Barney, and this contributed to his willingness to comply with Andy’s suggestion. In spite of his trepidation and all the stories about the Rimshaw house being haunted, Gomer was curious, and was interested in looking around in the old, abandoned building for reasons of his own. Gomer’s judgment had been affected, at least to some extent, by the alcohol he had consumed at the Bluebird Diner that morning. In the end, he, Andy and Barney traveled in the squad car to the old Rimshaw house, to investigate and to retrieve the boys’ lost baseball, parking at the curb in front of the gate of a dilapidated wrought iron fence surrounding the property.

The three men entered the old, dusty building, brushing aside cobwebs as they walked into the front room. Floorboards creaked under their feet as they walked. There was a pervasive smell of rotten eggs, something Gomer understood to be associated with the fire and brimstone of Hell itself. Andy suggested that he would follow a hallway back deeper into the house, while Barney and Gomer should look for the lost baseball in the front room. The sheriff’s departure lessened the resolve of Barney and Gomer to remain in the spooky old house, and they could swear that they, too, saw eyes in a portrait on the mantle following them when they moved. When the men heard a groaning noise and felt a presence near them, they could take no more, and they bolted for the door.



Barney (being “wiry” by his own account) made his way safely through the front door of the house, across the porch, and down the front sidewalk to stand by the passenger door of the squad car. Gomer, somehow, ended up on the floor of the front porch, having fallen and landed on his right shoulder. He jumped up and limped to Barney’s side, brushing the dust from his Wally’s Service Station khakis with his cap. “I don’t know what happened back there – one minute I was on my feet, and the next minute I was on the ground.” Both men were chagrined at having panicked in the old house, and neither was looking forward to facing Andy when he returned to the squad car. Gomer rubbed his right shoulder, and complained that he thought he had hurt himself when he fell.



Ten minutes later, Andy did return, with Otis Campbell, the “town drunk,” in tow. Andy informed Otis that he was under arrest for the manufacture and sale of methamphetamines, put him in handcuffs, and placed him in the back seat of the squad car. Andy explained to Barney and Gomer that Otis and another local, Ernest T. Bass, had rigged the old Rimshaw house to appear to be haunted, to discourage people from entering the house and discovering the methamphetamine lab they were operating in the basement. When the sheriff surprised them while they were “cooking” in the basement, the “spry” Ernest T. had eluded him, but the portly Otis had not, and it was the intention of Andy to question him as to the whereabouts of his partner back at the jail. The DEA and the State Crime Lab were called to process the crime scene, and Barney remained on site to assist with the investigation and keep the crime scene secure.

Gomer drove Andy and Otis to the jail in the squad car. He complained to Andy that he had fallen when exiting the old Rimshaw house, and thought he had injured his left knee and his right shoulder when he fell. He said he wanted to go to Urgent Care “to get something for his pain.” It was then that Andy noticed that Gomer seemed to be slurring his words when he spoke. Andy put Otis in a cell (with the key hanging on a nail outside of the cell, within the reach of Otis), and drove Gomer to Urgent Care at the Mayberry Clinic in the squad car.

Subsequent History

At the reception desk in Urgent Care, Gomer said that he felt that he needed something stronger than ibuprofen for his right shoulder and left knee pain. He was asked if he had any health insurance; he said that he generally treated at the VA, and did not have any health insurance. He was required to use a credit card for registration, so that payment for his treatment could be “extracted” by the Mayberry Clinic. In a form he was asked to complete in anticipation of treatment, he indicated that his medical conditions resulted from an accident, but that they were not work-related. He indicated to the nurse and Dr. Thomas Peterson, who took histories from him, that he had injured his left knee and right shoulder in a slip and fall earlier that day. He said that he could not remember precisely why he had fallen. He indicated that he had “long ago” undertaken a surgery on his left knee, but had no recent difficulties with it until the accident. He complained of locking, clicking, swelling and redness in the left knee. He complained that his right shoulder was bruised and ached. X-rays of the left knee showed what were described as degenerative changes, but no indication of an acute injury. X-rays of the right shoulder reportedly showed spurring of the acromion, but no indication of an acute injury. Gomer was prescribed Vicodin for his pain complaints, ibuprofen as an anti-inflammatory agent, and a knee brace to support his left knee. It was suggested that he periodically apply ice to his left knee and to his right shoulder, and that he be seen by his primary care physician if he had further difficulties. Gomer was authorized to return to work “as tolerated.” Gomer’s credit card was billed for the services rendered at the Mayberry Clinic on September 1, 2017.

Andy, who accompanied Gomer to Urgent Care, took Dr. Peterson aside, and suggested that “for law enforcement reasons,” he wanted Gomer to undertake a toxicology screen. Gomer was told that a blood sample was needed, but was given no reason for the test. Gomer’s blood alcohol concentration came back at .12% by volume, and oxycodone also showed up in the test. Outside of Gomer’s presence, Andy was told of the test results, and while the results put Gomer over the legal limit to drive in Wisconsin, Andy decided not to charge him with operating while intoxicated. The toxicology screen results were included in Gomer’s records at the Mayberry Clinic.



Andy drove Gomer back to Wally's Service Station, dropping both Gomer and the squad car off so that the required maintenance work could be completed. Upon returning to the service station, Gomer was questioned by Wally as to why he was late in retrieving the vehicle, and why Andy had dropped him off. Gomer excitedly told him about the trip to the old Rimshaw house, the arrest of Otis, and about his fall on the front porch exiting the building. After performing service work on the squad car for a couple hours, Gomer noticed pain in his right shoulder and left knee pain, beyond that he ordinarily experienced, in spite of the medication he was taking. By late afternoon, the maintenance work on the vehicle was done. Uncharacteristically, Gomer asked Wally if he would deliver the squad car to the jail for him, as he said he was not feeling up to walking back to the service station after delivery. Gomer skipped his usual Friday night fish fry (and Spotted Cow beers) at the Bluebird Diner, and instead, took some Vicodin and went to bed.

Gomer was not scheduled to work over the long Labor Day weekend between Saturday, September 2 and Monday, September 4. Despite being off of work, he felt that his right shoulder and left knee complaints progressed. Ordinarily, he would have spent much of his time fishing over the long holiday weekend, but he spent most of his time that weekend in his room.

Upon his return to the service station on Tuesday morning, September 5, 2017, Gomer told Wally that he wanted to report his September 1, 2017 injury as being work-related, and that he thought the expenses he incurred for treatment at the Mayberry Clinic should be reimbursed by worker's compensation. Wally pointed out that Gomer had been complaining about his knee, his shoulder and all of his other joints "for thirty years," and that he wasn't working for the service station when he visited the old Rimshaw house. Wally objected that reporting an injury would cause his worker's compensation premiums "to go through the roof." When Gomer insisted that his injuries be reported to the worker's compensation insurer, Wally fired him for failing to timely report his injury, and told him to "get his stuff out of the back room and go." Wally did not immediately report Gomer's alleged work injury to his insurance agent or to Mount Airy Mutual Insurance Company.

Gomer cleaned out his sleeping room, and then drove to the Mayberry Clinic, where he was seen again in Urgent Care by Dr. Peterson. He indicated that he had been injured in a slip and fall while working for Wally's Service Station on September 1, 2017, and injured his right shoulder and left knee. He indicated that worker's compensation was responsible for his medical expenses. He indicated that he had been seen previously in Urgent Care at the Mayberry Clinic. He indicated that his left knee was more problematic than was his right shoulder, but that both were getting worse as time passed. Gomer asked for OxyContin to ease his pain; despite his misgivings, Dr. Peterson gave Gomer a prescription for a small amount of Vicodin, with instructions that he also use ibuprofen, rest and ice, and continue to use the knee brace. Gomer was authorized to remain off of work until he could be seen by Dr. Lou Bailey at Bailey Orthopaedics, S.C.

Ultimately, Wally relented, and called his insurance agent, Harold Grigsby, who told him to come in and pick up some forms to be filled out for Mount Airy Mutual. Gomer was summoned to Wally's Service Station and filled out an Incident Report form, signed it, and dated it September 9, 2017. Wally delivered the Incident Report and a completed WKC-12 "Employer's First Report of Injury" form to Grigsby, who faxed them the worker's compensation insurance adjuster at Mount Airy Mutual.

Gomer followed with Dr. Bailey on September 12, 2017. Gomer told Dr. Bailey that he injured his left knee and right shoulder in a slip and fall at work with Wally's Service Station on September 1, 2017. He said that he recalled twisting his left knee while falling over the front door jamb in the occurrence, and landing on his outstretched right arm. Dr. Bailey was told about Gomer's left knee surgery in the military, and that the knee had been "fine ever since." Dr. Bailey was told that Gomer had right shoulder complaints from time to time in the past, but never anything as severe as he experienced in the aftermath of the September 1, 2017 occurrence. Dr. Bailey examined Gomer, and preliminarily diagnosed him as having sustained a left knee strain or sprain, with a possible meniscus tear. Dr. Bailey preliminarily diagnosed the right shoulder injury as a strain or sprain, superimposed over a pre-existing impingement syndrome, with a possible rotator cuff tear. Dr. Bailey ordered MRI scans of the left knee and right shoulder at Mayberry Memorial Hospital, authorized Gomer to return to work with limitations (as to standing, walking, climbing, driving, etc.) and continued his Vicodin and ibuprofen prescriptions.² Dr. Bailey ordered Gomer to undertake physical therapy for both the left knee and right shoulder at Mayberry Memorial Hospital.

MRI scans were performed at Mayberry Memorial Hospital on September 16, 2017. The left knee MRI scan reportedly showed degenerative changes in the left knee including chondromalacia patella and degenerative fraying and tears of the meniscus, as well as what was described as a

² Gomer never approached Wally about returning to work with restrictions, as he felt that "it was useless." He did not believe that there was work available in the small service station within his restrictions. He also believed that Wally was so angry with him that he would never be rehired.

partial ACL tear. The right shoulder MRI reportedly showed spurring of the acromion resulting in impingement, a SLAP lesion, and a partial tear of the rotator cuff, as well as fluid accumulation which was felt to be consistent with tendinitis. Gomer attended one physical therapy session at Mayberry Memorial Hospital on September 16, 2017, and then failed to show up for or call and cancel his next two appointments.

After reviewing the MRI scans during Gomer's visit on September 26, 2017, and despite Gomer's failure to undertake physical therapy as prescribed previously, Dr. Bailey scheduled an arthroscopic left knee surgery at Mayberry Memorial Hospital on October 10, 2017. Dr. Bailey scheduled Gomer for an arthroscopic right shoulder surgery on November 21, 2017, six weeks after the left knee surgery; he reasoned that Gomer would need his right upper extremity for crutch usage immediately following the left knee surgery, such that both procedures should not be performed contemporaneously. He indicated that Gomer would remain in the healing period until after he recovered from the surgeries and that for the time being, he was authorized to remain off of work entirely.

Dr. Bailey realized fairly quickly that Gomer had a "liking" for narcotic pain medication. Before performing surgery, he had Gomer sign a drug contract on September 26, 2017, in which he agreed that he would bring his prescription bottles to appointments, undertake drug testing when requested to do so, and obtain his prescriptions from Dr. Bailey only. Per the terms of the contract, Gomer would be discharged from care for violating its provisions. Dr. Bailey and his staff did not hold Gomer to the requirements of the drug contract while caring for him, however, and his records do not disclose his usage or contain any toxicology reports.

The arthroscopic left knee surgery was performed by Dr. Bailey on October 10, 2017 on an outpatient basis at Mayberry Memorial Hospital as scheduled. The operative report indicates that Grade III chondromalacia patella and plica were visualized by Dr. Bailey in the surgery. Dr. Bailey reportedly debrided several tears in the medial meniscus, and the partial tear of the ACL in the surgery. Gomer was ordered to undertake six weeks of physical therapy to strengthen and rehabilitate his left knee at Mayberry Memorial Hospital, and authorized to remain off of work altogether pending surgery on his right shoulder.

Gomer did follow through with physical therapy at Mayberry Memorial Hospital between October 10 and November 21, 2017, when he undertook an arthroscopic surgery on his right shoulder by Dr. Bailey at Mayberry Memorial Hospital. Dr. Bailey performed a Neer acromionectomy and debrided the SLAP lesion and what was described as a "minor" rotator cuff tear in the surgery. Gomer was ordered to undertake six additional weeks of physical therapy to strengthen and rehabilitate his right shoulder, and prescribed Vicodin to be used as needed for post-surgical pain complaints.

Gomer followed up at Bailey Orthopaedics on November 7, 2017, primarily with Dr. Bailey's PA. He was discharged from care for his left knee condition. He was given permanent restrictions against more than occasional kneeling or squatting, and told to avoid walking over uneven ground or stairs as much as possible. He was told that he would likely experience pain in the left knee joint from time to time, which should be treated with rest, ice, and ibuprofen. He was told that at some point in time in the future, he will likely need a total knee replacement procedure because of the osteoarthritis in his left knee. With respect to his right shoulder condition, he was instructed to continue physical therapy and to use Vicodin as needed for pain. He was permitted to return to work with restrictions against reaching or lifting overhead, pushing or pulling, or lifting or carrying more than ten pounds.

Gomer finished his prescribed physical therapy regimen at Mayberry Memorial Hospital on January 2, 2018. He undertook a "final" evaluation by Dr. Bailey on January 9, 2018 at Bailey Orthopaedics. He was permitted to return to work without restrictions as far as his right shoulder was concerned, except that he was instructed to avoid reaching or lifting overhead more than occasionally. He was told to treat episodic pain complaints with rest, ice, and ibuprofen, and to return as needed. He was felt to have full range of motion on examination, although he reported some discomfort with internal rotation.

At the insistence of the State of Wisconsin Department of Workforce Development Worker's Compensation Division, Mount Airy Mutual wrote to Dr. Bailey following the January 2, 2018 office visit and asked him for "final reports" on Gomer's left knee and right shoulder conditions. Dr. Bailey filled out two WKC-16 forms in response, one for each condition, on February 13, 2018. Dr. Bailey indicated that both the left knee and the right shoulder conditions were caused by aggravation, acceleration and precipitation of pre-existing conditions in the September 1, 2017 occurrence at work. He rated Gomer as having 25% permanent partial disability at the left knee (5% PPD pre-existing the September 1, 2017 occurrence) following surgical repair of "multiple meniscal tears" and "a partial ACL repair" on October 10, 2017. He rated Gomer as having 10% permanent partial disability attributed to the November 21, 2017 right shoulder surgery.



Mount Airy Mutual had Gomer seen by Harrison Everett Breen, M.D., an orthopedic surgeon¹⁶, in an “independent”¹⁷ medical examination in Mayberry on June 11, 2018. Dr. Breen pointed out that there were discrepancies in Gomer’s medical history and reported mechanism of his injury in the medical and other records, which he felt lent doubt to the claim. He opined that assuming that the September 1, 2017 occurrence took place as alleged, then Gomer sustained at most temporary aggravations of pre-existing left knee and right shoulder conditions which should have resolved without residuals by September 26, 2017. He indicated that neither surgery was occasioned by the September 1, 2017 occurrence. He opined that neither surgery constituted reasonable or necessary medical care, regardless of causation. He opined that the left knee surgery could not fairly be described medically as involving a meniscectomy or ACL repair; he described the left knee surgery as “basically a clean-up procedure for a pre-existing degenerative condition.” He opined that regardless of causation, Gomer reached an endpoint in healing six weeks after each surgery. Dr. Breen rated Gomer as having 10% permanent partial disability at the left knee (all attributable to the left knee injury he sustained in the USMC training incident), and no permanent disability at the right shoulder, regardless of causation. He opined that Gomer could work without restrictions, and needed no additional care, regardless of causation.

Vocational and Other Issues



Having lost his job (and sleeping room) at Wally’s Service Station, Gomer moved in with Barney at Mrs. Mendelbright’s rooming house in Mayberry. He found a job working as a clerk at Ben Weaver’s Department Store for minimum wage, but was fired after two weeks when Ben found him drinking from a jar of “White Lightning” in the back room. He applied for services from the Wisconsin Division of Vocational Rehabilitation in February of 2018, and was accepted for

3 According to his curriculum vitae, Dr. Breen is currently employed by the United States Navy as a physician at Great Lakes Naval Base near Chicago. His services were obtained by Mount Airy Mutual through Axiom Medical Services, Inc., a provider of medical and vocational experts.

4 Lawyers representing employees refer to these examinations as “adverse” rather than “independent.”

services in May of 2018. He hopes to return to school to be retrained, but is uncertain of his options in that regard at the present time.



“The cat jumped out of the bag,” as far as public knowledge in Mayberry of Gomer’s problem with narcotic pain medication was concerned, when he attempted to fill a forged OxyContin prescription at Walker’s Drug Store on July 14, 2018, and Andy and Barney were summoned from the courthouse to arrest him by Fred Walker. Andy might have let it go, but Fred Walker was insistent, and Barney argued that as far as Gomer’s substance abuse issue was concerned, he and Andy should “nip it in the bud.” Ultimately, Gomer was permitted to plead “no contest” to a “disorderly conduct” municipal ordinance violation, and placed in a first offender program. One of the conditions of his sentence was that he undertake assessment and treatment for substance abuse. Gomer was found to be addicted to alcohol and narcotics in his assessment, and in need of an opiate weaning program. He remains in treatment with Dr. Farley Upchurch for his substance abuse issues at the present time.

Gomer was lacking health insurance at the time of his alleged work injury, and was broke within weeks of being fired from his job at Wally’s Service Station. He ended up submitting most of his medical bills to Medicaid for payment. Most of the bills were adjusted downward and paid by Medicaid. Medicaid has notified Gomer, Wally’s Service Station and Mount Airy Mutual that it is seeking reimbursement of payments it made on Gomer’s behalf.

HEARING APPLICATION

Please Read Instructions.

Provision of your Social Security Number (SSN) is mandatory under Section 111 of Medicare, Medicaid and SCHIP Extension Act 2007 (42 U.S.C. s. 1395y (b) (7) & (8)) and will be used to identify the claimant. Failure to provide it may result in penalties and delayed payment of benefits.

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

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Litigated Fax: (608) 260-3053
<https://dwd.wisconsin.gov/wc>

1. Employee Name, Address, City, State, Zip Gomer Pyle 411 Elm Street Mayberry, WI 53773		2. Employer Name, Address, City, State, Zip (At Time Of Injury) Wally's Service Station, LLC P.O. Box 466237 Mayberry, WI 53773		3. WC Insurance Carrier, Address, City, State, Zip Mount Airy Mutual 711 E Haymore Street Mount Airy, NC 27030	
				3a. Insurance Carrier Telephone No. (Area Code) (579) 993 - 9754	
				3b. Date of Injury (Mo/Day/Yr) 9/1/2017	
1a. Employee Social Security No. 081-55-8741		2a. Federal Employer Identification Number (If Known) 69-645226		3c. Last Date Employee Worked Before Disability 9/1/2017	
1b. Employee Telephone No. (Include Area Code) (608) 439 - 2639		2b. Employer Telephone No. (Include Area Code) (608) 522 - 5277		3d. Date Notice of Injury Given to Employer Date of Injury	
1c. Date of Birth (Mo/Day/Yr) 05/16/1962	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	2c. Nature of Employer Business Service Station		4. Have You Applied for or are You Receiving Social Security Benefits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
1d. Employee Attorney (if any) Name & Full Address Sam Liverseed Domer Law 3970 N. Oakland Ave., Suite 201 Milwaukee, WI 53211		2d. Employee Occupation When Injured Auto Mechanic		4a. Have You Applied for or are You Covered Under Medicare? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, Medicare Claim Number	
		2e. Employee Gross Weekly Wage When Injured \$658.00			
Answer Questions 5 To 5c If Claim Is Made For Death Benefit					
1e. Is the Certification of Readiness included with this Application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		5. Name of Deceased and Date of Death		5a. Are You a Dependent of the Deceased? <input type="checkbox"/> Yes <input type="checkbox"/> No	
1f. Attorney's Telephone No. (Include Area Code) (414) 967 - 5656		5b. Applicant's Relation to Deceased <input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Child <input type="checkbox"/> Other		5c. Did You Live with the Deceased? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. How did the Injury or Death Occur? If Possible, Specify if Single Event or Long-Term Exposure. Traumatic Event			6a. Describe Parts of the Body Affected Left knee, right shoulder		
7. Check the Boxes Below for which Compensation is being Sought and Specify Detail, if known.					
7a. <input checked="" type="checkbox"/> Temporary Total Disability (Day, Month and Year) From 9/1/2017 To 2/13/2018					
7b. <input type="checkbox"/> Temporary Partial Disability From To			7c. <input checked="" type="checkbox"/> Transportation Costs (Mileage) TBD		
7d. <input type="checkbox"/> Permanent Partial Disability 20 % of Body Part Left knee, 10% right shoulder			7e. <input type="checkbox"/> Permanent Total Disability Starting Date		
7f. <input checked="" type="checkbox"/> Medical Expense Denied \$ Approximately \$100,000 Has Treatment Ended? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			7g. <input type="checkbox"/> Penalty		7h. <input checked="" type="checkbox"/> Other DVR Benefits (80 weeks), URR
8. Names of Medical Practitioners who Treated Applicant Mayberry Memorial Hospital, Mayberry Clinic, Dr. Bailey				9. Is the Employee Working Now? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10. Were Medical Expenses Paid <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, By Whom? Some by BadgerCare			11. Are You Currently Receiving Worker's Compensation Disability Benefits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
12. Have Sickness and Accident Benefits/Income Continuation been Paid for Lost Wages? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			12a. If Yes, Indicate by whom and the Amounts		
13. I will be Ready for a Formal Hearing in <input checked="" type="checkbox"/> Due Course <input type="checkbox"/> Due Course but not before this Date			14. I Request the Hearing be Scheduled at the Wisconsin City shown here Wisconsin Dells		
15. <div style="text-align: right; margin-right: 100px;">4/6/2022</div> _____ Employee Signature Date Signed If Represented, do you agree that an Attorney's Fee, fixed by the Department at no more than 20% of your Recovery, may be paid directly from the Compensation you Recover? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			16. FOR OFFICE USE ONLY: HR PT NR Issues _____ <input type="checkbox"/> GL35 <input type="checkbox"/> GL35A <input type="checkbox"/> GL48 Length _____ <input type="checkbox"/> GL33 <input type="checkbox"/> GL70 <input type="checkbox"/> GL34 Date _____ <input type="checkbox"/> GL33A <input type="checkbox"/> GL39 <input type="checkbox"/> GL31		



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator

Office of Worker's Compensation Hearings
P.O. Box 7922
Madison, WI 53707

Telephone: (608) 266-7709
FAX: (608)266-0018
Email: DHAWCMail@wisconsin.gov

ADMISSION TO SERVICE AND ANSWER TO APPLICATION

You are the **RESPONDENT** in this matter.

Provision of your Social Security Number (SSN) is voluntary. Failure to provide it may result in an information processing delay.

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

WC Claim Number 2017-046637	Employee Name Gomer Pyle
Employee Social Security Number 081-55-8741	Employer Name Wally's Services Station, LLC
Date of Alleged Injury 09/01/2017	Employer Mailing Address P.O. Box 466237, Mayberry, WI 53773
Insurance Company Name Mount Airy Mutual	Insurance Company Mailing Address 711 East Haymore Street, Mount Airy, NC 27030
Respondent Attorney Name Ken Kucinski	Respondent Attorney Mailing Address Arthur Chapman, 811 1st Street, Suite 201, Hudson, WI 54016

The enclosed hearing application must be answered within 20 days by mailing a copy of the answer to the Office of Worker's Compensation Hearings and to applicant's attorney or applicant if unrepresented. Provide such responses as are now known and amend your responses later as necessary. The worker's compensation insurer has a duty to defend and submit an answer on behalf of the employer except that the employer must defend and submit its own answer as to the following claims: (I) 15% increased compensation for safety violation, Wis. Stat. 102.57; (II) refusal to rehire, Wis. Stat. 102.35 (3); (III) penalty for late payment against employer, Wis. Stat. 102.22; (IV) penalty for illegal employment of minor, Wis. Stat. 102.60; and (V) bad faith against employer, Wis. Stat. 102.18 (1) (bp). **Failure by the employer or insurer to file a timely answer may result in liability by default order.**

In answer to the application, using reverse side if additional space is necessary, the respondent states as follows:	
1. The accident or occupational exposure occurred as alleged	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
2. The relationship of employer and employee existed	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
3. The parties were subject to the worker's compensation act	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
4. At the time of alleged injury, the employee was performing service growing out of and incidental to employment	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
5. The accident or disease causing injury arose out of the alleged employment	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
6. Notice of injury was given to employer within 30 days/2 years of alleged injury	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
7. Applicant was temporarily disabled for the period claimed	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
If denied, state disability admitted: Regardless of cause, EOH 1/2/2018 at the latest.	
8. Applicant is permanently disabled to the extent claimed	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
If denied, state disability admitted: Regardless of cause, 10% left knee.	
9. The rate of wage claimed is correct	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
If denied, state wage admitted: _____ and attach a fully updated WKC-13-A	
10. The alleged employer was insured or self-insured under the Worker's Compensation Act	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
11. Do you contend that additional parties must be joined for a complete resolution of applicant's claim? If "yes," attach expert opinions supporting joinder and explain who should be joined and why.	<input type="checkbox"/> Admit <input type="checkbox"/> Deny
12. Do you contend the employee was discharged or suspended for misconduct or substantial fault after being released to return to a restricted type of work during the healing period?	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
13. Do you contend that indemnity or death benefits were not paid because the employee violated the employer's policy on alcohol or drug use and the violation was causal to injury?	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
14. Describe any matters in dispute not already noted above and state all reasons for denying liability not already noted above. County of Mayberry may be an appropriate party respondent. Apportionment may be appropriate per Sec. 102.175(1) or (3), Wis. Stats. Dispute vocational claim(s). Any compensation ordered paid should be reduced by 15% for an employee safety violation (intoxication) per Sec. 102.58, Wis. Stats. As courtesy to insured employer, dispute uninsured unreasonable refusal to rehire claim per Sec. 102.35(3), Wis. Stats.	

Insurance Carriers & Self-Insured Employers must attach an up-to-date WKC-13 and if wage is disputed, an up-to-date WKC-13-A.

Respondent Signature: Ken Kucinski	Date Signed: 04/08/2022
Printed Name: Ken Kucinski	Title: Attorney
Representing: <input checked="" type="checkbox"/> Insurance carrier and the insured interests of employer	<input type="checkbox"/> Insurance Carrier
	<input type="checkbox"/> Employer

Certification of Readiness for Hearing and Request to Schedule a Hearing or Settlement Conference

Certification of Readiness by the applicant's representative is required before scheduling will begin. Failing to submit the Certification of Readiness may ultimately result in dismissal of the Application for Hearing.

Explanation:

- Submission of a Certification of Readiness (COR) by the applicant's representative is verification that the matter is ready for hearing or settlement conference. It is intended to allow for scheduling without the risk that the applicant will request an adjournment.
- The COR also is intended to encourage settlement discussions, resulting in earlier case resolution without the necessity of a scheduled hearing.

General Instructions:

- A copy of both pages of the COR, along with all supporting documentation must be sent to the insurer or self-insured employer or their attorney at the time it is filed with the Worker's Compensation Division (WCD).
- Do not submit a COR if the applicant believes that it may be necessary to implead additional parties.
- Do not submit a COR unless the WKC-16B or alternative medical report was previously submitted or it is included with the COR.
- The WCD will try to schedule the hearing at a location no more than 100 miles from the address of the employee or the employer unless the employee indicates a willingness to travel farther.
- In addition to the dates of unavailability for the attorney provided on this form, the attorney should continue to notify the WCD's calendar section of any future dates of unavailability.

Please note the following general guidelines for scheduling hearings:

- No postponements will be granted except under extraordinary circumstances. Difficulty in gathering medical proof **IS NOT** an extraordinary circumstance.
- Issues in addition to those listed on the COR form may be heard at the scheduled event if the notice and filing requirements in Wis. Stat. ch. 102 and Wis. Admin. Code ch. 80 are met or by stipulation of the parties.
- Unless waived by the parties, statutory filing deadlines apply. The applicant's representative is required to file all medical and vocational proof prior to submitting the Certification of Readiness.
- If the status or nature of the claim changes after the COR is filed and the employee is no longer ready to proceed, the applicant's representative must immediately notify the WCD in order to prevent scheduling of a hearing or settlement conference.

Insurer or self-insured employer instructions for objecting to the COR:

Any objection to the COR must be noted at the bottom of this form, filed with the WCD and a copy sent to the applicant's attorney, within 15 days of receipt of the COR. The specific reasons for the objection must be clearly stated, along with the additional time requested.

**Department of Workforce Development
Division of Worker's Compensation**

201 E. Washington Avenue
P.O. Box 7901
Madison, WI 53707
Telephone: (608) 266-1340
Fax: (608) 267-0394
e-mail: DWDDWC@dwd.wisconsin.gov

**Certification of Readiness
and Request to Schedule a Hearing or Settlement
Conference**

*The provision of your social security number is voluntary. Failure to provide it may result in an information processing delay. Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

Employee Name Gomer Pyle		Social Security Number* 081-55-8741	Claim Number 2017-046637	Date(s) of Injury: 09/01/2017 Is Date of Injury in Dispute? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Employee Street Address 411 Elm Street		City Mayberry	State WI	Zip Code 53773	Phone Number 608-439-2639
Employer Name: Wally's Service Station, LLC Street address: P.O. Box 466237		City Mayberry	State WI	Zip Code 53773	Phone Number 608-522-5277
WC Carrier Name: Mount Airy Mutual Address: 711 East Haymore Street Mount Airy, NC 27030		WC Carrier Contact Name: Cyrus Tankersley Phone Number: 336-789-5999			Can Employee Travel more than 100 miles? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Indicate the event you wish to schedule: <input checked="" type="checkbox"/> Formal Hearing OR <input type="checkbox"/> Settlement Conference					
ISSUES TO BE HEARD – PLEASE MARK THE APPROPRIATE BOXES BELOW					
Average Weekly Wage (Claimed/Admitted) <input type="checkbox"/> Yes \$ 658 <input checked="" type="checkbox"/> No		Medical Causation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Medical Expense? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Estimate of Medical Bills: \$100000	
Order for Future Medical Care? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If Yes, explain the nature of the treatment at issue: Interlocutory Order			
Temporary Total Disability? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, indicate the dates at issue below: 9/1/2017 to 2/13/2018		Temporary Partial Disability <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, indicate the dates at issue below:			
Permanent Partial Disability? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Percentage Claimed and Body Part: 20% L knee, 10% R shoulder Percentage Conceded and Body Part: None		Loss of Earning Capacity? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Percentage Claimed: Percentage Conceded:			
Interpreter Needed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If Yes, language needed: Southern			
Other Issues Ready to be Heard (Specify in Detail) DVR benefits claimed -- 80 weeks, URR benefits claimed -- \$34,216					
Employee's Attorney Name Sam Liverseed	Street Address 3970 N. Oakland Ave., Suite 201	City Milwaukee	State WI	Zip Code 53211	Phone Number 414-967-5656
Insurer's Attorney Name Ken Kucinski	Street Address 811 First Street, Suite 201	City Hudson	State WI	Zip Code 54016	Phone Number 612-375-5993
Employer's Attorney Name Ron Aplin	Street Address N14W23833 Stone Ridge Dr, Ste 444	City Waukesha	State WI	Zip Code 53188	Phone Number 262-522-0660
List all dates for which the attorney or representative will NOT be available in the next 120 Days All are available 5/18/22 at 2:45 p.m.					
Certification: I, the undersigned Applicant's representative, attest that I am fully ready and prepared to proceed to a formal hearing or settlement conference as indicated for the issues identified above. I further attest the insurer's representative has either denied the claim(s) in full or has had at least 90 days' notice of the claimed issues in order to investigate. I believe this matter cannot be resolved without a formal hearing or settlement conference.					
Applicant's Attorney Signature			Date Signed		
Insurer's or Self-insured employer's objection to the COR (Must be Filed within 15 Days): If more space is needed, attach a separate statement setting forth specific reasons. See Page 1 for Instructions.					
Insurer or Self-Insured Employer Representative Name and Signature					Date Signed

HEARING APPLICATION

Please Read Instructions.

Provision of your Social Security Number (SSN) is mandatory under Section 111 of Medicare, Medicaid and SCHIP Extension Act 2007 (42 U.S.C. s. 1395y (b) (7) & (8)) and will be used to identify the claimant. Failure to provide it may result in penalties and delayed payment of benefits.

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

Department of Workforce Development
Worker's Compensation Division
 201 E. Washington Ave., Rm. C100
 P.O. Box 7901
 Madison, WI 53707
 Telephone: (608) 266-1340
 Litigated Fax: (608) 260-3053
<https://dwd.wisconsin.gov/wc>

1. Employee Name, Address, City, State, Zip Gomer Pyle 411 Elm Street Mayberry, WI 53773		2. Employer Name, Address, City, State, Zip (At Time Of Injury) County of Mayberry Courthouse, 10 Main Street Mayberry, WI 53773		3. WC Insurance Carrier, Address, City, State, Zip Blue Devil Municipalities Mutual 2138 Campus Drive Durham, NC 27708	
				3a. Insurance Carrier Telephone No. (Area Code) (579) 993 - 9754	
				3b. Date of Injury (Mo/Day/Yr) 9/1/2017	
1a. Employee Social Security No. 081-55-8741		2a. Federal Employer Identification Number (If Known) 62-923779		3c. Last Date Employee Worked Before Disability 9/1/2017	
1b. Employee Telephone No. (Include Area Code) (608) 439 - 2639		2b. Employer Telephone No. (Include Area Code) (608) 628 - 5625		3d. Date Notice of Injury Given to Employer Date of Injury	
1c. Date of Birth (Mo/Day/Yr) 05/16/1962	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	2c. Nature of Employer Business Municipality		4. Have You Applied for or are You Receiving Social Security Benefits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
1d. Employee Attorney (if any) Name & Full Address Sam Liverseed Domer Law 3970 N. Oakland Ave., Suite 201 Milwaukee, WI 53211		2d. Employee Occupation When Injured Volunteer Deputy Sheriff		4a. Have You Applied for or are You Covered Under Medicare? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, Medicare Claim Number	
		2e. Employee Gross Weekly Wage When Injured Maximum -- \$1,441.50			
Answer Questions 5 To 5c If Claim Is Made For Death Benefit					
1e. Is the Certification of Readiness included with this Application? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		5. Name of Deceased and Date of Death		5a. Are You a Dependent of the Deceased? <input type="checkbox"/> Yes <input type="checkbox"/> No	
1f. Attorney's Telephone No. (Include Area Code) (414) 967 - 5656		5b. Applicant's Relation to Deceased <input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Child <input type="checkbox"/> Other		5c. Did You Live with the Deceased? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. How did the Injury or Death Occur? If Possible, Specify if Single Event or Long-Term Exposure. Traumatic Event			6a. Describe Parts of the Body Affected Left knee, right shoulder		
7. Check the Boxes Below for which Compensation is being Sought and Specify Detail, if known.					
7a. <input checked="" type="checkbox"/> Temporary Total Disability (Day, Month and Year) From 9/1/2017 To 2/13/2018					
7b. <input type="checkbox"/> Temporary Partial Disability From To			7c. <input checked="" type="checkbox"/> Transportation Costs (Mileage) TBD		
7d. <input type="checkbox"/> Permanent Partial Disability 20 % of Body Part Left knee, 10% right shoulder			7e. <input type="checkbox"/> Permanent Total Disability Starting Date		
7f. <input checked="" type="checkbox"/> Medical Expense Denied \$ Approximately \$100,000 Has Treatment Ended? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			7g. <input type="checkbox"/> Penalty		7h. <input checked="" type="checkbox"/> Other DVR Benefits (80 weeks)
8. Names of Medical Practitioners who Treated Applicant Mayberry Memorial Hospital, Mayberry Clinic, Dr. Bailey				9. Is the Employee Working Now? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
10. Were Medical Expenses Paid <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, By Whom? Some by BadgerCare			11. Are You Currently Receiving Worker's Compensation Disability Benefits? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
12. Have Sickness and Accident Benefits/Income Continuation been Paid for Lost Wages? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			12a. If Yes, Indicate by whom and the Amounts		
13. I will be Ready for a Formal Hearing in <input checked="" type="checkbox"/> Due Course <input type="checkbox"/> Due Course but not before this Date			14. I Request the Hearing be Scheduled at the Wisconsin City shown here Wisconsin Dells		
15. <div style="text-align: right;">4/6/2022</div> _____ Employee Signature Date Signed If Represented, do you agree that an Attorney's Fee, fixed by the Department at no more than 20% of your Recovery, may be paid directly from the Compensation you Recover? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			16. FOR OFFICE USE ONLY: HR PT NR Issues _____ <input type="checkbox"/> GL35 <input type="checkbox"/> GL35A <input type="checkbox"/> GL48 Length _____ <input type="checkbox"/> GL33 <input type="checkbox"/> GL70 <input type="checkbox"/> GL34 Date _____ <input type="checkbox"/> GL33A <input type="checkbox"/> GL39 <input type="checkbox"/> GL31		



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator

Office of Worker's Compensation Hearings
P.O. Box 7922
Madison, WI 53707

Telephone: (608) 266-7709
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ADMISSION TO SERVICE AND ANSWER TO APPLICATION

You are the **RESPONDENT** in this matter.

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WC Claim Number 2017-046637	Employee Name Gomer Pyle
Employee Social Security Number 081-55-8741	Employer Name County of Mayberry
Date of Alleged Injury 09/01/2017	Employer Mailing Address Courthouse, 10 Main Street, Mayberry, WI 53773
Insurance Company Name Blue Devil Municipalities	Insurance Company Mailing Address 2138 Campus Drive, Durham, NC 27708
Respondent Attorney Name Daniel Pedriana	Respondent Attorney Mailing Address LINDNER & MARSACK, 411 E. Wisconsin Ave., Suite 1800, Milwaukee, WI 53773

The enclosed hearing application must be answered within 20 days by mailing a copy of the answer to the Office of Worker's Compensation Hearings and to applicant's attorney or applicant if unrepresented. Provide such responses as are now known and amend your responses later as necessary. The worker's compensation insurer has a duty to defend and submit an answer on behalf of the employer except that the employer must defend and submit its own answer as to the following claims: (I) 15% increased compensation for safety violation, Wis. Stat. 102.57; (II) refusal to rehire, Wis. Stat. 102.35 (3); (III) penalty for late payment against employer, Wis. Stat. 102.22; (IV) penalty for illegal employment of minor, Wis. Stat. 102.60; and (V) bad faith against employer, Wis. Stat. 102.18 (1) (bp). **Failure by the employer or insurer to file a timely answer may result in liability by default order.**

In answer to the application, using reverse side if additional space is necessary, the respondent states as follows:	
1. The accident or occupational exposure occurred as alleged	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
2. The relationship of employer and employee existed	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
3. The parties were subject to the worker's compensation act	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
4. At the time of alleged injury, the employee was performing service growing out of and incidental to employment	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
5. The accident or disease causing injury arose out of the alleged employment	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
6. Notice of injury was given to employer within 30 days/2 years of alleged injury	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
7. Applicant was temporarily disabled for the period claimed	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
If denied, state disability admitted: Regardless of cause, EOH 1/2/2018 at the latest.	
8. Applicant is permanently disabled to the extent claimed	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
If denied, state disability admitted: Regardless of cause, 10% left knee.	
9. The rate of wage claimed is correct	<input type="checkbox"/> Admit <input checked="" type="checkbox"/> Deny
If denied, state wage admitted: \$0.00 and attach a fully updated WKC-13-A	
10. The alleged employer was insured or self-insured under the Worker's Compensation Act	<input checked="" type="checkbox"/> Admit <input type="checkbox"/> Deny
11. Do you contend that additional parties must be joined for a complete resolution of applicant's claim? If "yes," attach expert opinions supporting joinder and explain who should be joined and why.	<input type="checkbox"/> Admit <input type="checkbox"/> Deny
12. Do you contend the employee was discharged or suspended for misconduct or substantial fault after being released to return to a restricted type of work during the healing period?	<input type="checkbox"/> Admit <input type="checkbox"/> Deny
13. Do you contend that indemnity or death benefits were not paid because the employee violated the employer's policy on alcohol or drug use and the violation was causal to injury?	<input type="checkbox"/> Admit <input type="checkbox"/> Deny
14. Describe any matters in dispute not already noted above and state all reasons for denying liability not already noted above. Apportionment may be appropriate per Sec. 102.175(1) or (3), Wis. Stats. Dispute vocational claim(s). Any compensation ordered paid should be reduced by 15% for an employee safety violation (intoxication) per Sec. 102.58, Wis. Stats.	

Insurance Carriers & Self-Insured Employers must attach an up-to-date WKC-13 and if wage is disputed, an up-to-date WKC-13-A.

Respondent Signature: Daniel Pedriana	Date Signed: 04/08/2022
Printed Name: Daniel Pedriana	Title: Attorney
Representing: <input checked="" type="checkbox"/> Insurance carrier and the insured interests of employer	<input checked="" type="checkbox"/> Insurance Carrier
	<input checked="" type="checkbox"/> Employer

Certification of Readiness for Hearing and Request to Schedule a Hearing or Settlement Conference

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- Do not submit a COR unless the WKC-16B or alternative medical report was previously submitted or it is included with the COR.
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Certification of Readiness and Request to Schedule a Hearing or Settlement Conference

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Employee Name Gomer Pyle		Social Security Number* 081-55-8741	Claim Number 2017-046637	Date(s) of Injury: 09/01/2017 Is Date of Injury in Dispute? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Employee Street Address 411 Elm Street		City Mayberry	State WI	Zip Code 53773	Phone Number 608-439-2639
Employer Name: County of Mayberry Street address: Courthouse, 10 Main Street		City Mayberry	State WI	Zip Code 53773	Phone Number 608-628-5625
WC Carrier Name: Blue Devil Municipalities Mutual Address: 2138 Campus Drive Durham, NC 27708		WC Carrier Contact Name: Mike Krzyzewski Phone Number: 579-993-9754			Can Employee Travel more than 100 miles? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Indicate the event you wish to schedule: <input checked="" type="checkbox"/> Formal Hearing OR <input type="checkbox"/> Settlement Conference					
ISSUES TO BE HEARD – PLEASE MARK THE APPROPRIATE BOXES BELOW					
Average Weekly Wage (Claimed/Admitted) <input checked="" type="checkbox"/> Yes \$ 1441.50 <input type="checkbox"/> No		Medical Causation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Medical Expense? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Estimate of Medical Bills: \$100000		
Order for Future Medical Care? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		If Yes, explain the nature of the treatment at issue: Interlocutory Order			
Temporary Total Disability? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, indicate the dates at issue below: 9/1/2017 to 2/13/2018		Temporary Partial Disability <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, indicate the dates at issue below:			
Permanent Partial Disability? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Percentage Claimed and Body Part: 20% L knee, 10% R shoulder Percentage Conceded and Body Part: None		Loss of Earning Capacity? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Percentage Claimed: Percentage Conceded:			
Interpreter Needed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, language needed: Southern					
Other Issues Ready to be Heard (Specify in Detail) DVR benefits claimed -- 80 weeks, URR benefits claimed -- \$72,075.00					
Employee's Attorney Name Sam Liverseed	Street Address 3970 N. Oakland Ave., Suite 201	City Milwaukee	State WI	Zip Code 53211	Phone Number 414-967-5656
Insurer's Attorney Name Dan Pedriana	Street Address 411 E. Wisconsin Ave., Suite 1800	City Milwaukee	State WI	Zip Code 53202	Phone Number 414-273-3910
Employer's Attorney Name	Street Address	City	State	Zip Code	Phone Number
List all dates for which the attorney or representative will NOT be available in the next 120 Days All are available 5/18/22 at 2:15 p.m.					
Certification: I, the undersigned Applicant's representative, attest that I am fully ready and prepared to proceed to a formal hearing or settlement conference as indicated for the issues identified above. I further attest the insurer's representative has either denied the claim(s) in full or has had at least 90 days' notice of the claimed issues in order to investigate. I believe this matter cannot be resolved without a formal hearing or settlement conference.					
Applicant's Attorney Signature			Date Signed		
Insurer's or Self-insured employer's objection to the COR (Must be Filed within 15 Days): If more space is needed, attach a separate statement setting forth specific reasons. See Page 1 for Instructions.					
Insurer or Self-Insured Employer Representative Name and Signature					Date Signed

Recorded Statement of Gomer Pyle

Employee: Gomer Pyle
Employer: Wally's Service Station, LLC
Date of Injury: September 1, 2017
Date of Birth: February 26, 1964
SSN: 081-55-8741

This is Cyrus Tankersley, and I am speaking today with Gomer Pyle on September 11, 2017 at 10:30 a.m. regarding his worker's compensation claim against Wally's Service Station, LLC and Mount Airy Mutual Insurance Company.

- Q. Mr. Pyle, do you understand that this interview is being recorded?
- A. Shucks, you don't have to call me "Mr. Pyle" – you can call me "Gomer."
- Q. Okay, Gomer, do you understand that this interview is going to be recorded?
- A. Sure do!
- Q. And do you understand that it may be used as evidence in a court of law?
- A. Yup.
- Q. Please state your name, and spell your last name for the record.
- A. Gomer Pyle, P-Y-L-E.
- Q. Where do you live?
- A. Right now I'm sharing a room at Mrs. Mendelbright's rooming house in Mayberry with Barney Fife. I used to live in the back room at Wally's Service Station, but he fired me and made me move out of there last week.
- Q. The address at Mrs. Mendelbright's?
- A. I don't rightly know the street address. It's over on Maple Road, not far from Andy Taylor's house.
- Q. Your telephone number?
- A. 608-439-2639. It's one of them cellphones.
- Q. Your date of birth?
- A. February 26, 1964. Same birthday as Buffalo Bill, although he died a long time before I was born, of course.
- Q. And you claim to have injured your left knee and your right shoulder at work at Wally's Service Station on September 1, 2017, is that right?

- A. Yes it is.
- Q. Do you claim to have sustained any other injuries?
- A. Nope.
- Q. In what capacity were you employed at Wally's Service Station on September 1, 2017?
- A. Auto mechanic. Wally always called me a "grease monkey," but the correct job title would be "auto mechanic." Sometimes, I would pump gas for some of the older ladies, such as Aunt Bea or Clara Edwards, which wasn't actually my job, but I thought it was my Christian duty to help them.
- Q. How long had you worked for Wally's Service Station prior to September 1, 2017?
- A. I was hired when I got out of the Marines in June of 1987.
- Q. What were you being paid on September 1, 2017?
- A. \$15 an hour. I also got to live in the back room at the service station for free.
- Q. How many hours did you usually work each week?
- A. I was scheduled for 40, but I worked overtime for time-and-a-half sometimes.
- Q. Tell me a little about the back room at the service station in which you lived.
- A. There was a twin bed, and a dresser, and a closet. I put a small TV on the dresser, and hooked up a Fire Stick on it, so I could stream shows off of Wally's WIFI. I had a dorm room-sized fridge. There was a small desk, and I used that for eating and for my laptop. I used the bathroom in the service station for cleaning up – it has a shower in it. I used the microwave in the station for cooking.
- Q. What were your job duties with Wally's Service Station?
- A. Well, like I said, I worked as an auto mechanic. I did maintenance work and repairs on cars and small trucks. For some customers, I pumped gas, washed windshields, etc. For County of Mayberry work, I picked up and dropped off the vehicles at the Courthouse downtown.
- Q. I understand that you were sent to pick up a squad car from the County on the morning of September 1, 2017, before you claim to have gotten hurt.
- A. That's correct.
- Q. What did the County pick-up and drop-off part of your job entail?

- A. On days when I had to pick up vehicles, I usually got up early in the morning, and walked down Main Street toward the Courthouse. I would stop at the Bluebird Diner for breakfast on the way. I'd stop in at the Courthouse, to say hello to Andy and Barney, and then pick up the vehicle I was to work on from the motor pool. I'd drive it back to Wally's, and do the work I was supposed to do on it there. At the end of the day, I'd drive it back to the motor pool, and walk home. I'd stop at the diner for dinner on the way home.
- Q. You must have a liking for the food at the Bluebird Diner!
- A. Well, it beats the heck out of your average gas station microwave burrito!
- Q. I bet.
- A. Actually, there is this really nice waitress there named Juanita, who I am kind of sweet on, and I stop in part to see her. She's kind of a celebrity in Mayberry – she's a professional dancer out at PeaPicker's, where she dances under the stage name "Tar Heel Tess." She's a real looker!
- Q. Seems like I probably ought to stop by there myself!
- A. Just between you and me, when she asks you if you want sugar or cream in your coffee, if you tell her you want it like Gomer takes it, she'll slip a little "White Lightning" in there for you to get you going! You have to give her a couple extra bucks in the tip if you do that, though.
- Q. Do you have any other part time jobs?
- A. Well, from time to time, I get deputized by Andy or Barney in the Mayberry County Sheriff's Office to help when they need additional manpower for some reason.
- Q. Do you get paid for that work?
- A. No, I just volunteer. I figure it's my civic duty to help. Plus, they usually ask me to help with something that is a lot more interesting than working on cars.
- Q. What kinds of things have you done for Mayberry County?
- A. Oh, I've gone out looking for lost kids, guarded a gold truck that came through town one day (except it turned out that there wasn't any gold in it), guarded prisoners, stood watch on the roof of the courthouse when we heard there was a jail break on – did a lot of interesting things!
- Q. Do you wear a badge and a uniform?
- A. Sometimes yes, sometimes no. I always have trouble tying the tie, and Barney gets pissed off at me about my "slovenly" looks. Sometimes I just wear my regular clothes.
- Q. Is there some kind of ceremony that happens when you get deputized?

A Sometimes yes, sometimes no. Sometimes they just ask me to help out.

Q Do you carry a gun?

A They have given me a rifle or a shotgun a couple of times, but I don't wear a sidearm or anything.

Q Did you say that you served in the Marines?

A Yes, I served in the Marines between 1982 and 1987. "Gomer Pyle, U.S.M.C." – that was me. I got an honorable discharge in 1987.

Q Did you sustain any injuries while serving in the military?

A. Yes, I hurt my left knee in basic training at Parris Island in South Carolina in 1982. I fell while rope climbing.

Q. What treatment did you receive for that injury?

A. I ended up having to have an arthroscopic surgery at the Naval Hospital in Beaufort.

Q. Do you know what the surgery was performed to repair?

A. I think I was diagnosed with a meniscus tear, and I think the surgery was done to repair that. It did fix the knee. I served five years as a Marine, and I participated in Operation "Urgent Fury" in Grenada in October of 1983. I really haven't had any problems with the knee since then, until I fell while working a few days ago.

Q. Have you had any other injuries to your left knee?

A. No, not that I can remember.

Q. You also claimed to have injured your right shoulder on September 1, 2017. Did you have any previous injuries to your right shoulder?

A. No, not that I can remember.

Q. Have you had any other injuries to any other parts of your body that you can recall today?

A. No, other than the injury in the Marines, nothing comes to me.

Q. As far as your medical care is concerned, where do you generally receive treatment?

A. I am followed at the VA Hospital. I also have treated at the Mayberry Clinic. I want to get this out on the table: I have taken OxyContin as needed from time to time for arthritis after getting out of the military.

Q Who prescribed that for you?

A Sometimes the VA, sometimes the Mayberry Clinic. I have been given some at the Mayberry Memorial Hospital ER sometimes as well.

Q Any other medications?

A I use glucosamine chondroitin for my joints as well.

Q. Have you made any personal injury claims in the past?

A. No.

Q. Have you made any other worker's compensation claims?

A. No, not before this one.

Q. Outside of work, do you have any hobbies or recreational activities?

A. I really like the outdoors. I hunt deer with a bow, deer with a gun, turkeys, pheasants, ducks and geese. I have a fishing boat, and fish out on Myers Lake every year. I pitch horseshoes. I bowl on the Floyd's Barber Shop bowling team, and I am a pitcher on the Walker's Drugstore softball team. I don't know how many of those things I will be able to do now that I got hurt.

Q Are you right or left handed?

A Right handed.

Q. So what happened to you on September 1, 2017 to cause you to be injured?

A. Well, I fell running out of the old Rimshaw house with Barney Fife.

Q. How did you find yourself there that morning?

A. It's a long story. I started out that morning headed for the Courthouse to pick up a squad car that needed servicing.

Q. Did you stop at the Bluebird Diner to see Juanita?

A. Yup. I had the Bluebird Blueberry Pancake Special, with extra syrup, bacon, grits, and three eggs over easy.

Q. That's quite a breakfast!

A. You remember what I said about the gas station microwave burritos? When you get a chance to eat some REAL food, you've got to take advantage!

Q. Did you have any of Juanita's "special" coffee with your breakfast?

- A. I know I had a couple cups of coffee, and that Juanita was my waitress. I can't specifically remember if she added "White Lightning" to it, although I assume she did.
- Q. Where did you go from there?
- A. I walked downtown to the Courthouse, and stopped in to say hello to Andy and Barney. Opie was there with his pal Arnold, and they said they had lost their baseball in the old Rimshaw house, which is haunted. They said they tried to go in and retrieve it, but that there were some weird things that happened that chased them out of there.
- Q. What happened next?
- A. Andy and Barney decided to go investigate, and retrieve the ball. They needed the squad car to get there. They asked me to come along with them. The plan was that we would see what was going on, and get the ball back for the boys. Then I would drop Andy and Barney off at the Courthouse, and drive the squad car over to Wally's for servicing.
- Q. Is that what happened?
- A. Not so much. We did arrive there as intended. We parked next to an old iron gate. We walked into the house – it was really spooky – cobwebs all over the place. We split up – Andy went one way, and Barney and me went the other.
- Q. And then?
- A. Well, Barney and me saw this painting with eyes that followed us around the room. We smelled this "rotten eggs" smell. We opened a door, and we saw this ax that seemed to be floating in the air. You know, the story is that Old Man Rimshaw killed his whole family in that house with an ax, so naturally, we were really scared. I ain't proud of this, but we both turned and made a beeline for the front door to get out of there.
- Q. So how were you injured?
- A. I don't rightly know how I fell – one minute I was moving toward the door, and the next minute - "Shazam!" - I was laying on the ground. I don't know whether I tripped and fell, or what happened. In any case, I do know that my left knee and right shoulder were hurting when I tried to get up, and that made it a struggle.
- Q. What did you do next?
- A. I got up and finished running out to the squad car, although I was limping on the way there. Barney and me waited for Andy to come out. He did, with Otis Campbell in custody. Otis is the town drunk. It turns out, Otis and Ernest T. Bass were running a meth lab in the basement of the old Rimshaw house – can you imagine that?

- Q. What happened then?
- A. I mentioned to Barney and Andy that I thought I might have hurt myself. I drove Andy and Otis to the Courthouse, and Andy locked him in the Jail. Then Andy drove me over to Urgent Care at the Mayberry Clinic to have them look at my knee and shoulder.
- Q. What treatment did you get there?
- A. They took x-rays, and looked at me, and Dr. Peterson gave me ibuprofen, a knee brace and Vicodin for my pain.
- Q. Was a blood test done?
- A. Yeah, I think it was – I don't know what it showed.
- Q. What happened then?
- A. Andy dropped me and the squad car off at Wally's, and walked back to the Courthouse. Wally was pissed off that I was late, so I told him what happened. He yelled at me about wasting time on "a fool's errand," or something like that, and told me to go service the squad car. That's what I did.
- Q. Did you drop the squad car off after you finished servicing it?
- A. No, I didn't feel up to it. I didn't think I could walk back from the Courthouse after I dropped it off there.
- Q. Have you sought further treatment since the day you were injured?
- A. Well, before I get to that, I want to say that after I rested over the long Labor Day weekend, I went in to Wally and told him I wanted to make a worker's compensation claim. I told him I felt like I had really screwed up my knee and shoulder. He yelled at me, and asked me, "What in the hell does a visit to a haunted house have to do with fixing cars?" He told me he wasn't going to report it to your company because it wasn't work-related, and if he did report it, his insurance premiums would "go through the roof." Then he fired me, and told me to get my stuff out of my room, which I did.
- Q. When did all this happen?
- A. It happened the Tuesday after Labor Day.
- Q. Did you seek further treatment after that?
- A. Yeah, I went to see Dr. Peterson at the Mayberry Clinic that day. He took me off of work, and told me to use the knee brace, ice, and ibuprofen. He referred me to an orthopedist, Dr. Bailey. He gave me OxyContin as well. I have an appointment with Dr. Bailey tomorrow.

- Q. What are your current symptoms?
- A. I've got a lot of locking, clicking, swelling and redness in my left knee. My right shoulder is bruised and aching. I hope Dr. Bailey can do something short of surgery to help me.
- Q. You said previously that you were given the use of a sleeping room as part of your compensation at Wally's...
- A. That is correct.
- Q. Have you ever reported that compensation as income on your income tax returns?
- A. Uh, no...I just report my wages. Should I have reported it? Golly, it was just a hole in the wall...
- Q. I don't know if you should have reported it or not. Just so we're clear, you weren't having any trouble with your right shoulder or your left knee before the accident on September 1, 2017, is that correct?
- A. Nothing more than the usual occasional aches and pains you might expect for a man my age.
- Q. Wally asked you what your visit to the "haunted" house had to do with your job as a mechanic – what is your answer to that question?
- A. Well, at the time, I felt I was obliged to go along with Andy and Barney. The County is our biggest account, and I wanted to keep Andy and Barney happy. I needed the squad car to do the servicing I was supposed to do that day, and they had to use it to get over to the old Rimshaw house. I admit that I was a little curious about the old house personally, but I mostly wanted to do what our most important customer asked me to do.
- Q. Is there anything else you care to tell me about your claim?
- A. No, I can't think of anything else.
- Q. Are the answers you have given me today the truth, the whole truth, and nothing but the truth?
- A. Absolutely.

This is Cyrus Tankersley from Mount Airy Mutual Insurance Company, and I am concluding my interview with Gomer Pyle on September 11, 2017 at 11:00 a.m. regarding his worker's compensation claim against Wally's Service Station, LLC. (End of statement.)



MOUNT AIRY MUTUAL INSURANCE COMPANY

SUPERVISOR'S ACCIDENT ANALYSIS AND PREVENTION REPORT

INSTRUCTIONS:

1. Within 24 hours of notice of the accident, complete this report.
2. Send report to the Worker's Compensation Coordinator.
3. If you were not present at the time of injury, interview the employee.

Employee Name	Social Security Number	Job Classification
Employer	Supervisor	
Date of Accident	Time of Accident	Date injury reported

ACCIDENT DESCRIPTIONS: From your analysis, describe in detail the action, occurrence or event that resulted in the accident. Identify the exact location where the accident took place:

Safety devices or other equipment in use at time of accident:

What action could be taken to prevent a similar accident?

Do you agree with the employee's account of the accident? Yes No If NO, Please explain.

Has the employee ever reported any previous physical condition(s) associated with work or non-work activities (second job, sports, etc.) that could be related to or aggravated by this injury / illness? Yes No If YES, please explain.

Supervisor's Name (Please Print)	Date
Title	Phone #

If injury involved repetitive motion or material handling, Supervisor must complete reverse side

SUPERVISOR'S EVALUATION OF REPETITIVE MOTION AND/OR

MATERIALS HANDLING ACTIVITIES

<p>Repetitive Motion: What specific activities does the employee perform with his/her wrists, hands, arms, shoulders, and/or neck?</p>
<p>Material Handling Injury: Description of object/person being handled/lifted at time of injury.</p>
<p>With what frequency, pace and duration is the object/person handled/lifted? (eg, 10 times/hour for 3 hours)</p> <p>What material handling equipment and/or safety devices were available to the employee? Were they used properly?</p> <p>Has the employee received training in proper body mechanics/lifting techniques? If YES, please indicate approximate date and type of training given.</p>



MOUNT AIRY MUTUAL INSURANCE COMPANY

SUPERVISOR'S ACCIDENT ANALYSIS AND PREVENTION REPORT

INSTRUCTIONS:

1. Within 24 hours of notice of the accident, complete this report.
2. Send report to the Worker's Compensation Coordinator.
3. If you were not present at the time of injury, interview the employee.

Employee Name <i>Gomer Pyle</i>		Social Security Number <i>081-55-8741</i>	Job Classification <i>Mechanic</i>
Employer <i>Wally's Service Station</i>		Supervisor <i>Wally Stoner</i>	
Date of Accident <i>9/1/17</i>	Time of Accident <i>9:00 a.m.</i>	Date injury reported <i>9/5/17</i>	
ACCIDENT DESCRIPTIONS: From your analysis, describe in detail the action, occurrence or event that resulted in the accident. Identify the exact location where the accident took place: <i>Took place at the old Rimshaw house. Gomer fell while running out of the house.</i>			
Safety devices or other equipment in use at time of accident: <i>None</i>			
What action could be taken to prevent a similar accident? <i>He could have stuck to his job and not gone "Ghostbusting" with Barney Fife.</i>			
Do you agree with the employee's account of the accident? Yes <input checked="" type="radio"/> No <input type="radio"/> If NO, Please explain. <i>He is claiming that he was doing something work related when he got hurt.</i>			
Has the employee ever reported any previous physical condition(s) associated with work or non-work activities (second job, sports, etc.) that could be related to or aggravated by this injury / illness? Yes <input checked="" type="radio"/> No <input type="radio"/> If YES, please explain. <i>He hurt his left knee in the military. He's been taking drugs for joint pain for years.</i>			
Supervisor's Name (Please Print) <i>Wally Stoner</i>		Date <i>9/9/17</i>	
Title <i>Owner</i>		Phone # <i>608-522-5277</i>	

If injury involved repetitive motion or material handling, Supervisor must complete reverse side

Recorded Statement of Wally Stoner

Employee: Gomer Pyle
Employer: Wally's Service Station, LLC
Date of Injury: September 1, 2017
Date of Birth: February 26, 1964
SSN: 081-55-8741

This is Cyrus Tankersley, and I am speaking today with Wally Stoner on September 11, 2017 at 9:30 a.m. regarding his worker's compensation claim against Wally's Service Station, LLC and Mount Airy Mutual Insurance Company.

- Q. Mr. Stoner, do you understand that this interview is going to be recorded?
- A. You can call me "Wally" – everybody does. "Mr. Stoner" is my brother, the Mayor of Mayberry.
- Q. Okay, Wally, do you understand that this interview is going to be recorded?
- A. Yes. That's fine.
- Q. And do you understand that it may be used as evidence in a court of law?
- A. Yes.
- Q. Please state your name, and spell your last name for the record.
- A. Wally Stoner. S-T-O-N-E-R.
- Q. Where do you live?
- A. I live in Mayberry, Wisconsin. I own and operate Wally's Service Station, LLC.
- Q. Your date of birth?
- A. February 3, 1959. "The Day the Music Died." Same day as the plane crash that killed Buddy Holly, Richie Valens and "The Big Bopper," J. P. Richardson, near Clear Lake, Iowa.
- Q. Interesting. You understand that Gomer Pyle is claiming worker's compensation benefits for injuries to his left knee and right shoulder he claims to have sustained at work at Wally's Service Station on September 1, 2017, is that right?
- A. Yes. I understand that he is making a worker's compensation claim, although I don't buy it.
- Q. Why not?

- A. He claims he got injured running out of the old Rimshaw house with that goofy Barney Fife, when he was supposed to be picking up a squad car from the Courthouse to be serviced that morning. I don't understand what "ghostbusting" in a haunted house has to do with the job of a grease monkey.
- Q. Is there some other reason you don't "buy" the claim?
- A. He claims he hurt his knee and shoulder, but he has been taking pain medication for those same complaints for years. He hurt his knee in the service, and he's collecting disability from the VA for that injury. He took time off from work to go looking for "Hillbilly Heroin" from Mayberry Memorial, the Mayberry Clinic, and the VA, all the time.
- Q. What compensation was being paid to Gomer on September 1, 2017?
- A. Gomer was paid \$15 per hour, and usually worked a 40-hour week. Sometimes he would earn a little overtime.
- Q. The WKC-12 says that Gomer was also given a room for working for you. What can you tell me about that?
- A. There is an old storage room in the back of the station. When he started back in 1987, he was pretty hard up. I think he had some drug issues coming out of the military. He asked me if he could fix up the old storage room for his "quarters," and I let him do it. He cleans up in the lavatory in the station, and uses the microwave in the convenience store area to cook his food. I have never regarded it as being much in the way of compensation, and I wasn't doing anything with it when he moved in.
- Q. Did you include the value of the room in his W-2 forms?
- A. No.
- Q. You indicate on the WKC-12 that you feel Gomer's injuries resulted from substance abuse. What is that all about?
- A. Gomer thinks I don't know about this, but he always stops at the Bluebird Diner to see that amateur stripper Juanita on his trips to pick up cars at the Courthouse. She puts shots of "White Lightning" in his morning coffee as an "eye-opener." She's an enabler. I heard he stopped by there September 1, 2017, before he went joy-riding around with Andy and Barney, and that he was liquored up when he fell. And Andy told me confidentially that Gomer might have tested positive for alcohol at the Mayberry Clinic when Andy took him there for treatment after he fell.
- Q. Anything else?
- A. Gomer's driving on an occupational license, because he lost his regular license due to OWI convictions.

- Q. The WKC-12 also says the injuries were caused by a failure to follow the rules. What did you mean by that?
- A. First of all, his job was to pick up the car he was supposed to be working on that day. His occupational license limited him to work-related activities here at Wally's – he isn't supposed to wander around on personal errands. His job did not take him to the old Rimshaw house that day. Secondly, I believe he was driving while impaired, and drinking on the job, and that he probably fell because of his drinking.
- Q. You indicate in the WKC-12 that the injury was reported to you on September 5, 2017. Why did it take you until September 9 to report it?
- A. I didn't think it was work-related.
- Q. When were you first aware of the incident at the old Rimshaw house?
- A. Gomer actually told me about it when he was brought back to work by Andy Taylor on the day of the incident. He had been to Urgent Care at the Mayberry Clinic. I thought he still smelled of alcohol. He told me excitedly about Otis Campbell being arrested, and the meth lab in the basement of the old Rimshaw house, and that he had fallen. I didn't report it at that time because I didn't think it was work related.
- Q. Did he tell you how or why he fell?
- A. No – he said he didn't know. He said one minute he was on his feet, and the next minute he was on the floor.
- Q. How did Gomer report the injury on September 5, 2017?
- A. He has stayed here in the station all weekend. When I got here, he told me he wanted to report his knee and shoulder injuries as being work-related. I told him that whatever happened to him on September 1 in the old Rimshaw house had nothing to do with his work for me. I told him that if he was working for anyone, it was probably the County of Mayberry – he serves as a special deputy sometimes, and maybe this was one of those times. He insisted, and got demanding, and finally, I told him he was fired. I made him clean his stuff out of the storage room, and as far as I know, he went to live with Barney Fife over at Mendelbright's after that.
- Q. Why did you decide to report the injury on September 9, 2017?
- A. Harold Grigsby, my insurance agent, told me that if I didn't, and the claim got paid, I could end up paying it out-of-pocket. And he told me there are fines for failing to report injuries, even if they are BS.
- Q. Did you tell Gomer to visit the old Rimshaw house on the morning of September 1, 2017?

A Hell no! He was doing me no good at all by screwing around there! I don't think he gave me or his job a thought when he went off gallivanting with Andy and Barney that morning!

Q. Is there anything else you care to tell me about this claim?

A. I have a question: What is this claim going to do to my worker's compensation premiums?

Q I can't really say. That's a question for your agent and the underwriting department. Anything else?

A No.

Q. Are the answers you have given me today the truth, the whole truth, and nothing but the truth?

A. Absolutely.

This is Cyrus Tankersley from Mount Airy Mutual Insurance Company, and I am concluding my interview with Gomer Pyle on September 11, 2017 at 10:00 a.m. regarding his worker's compensation claim against Wally's Service Station, LLC. (End of statement.)

EMPLOYER'S FIRST REPORT OF INJURY OR DISEASE

Fatal Injuries: Employers subject to ch.102, Wis. Stats., must report injuries resulting in death to the Department and to their insurance carrier, if insured, within one day after the death of the employee.

Non-Fatal Injuries: If the injury or occupational illness results in disability beyond the three-day waiting period, the employer, if insured, must notify its insurance carrier within 7 days after the injury or beginning of disability. Medical-only claims are to be reported to the insurance carrier only, not the Department.

Electronic Reporting Requirement: All work-related injuries and illnesses resulting in compensable lost time, with the exception of fatalities, must be reported electronically to the Department via EDI or Internet by the insurance carrier or self-insured employer within 14 days of the date of injury or beginning of disability. Employer may fax claims for fatal injuries to (608) 267-0394.

**Department of Workforce Development
Worker's Compensation Division**
201 E. Washington Ave., Rm. C100
P.O. Box 7901
Madison, WI 53707
Imaging Server Fax: (608) 260-2503
Telephone: (608) 266-1340
<http://www.dwd.wisconsin.gov/wc>
e-mail: DWDDWC@dwd.wisconsin.gov

*Provision of your Social Security Number (SSN) is voluntary. Failure to provide it may result in an information processing delay.

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

(Please read the instructions on page 2 for completing this form)

EMPLOYEE	Employee Name (First, Middle, Last) Gomer Pyle		Social Security Number* 081 - 55 - 8741		Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F		Employee Home Telephone No. (608) 439 - 2639	
	Employee Street Address Wally's, Main Street and Garden Drive		City Mayberry		State WI		Zip Code 53773-6743	Occupation Grease Monkey
	Birthdate 02/26/1964	Date of Hire 06/01/1987	County and State Where Accident or Exposure Occurred? Mayberry					
EMPLOYER	Employer Name Wally's Service Station, LLC		WI Unemployment Ins. Acct No. 546-622677		Self-Insured? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Nature of Business (Specific Product) Auto Fuel and Service	
	Employer Mailing Address P.O. Box 466237		City Mayberry		State WI		Zip Code 53773-6847	Employer FEIN 69 - 645226
	Name of Worker's Compensation Insurance Co. or Self-Insured Employer Mount Airy Mutual Insurance Company							Insurer FEIN 66 - 465879
WAGE INFORMATION	Name and Address of Third Party Administrator (TPA) Used by the Insurance Company or Self-Insured Employer TPA FEIN -							
	Wage at Time of Injury \$ 15.00		Specify per hr., wk., mo., yr., etc. Per: Hour		In Addition to Wages, Check Box(es) if Employee Received: <input type="checkbox"/> Meals <input checked="" type="checkbox"/> Room <input type="checkbox"/> Tips		No. of Meals/wk. No. of Days/wk Avg. Weekly Amt. \$	
	Is Worker Paid for Overtime? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, After How Many Hours of Work Per Week? 40							
	For the 52 Week Period Prior to the Week the Injury Occurred, Report Below the Number of Weeks Worked in the Same Kind of Work, and the Total Wages, Salary, Commission and Bonus or Premium Earned for Such Weeks.							
	No. of Weeks: 52		Gross Amount Excluding Tips: \$ 27031.00			If Piece-Work, No. of Hrs. Excluding Overtime:		
			Start Time		Hours Per Day		Hours Per Week	
	Employee's Usual Work Schedule When Injured:		8: 00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM		8		40	
	Employer's Usual Full-Time Schedule for This Type of Work at Time of Employee's Injury:							
	Part-Time Employment Information:		Are there Other Part-Time Workers Doing the Same Work With the Same Schedule? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, how many?			Number of Full-Time Employees Doing The Same Type Of Work:		
	Injury Date 09/01/2017		Time of Injury 9: 00 AM : PM		Last Day Worked 09/01/2017		Date Employer Notified 09/05/2019	
Did Injury Cause Death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Date of Death		Was This a Lost Time or Other Compensable Injury? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Did Injury Occur Because of: <input checked="" type="checkbox"/> Substance Abuse <input type="checkbox"/> Failure to Use Safety Devices <input checked="" type="checkbox"/> Failure to Obey Rules		
Was Employee Treated in an Emergency Room? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Was Employee Hospitalized Overnight as an In-Patient? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								
Name and Address of Treating Practitioner and Hospital: Mayberry Clinic Urgent Care								
Case Number from the OSHA Log:								
Injury Description - Describe Activities of Employee When Injury or Illness Occurred and What Tools, Machinery, Objects, Chemicals, Etc. Were Involved. Employee went into a haunted house with the Mayberry County Sheriff and Deputy to fetch a baseball. Got scared, and fell running out of it. Not the job he was hired to do for me.								
What Happened to Cause This Injury or Illness? (Describe How The Injury Occurred) He says he doesn't know why he fell. Gravity, I guess.								
What Was The Injury or Illness? (State the Part of Body Affected and How It Was Affected) The employee claims that he hurt his right shoulder and left knee. (He had problems with them before. He hurt his knee in the service, and gets paid disability by the VA for it.)								
Report Prepared By Wally Stoner		Work Phone Number (608) 522 - 5277		Position Owner		Date Signed 09/09/2017		

EMPLOYER AND INSURANCE CARRIER INSTRUCTIONS

The employer must complete all relevant sections on this form and submit it to the employer's worker's compensation insurance carrier or third party claim administrator within seven (7) days after the date of a work-related injury which causes permanent or temporary disability resulting in compensation for lost time. The employer's insurance carrier or the third-party claim's administrator may request that this form also be used to immediately report any injury requiring medical treatment, even though it does not involve lost work time.

For any work injury resulting in a **fatality**, the employer must also submit this form directly to the Department of Workforce Development **within 24 hours of the fatality**.

An employer exempt from the duty to insure under s. 102.28, Wis. Stats., and an insurance carrier administering claims for an insured employer are required to submit this form to the Department of Workforce Development within 14 days of the date of work injury.

MANDATORY INFORMATION

In order to accurately administer claims, each of the following sections of this form must be completed. The First Report of Injury will be returned to the sender if the mandatory information is not provided.

Employee Section: Provide all requested information to identify the injured employee. If an employee has multiple dates of employment, the "Date of Hire" is the date the employee was hired for the job on which he or she was injured.

Employer Section: Provide all requested information to identify the injured worker's employer at the time of injury. Provide the name and Federal Employer Identification Number (FEIN) for the insurance carrier or self-insured employer responsible for the worker's compensation expenses for this injury. Also identify the third party claim administrator, if one is used for this claim.

Wage Information Section: Provide the information requested regarding the injured employee's wage and hours worked for the job being performed at the time of injury.

Injury Information Section: Provide information regarding the date and time of injury. Provide a detailed description of the injury, including part of the body injured, the specific nature of the injury (i.e., fracture, strain, concussion, burn, etc.) and the use of any objects or tools (i.e., saw, ladder, vehicle, etc.) that may have caused the injury. Provide the name of the person preparing this report and the telephone number at which they may be reached, if additional information is needed. This form was designed to include information required by OSHA on form 301. If this section is completed and retained, the employer will not have to complete the OSHA 301 form.

MEDICAL REPORT ON INDUSTRIAL INJURY

*Provision of your Social Security Number (SSN) is voluntary. Failure to provide it may result in an information processing delay.
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PATIENT	WC Claim Number 2017-62923779	Employee Name				
	Employee Social Security Number* 081-55-8741	Employee Address Mendelbright Park Apartments, Mayberry, Wisconsin 53773				
	Injury Date 09/01/2017	Employer Name Wally's Service Station, LLC	Insurance Company Mount Airy Mut. Ins. Co.			
HISTORY	History as described by patient Patient tripped and fell on 9/1/17 sustaining injury to his left knee.					
DIAGNOSIS (Please be as detailed as possible)	Left knee -multiple mensical tears and partial ACL tear.					
PERMANENT DISABILITY (Describe permanent elements of disability, such as limitation of motion, pain, weakness, etc., and describe effect on working ability.)	What amputation present?		Comparative x-rays taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Stump: <input type="checkbox"/> hardy or <input type="checkbox"/> tender		
	Has permanent disability resulted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date of Last Exam 11/7/17	Has healing period ended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Patient discharged? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	Description of permanent disability (Record finger motion losses on reverse.) 25% PPD as compared to an amputation at the level of the knee for multiple tears of the meniscus and partial ACL tear.					
	Was surgery performed as a result of accident? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, state type of surgery: Debridement of mensical tears and partial ACL tear.					
	If healing has not ended, what is minimum permanent disability expected?					
PRIOR DISABILITY	What previous disability? 5% PPD at the knee for prior medial meniscectomy.					
PROGNOSIS	Prognosis: Guarded					
	Date injured was or will be able to return to a limited type of work: State any limitations:					
	Date injured was or will be able to return to full-time work subject only to permanent limitations: 11/7/17					
	What further treatment should be given? May require a total knee replacement in the future.					
Additional comments, if any: Limit lifting/carrying/pushing/pulling to 10 pounds. Avoid overhead lifting or reaching.						
Date 2/13/18	City Mayberry, Wisconsin	Physician or Chiropractor Signature (in own writing) Dr. Lou Bailey, M.D.				
	Phone Number (262) 829 - 5800	Typed or Printed Name Dr. Lou Bailey, M.D.				

Employee Name	Employee Social Security Number
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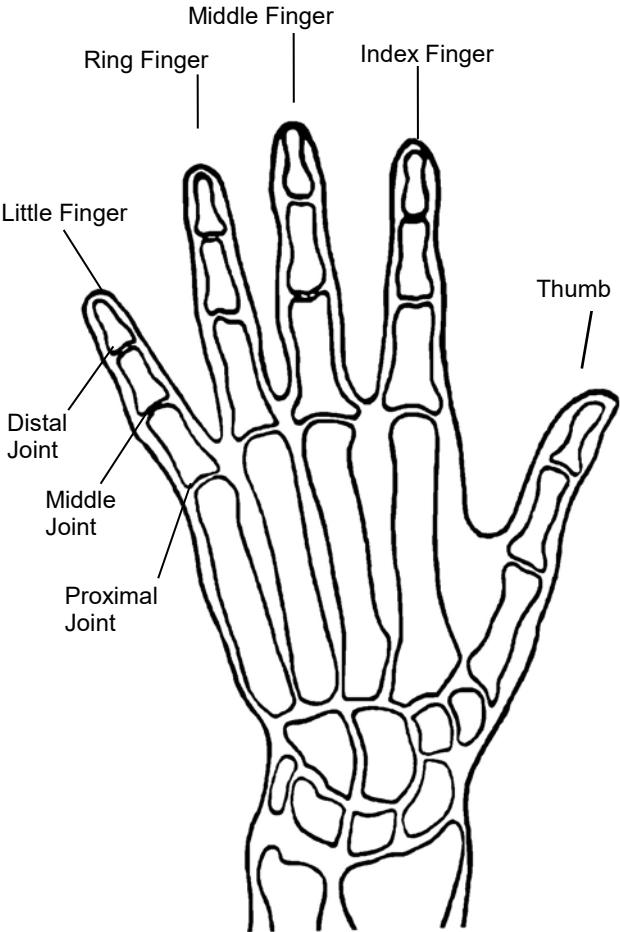
Instructions for finger injuries
 Please use statutory terms in referring to fingers, such as thumbs, index, middle, ring, and little fingers, and distal, middle, and proximal joints. Where there is limitation of motion, list separately the normal range of motion in degrees, the “degrees” loss of flexion, and the “degrees” loss of extension for each joint of each finger. The Worker’s Compensation Division will evaluate the loss of use due to loss of motion of the fingers.

Where there are other elements of disability of the fingers, such as deformity, weakness, pain, or lack of endurance, give your opinion on the percentage loss of use as compared to amputation for such elements of disability and specify the joint at which such loss is estimated.

Digit	Joint	Angle Ext./Flex	Normal Range of Motion	Degrees Loss Extension	Degrees Loss Flexion	Estimate % loss of use for additional factors at joint involved and reason for additional allowance
Thumb	Dist					
	Prox					
Index	Dist					
	Mid					
	Prox					
Mid	Dist					
	Mid					
	Prox					
Ring	Dist					
	Mid					
	Prox					
Little	Dist					
	Mid					
	Prox					

CIRCLE HAND INVOLVED: Right Left

DOMINANT HAND: Right Left



See DWD 80.32 & 80.33 for guides to evaluation for amputations, restrictions of motion, ankylosis, sensory loss, and surgical results for disability to the hip, knee, ankle, toes, shoulder, elbow, wrist, fingers and back.

If fingertip amputation is present, submit comparative x-rays or a statement indicating whether the bone loss was less than one-third, between one-third and two-thirds, or more than two-thirds of the distal phalanx.

If amputation is below the distal joint, submit comparative x-rays.

MEDICAL REPORT ON INDUSTRIAL INJURY

*Provision of your Social Security Number (SSN) is voluntary. Failure to provide it may result in an information processing delay.
 Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

PATIENT	WC Claim Number 2017-62923779	Employee Name Gomer Pyle				
	Employee Social Security Number* 081-55-8741	Employee Address Mendelbright Park Apartments, Mayberry, Wisconsin 53773				
	Injury Date 09/01/2017	Employer Name Wally's Service Station, LLC	Insurance Company Mount Airy Mut. Ins. Co.			
HISTORY	History as described by patient Patient tripped and fell on 9/1/17 sustaining injury to his right shoulder.					
DIAGNOSIS (Please be as detailed as possible)	Right shoulder - rotator cuff tear, SLAP lesion and impingement syndrome.					
PERMANENT DISABILITY (Describe permanent elements of disability, such as limitation of motion, pain, weakness, etc., and describe effect on working ability.)	What amputation present?		Comparative x-rays taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Stump: <input type="checkbox"/> hardy or <input type="checkbox"/> tender		
	Has permanent disability resulted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date of Last Exam 1/9/18	Has healing period ended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Patient discharged? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	Description of permanent disability (Record finger motion losses on reverse.) 10% PPD as compared to an amputation at the level of the shoulder.					
	Was surgery performed as a result of accident? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, state type of surgery: Neer Acromioplasty - debridement of SLAP lesion and minor rotator cuff tear					
	If healing has not ended, what is minimum permanent disability expected?					
PRIOR DISABILITY	What previous disability? None.					
PROGNOSIS	Prognosis: Good.					
	Date injured was or will be able to return to a limited type of work: State any limitations:					
	Date injured was or will be able to return to full-time work subject only to permanent limitations: 1/9/18					
	What further treatment should be given? Follow up on an as needed basis.					
Additional comments, if any: Avoid reaching or lifting overhead more than occasionally.						
Date 2/13/18	City Mayberry, Wisconsin	Physician or Chiropractor Signature (in own writing) Dr. Lou Bailey, M.D.				
	Phone Number (262) 829 - 5800	Typed or Printed Name Dr. Lou Bailey, M.D.				

Employee Name	Employee Social Security Number
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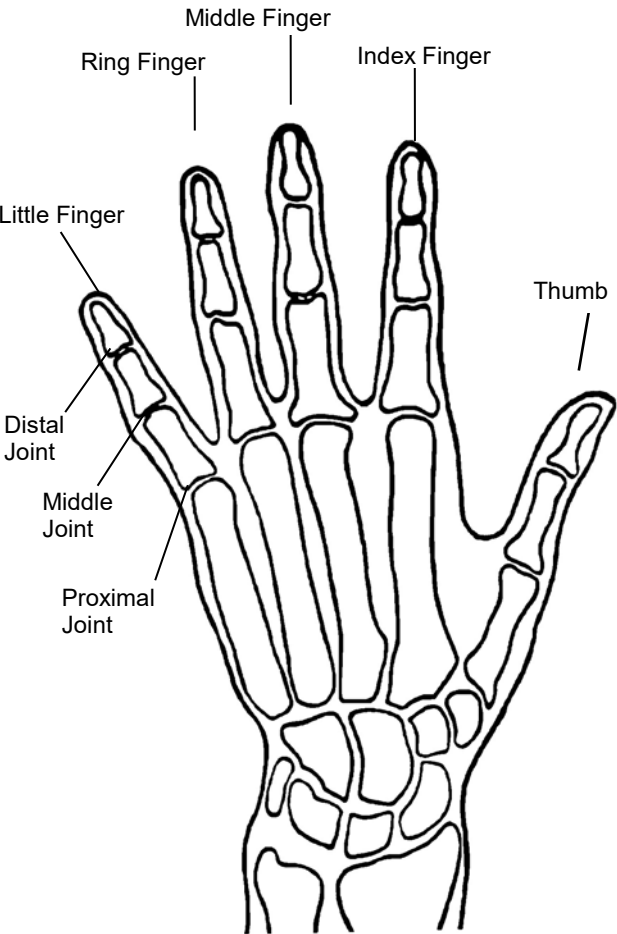
Instructions for finger injuries
 Please use statutory terms in referring to fingers, such as thumbs, index, middle, ring, and little fingers, and distal, middle, and proximal joints. Where there is limitation of motion, list separately the normal range of motion in degrees, the “degrees” loss of flexion, and the “degrees” loss of extension for each joint of each finger. The Worker’s Compensation Division will evaluate the loss of use due to loss of motion of the fingers.

Where there are other elements of disability of the fingers, such as deformity, weakness, pain, or lack of endurance, give your opinion on the percentage loss of use as compared to amputation for such elements of disability and specify the joint at which such loss is estimated.

Digit	Joint	Angle Ext./Flex	Normal Range of Motion	Degrees Loss Extension	Degrees Loss Flexion	Estimate % loss of use for additional factors at joint involved and reason for additional allowance
Thumb	Dist					
	Prox					
Index	Dist					
	Mid					
	Prox					
Mid	Dist					
	Mid					
	Prox					
Ring	Dist					
	Mid					
	Prox					
Little	Dist					
	Mid					
	Prox					

CIRCLE HAND INVOLVED: Right Left

DOMINANT HAND: Right Left



See DWD 80.32 & 80.33 for guides to evaluation for amputations, restrictions of motion, ankylosis, sensory loss, and surgical results for disability to the hip, knee, ankle, toes, shoulder, elbow, wrist, fingers and back.

If fingertip amputation is present, submit comparative x-rays or a statement indicating whether the bone loss was less than one-third, between one-third and two-thirds, or more than two-thirds of the distal phalanx.

If amputation is below the distal joint, submit comparative x-rays.



BAILEY ORTHOPAEDICS, S.C.

8025 Excelsior Drive
Mayberry, Wisconsin 53773
262-829-5800

May 14, 2019

To Whom It May Concern:

The patient, Gomer Pyle, claims to have been injured on September 1, 2017 while exiting the old Rimshaw house, apparently while working for Wally's Service Station, but also while accompanying the Mayberry Sheriff's Department. Regardless, the patient and a deputy from the Sheriff's office became scared after feeling like they were being watched by a painting and were exiting the building through the front door when Pyle ended up on the ground. He is not entirely sure what happened, and reported that one moment he was running, and the next he was on the ground.

From the accident scene, the patient sought treatment with Dr. Peterson at the Mayberry Clinic's Urgent Care for left knee and right shoulder complaints. The patient had a past medical history significant for a remote left knee surgery from the early 1980's, but claimed that his knee was asymptomatic since. Now, after his fall he was reporting mechanical issues, including clicking and a locking sensation, and the knee was red and slightly swollen upon examination. The shoulder was sore, and had a slightly reduced range of motion. X-rays of the left knee and right shoulder showed some degenerative change, without any indication of fracture. The patient was felt to have sustained bruises and right shoulder and left knee strains in the trip and fall. The patient was prescribed Vicodin for his pain complaints, ibuprofen as an anti-inflammatory agent, and a knee brace to support his left knee. It was suggested that he periodically apply ice to his left knee and to his right shoulder, and that he be seen by his primary care physician upon returning to Mayberry if he had further difficulties. The patient was authorized to return to work "as tolerated."

The patient was next seen at the Mayfield Clinic in Urgent Care on September 5, 2017. He indicated that his left knee was more problematic than was his right shoulder, but that both were getting worse as time passed. His complaints were similar to those he voiced previously at Urgent Care, but he also indicated that he had morning stiffness of his left knee, and night pain in his right shoulder. The patient was diagnosed with probable strain/sprain injuries to his left knee and right shoulder. He was prescribed Vicodin, ibuprofen, rest and ice, instructed to continue to use the knee brace, and authorized to remain off of work until he could be seen by me.

The patient followed with me on September 12, 2017. The patient told me that he injured his left knee and right shoulder in a trip and fall incident while working for Wally's Service Station, LLC on September 1, 2017. Again, he did not know what caused him to fall, but thought he might have landed on an outstretched right arm. Regardless, he had left knee and right shoulder pain following the incident.

I actually treated the patient for some left knee and right shoulder complaints when he was a student athlete in high school, which resolved without sequelae through conservative care before he left for the Marine Corps. I was told about the patient's left knee surgery (medial meniscectomy) in the military, that after the surgery he completed his service obligation in the Marine Corps, and that the knee had been basically fine ever since. I was told that the patient had right shoulder complaints from time to time in the past, but never anything as severe as he experienced in the aftermath of the September 1, 2017 trip and fall incident. The patient's subjective complaints were similar to those he had voiced previously at Mayberry Clinic Urgent Care. I examined the patient, and preliminarily diagnosed him as having sustained a left knee contusion superimposed over a pre-existing degenerative knee condition, with a possible meniscus tear. My findings included mild knee effusion, atrophy of muscles surrounding the left knee, and restricted active and passive range of motion. I examined the right shoulder, and my findings included AC joint tenderness to palpation, pain with crossover maneuver, and restricted range of motion, particularly with internal rotation, and preliminarily diagnosed the right shoulder injury as a strain or sprain, superimposed over a pre-existing impingement syndrome, with a possible rotator cuff tear. I ordered MRI scans of the left knee and right shoulder at Mayberry Memorial Hospital, authorized the patient to return to work with limitations (as to standing, walking, climbing, driving, etc.) and continued his Vicodin and ibuprofen prescriptions. I ordered the patient to undertake physical therapy for both the left knee and right shoulder at Mayberry Memorial Hospital.

MRI scans were performed at Mayberry Memorial Hospital on September 16, 2017. The left knee MRI scan showed degenerative changes in the left knee including chondromalacia patella, osteophytes, joint space narrowing and degenerative fraying and tears of the meniscus, as well as a partial ACL tear. The right shoulder MRI showed spurring of the acromion resulting in impingement, cystic changes, a SLAP lesion, and a partial tear of the rotator cuff, as well as fluid accumulation consistent with tendinitis. The patient attended one physical therapy session at Mayberry Memorial Hospital on September 16, 2017, and then failed to show up for or call and cancel his next two appointments. (Gomer told me the physical therapy aggravated his pain complaints, and that he could not bear to go through with it as he felt it made him worse, not better.)

After reviewing the MRI scans during the patient's visit on September 26, 2017, I scheduled a diagnostic arthroscopic left knee surgery at Mayberry Memorial Hospital on October 10, 2017, with the idea that any damage visualized in the diagnostic arthroscopy might be repaired during the course of the procedure. I

scheduled the patient for an arthroscopic right shoulder surgery on November 21, 2017, six weeks after the left knee surgery; I reasoned that the patient would need his right upper extremity for crutch usage immediately following the left knee surgery, such that both procedures should not be performed contemporaneously. I felt that the patient would remain in the healing period until after he recovered from both surgeries and that for the time being, he should remain off of work entirely.

I performed the arthroscopic left knee surgery on October 10, 2017 at Mayberry Memorial Hospital as scheduled. I did visualize Grade III chondromalacia patella, osteophytes and plica in the surgery, as well as several medial meniscal tears and a partial ACL tear. I debrided the medial meniscus tears and the partial tear of the ACL in the surgery. Based upon what I saw in the surgery, I feel that the patient had a combination of degenerative changes in his left knee as well as injuries resulting from the trip and fall incident (i.e., the meniscal and ligamentous tears), and that the surgery addressed both the degenerative and posttraumatic changes in the knee. The patient was ordered to undertake six weeks of physical therapy to strengthen and rehabilitate his left knee at Mayberry Memorial Hospital, and authorized to remain off of work altogether pending surgery on his right shoulder.

The patient did follow through with physical therapy at Mayberry Memorial Hospital between October 10 and November 21, 2017, when I performed an arthroscopic surgery on his right shoulder at Mayberry Memorial Hospital. I performed a Neer acromiectomy and debrided the SLAP lesion and a minor rotator cuff tear in the surgery. I felt that based upon what I visualized during the course of the procedure, the Neer acromiectomy was to address the patient's pre-existing, degenerative condition, but that the SLAP lesion and rotator cuff tear were residuals of the trip and fall incident. The patient was ordered to undertake six additional weeks of physical therapy to strengthen and rehabilitate his right shoulder, and prescribed Vicodin to be used as needed for post-surgical pain complaints.

The patient followed up with my PA and me on November 7, 2017. He was discharged from care for his left knee condition at that time. He was given permanent restrictions against more than occasional kneeling or squatting, and told to avoid walking over uneven ground or stairs as much as possible. He was told that he would likely experience pain in the left knee joint from time to time, which should be treated with rest, ice, and ibuprofen. He was told that at some point in time in the future, he will likely need a total knee replacement procedure because of the osteoarthritis in his left knee. With respect to his right shoulder condition, he was instructed to continue physical therapy and to use Vicodin as needed for pain. He was permitted to return to work with restrictions against reaching or lifting overhead, pushing or pulling, or lifting or carrying more than ten pounds.

The patient finished his prescribed physical therapy regimen at Mayberry Memorial Hospital on January 2, 2018. He undertook a "final" evaluation on January 9, 2018. He was permitted to return to work without restrictions as far as his right shoulder was concerned, except that he was instructed to avoid reaching or lifting overhead more than occasionally. He was told to treat episodic pain complaints with rest, ice, and ibuprofen, and to return as needed. With assistance, he was felt to have full range of motion on examination, although he reported some discomfort with internal rotation and his active elevation in flexion and abduction was limited to 130 degrees.

I filled out two WKC-16 forms at the request of the insurance carrier, one for each of the patient's orthopedic conditions, on February 13, 2018. I indicated that both the left knee and the right shoulder

conditions resulted from the September 1, 2017 trip and fall incident by aggravation, acceleration and precipitation of pre-existing conditions. I rated the patient as having 25% permanent partial disability at the left knee (5% PPD pre-existing the September 1, 2017 occurrence) following surgical repair of multiple meniscal tears and a partial ACL tear on October 10, 2017. I rated the patient as having 10% permanent partial disability attributed to the November 21, 2017 right shoulder surgery, based upon his pain complaints and reduced range of active motion. I stand by those ratings today.

I am aware of the recreational activities of my patient. I have encouraged him to be as active as possible, as I feel his recreational activities will strengthen his injured left knee and right shoulder, and improve his physical and psychological outcomes from surgery. I have known Gomer for thirty years, and I know that sports and recreational activities are important to him, such that he will overlook a significant amount of discomfort to engage in them.

I believe that the traumatic injuries to the left knee and right shoulder on September 1, 2017, and the subsequent surgeries, have aggravated, accelerated and precipitated the patient's osteoarthritis in those joints, such that he will likely require pain medication, physical therapy, and potentially, referral to pain management and/or a rheumatologist for treatment. I think that ultimately, his left knee condition will require surgical treatment in the form of a total knee arthroplasty. For the time being, he will benefit from the use of over-the-counter anti-inflammatory medication, ice, and home exercise to keep the supporting muscles around the affected joints strong.

All opinions are rendered to a reasonable degree of medical certainty, that is, within the field of medical science, to a 51% certainty.

Dr. Lou Bailey, M.D.

Dr. Lou Bailey, M.D.

DLB:rjf

Harrison Everett Breen, M.D.

Orthopaedic Surgeon

Claimant: Gomer Pyle

Insured: Wally's Service Station, LLC

Insurer: Mount Airy Mutual Insurance Company

Date of Birth: February 26, 1964

Date of Injury: September 1, 2017

Date of Examination: June 11, 2018

Gomer Pyle, born February 26, 1964, claims entitlement to worker's compensation benefits for traumatic left knee and right shoulder injuries he alleges he sustained as a result of a trip and fall on September 1, 2017 while working for Wally's Service Station. He is seen at the request of Mount Airy Mutual on June 11, 2018 at the offices of Chimera Corporation in Mayberry, Wisconsin for an independent medical examination.

Prior Medical History

While attending Mayberry High School, the patient participated in football, basketball, baseball and track. He injured his left knee playing football in 1981, and treated in the emergency room at Mayberry Memorial Hospital for what was diagnosed as a strain/sprain injury. X-rays taken at the hospital were reportedly negative. He followed with Dr. Robert Benson, M.D., an orthopedist at the Mayberry Clinic, who treated him conservatively with rest, ice, and anti-inflammatory over-the-counter medication. Records from the Mayberry Clinic reveal that the patient also complained of pain in his right shoulder from time to time associated with high school athletic activities including throwing a football, pitching a baseball, and lifting weights overhead. He treated for these complaints under the supervision of Dr. Benson with over-the-counter anti-inflammatory medication, ice, and on one occasion in the spring of 1982, physical therapy at Mayberry Memorial Hospital.

After graduating from Mayberry High School in 1982, the patient served in the United States Marine Corps between 1982 and 1987. While in basic training at Parris Island in South Carolina in 1982, he sustained a twisting injury to his left knee when he fell while descending a rope on an obstacle course. He subsequently was diagnosed at the Naval Hospital in Beaufort as having sustained a medial meniscus tear. He undertook an arthroscopic meniscectomy to repair the tear. While in rehabilitation for his knee injury, the patient was prescribed hydrocodone by his orthopedist, Dr. Paul Smith. After the patient called and asked for refills of "lost" or "stolen" prescriptions on more than one occasion, Dr. Smith cut off the prescription for what he described as "drug seeking behavior." When the patient was discharged from the USMC, it was noted that the patient had demonstrated "an addictive personality" at times, but the examining physician stopped short in his report of characterizing the patient as having "a substance abuse issue."

After discharge from the USMC, the patient applied for and was awarded a 10% disability by the Department of Veterans Affairs in relation to his left knee surgery. Medical records from the VA Hospital at which the patient treated reveal that he periodically complained about pain in multiple joints, including his right shoulder and left knee, and that he told doctors that he was taking over-the-counter anti-inflammatory medication and glucosamine chondroitin for his complaints. He also reportedly told his VA physician, Dr. Edith Gibson, that from time to time, he “self-medicated” for his pain with “White Lightning” (moonshine). In late 2016 the patient made application to the Department of Veterans Affairs for an increase in his service-connected disability on the basis that his left knee was becoming arthritic and more painful, but administrative action by the VA on his request was still pending on September 1, 2017.

Records from several local health care providers including the Mayberry Clinic, Mayberry Memorial Hospital, and Mount Pilot Hospital and Clinics, reveal that periodically prior to September 1, 2017, the patient requested prescriptions for OxyContin in urgent care or emergency departments for joint pain, including pain in his left knee and his right shoulder. His name was included on a “Known Drug Seekers” list circulated among health care providers and pharmacies in the area.

Injurious Occurrence

The patient states that on September 1, 2017, he fell when hurriedly exiting a haunted house while on some sort of special mission involving a Mayberry County Sheriff’s squad car he was supposed to be servicing. He indicates that he injured his left knee and his right shoulder when he fell. He is somewhat vague as to precisely why he was on the premises, and what happened to him when he fell, but he is certain that he injured his left knee and right shoulder in the occurrence.

Subsequent Medical History

The patient was initially seen at Urgent Care at the Mayberry Clinic. In a form he was asked to complete in anticipation of treatment, he indicated that his medical conditions resulted from an accident, but that they were not work-related. He indicated to the nurse and Dr. Thomas Peterson, who took histories from him, that he had injured his left knee and right shoulder in a slip and fall earlier that day. He said that he could not remember precisely why he had fallen. He indicated that he had “long ago” undertaken a surgery on his left knee, but had no recent difficulties with it until the accident. He complained of locking, clicking, swelling and redness in the left knee. He complained that his right shoulder was bruised and ached. X-rays of the left knee showed what were described as degenerative changes, but no indication of an acute injury. X-rays of the right shoulder reportedly showed spurring of the acromion, but no indication of an acute injury. The patient was prescribed Vicodin for his pain complaints, ibuprofen as an anti-inflammatory agent, and a knee brace to support his left knee. It was suggested that he periodically apply ice to his left knee and to his right shoulder, and that he be seen by his primary care physician if he had further difficulties. The patient was authorized to return to work “as tolerated.” The patient’s blood alcohol concentration was tested, and came back at .12% by volume, and oxycodone also showed up in the blood testing.

The patient was next seen in Urgent Care at the Mayberry Clinic by Dr. Peterson on September 5, 2017. He indicated that he had been injured in a slip and fall while working for Wally’s Service Station on September 1, 2017, and injured his right shoulder and left knee. He indicated that he had been seen

previously in Urgent Care at the Mayberry Clinic. He indicated that his left knee was more problematic than was his right shoulder, but that both were getting worse as time passed. The patient asked for OxyContin to ease his pain; Dr. Peterson gave the patient a prescription for a small amount of Vicodin, with instructions that he also use ibuprofen, rest and ice, and continue to use the knee brace. The patient was authorized to remain off of work until he could be seen by Dr. Lou Bailey at Bailey Orthopaedics, S.C.

The patient followed with Dr. Bailey on September 12, 2017. The patient told Dr. Bailey that he injured his left knee and right shoulder in a slip and fall at work with Wally's Service Station on September 1, 2017. He said that he recalled twisting his left knee while falling over the front door jamb in the occurrence, and landing on his outstretched right arm. Dr. Bailey was told about the patient's left knee surgery in the military, and that the knee had been "fine ever since." Dr. Bailey was told that the patient had right shoulder complaints from time to time in the past, but never anything as severe as he experienced in the aftermath of the September 1, 2017 occurrence. Dr. Bailey examined the patient, and preliminarily diagnosed him as having sustained a left knee strain or sprain, with a possible meniscus tear. Dr. Bailey preliminarily diagnosed the right shoulder injury as a strain or sprain, superimposed over a pre-existing impingement syndrome, with a possible rotator cuff tear. Dr. Bailey ordered MRI scans of the left knee and right shoulder at Mayberry Memorial Hospital, authorized the patient to return to work with limitations (as to standing, walking, climbing, driving, etc.) and continued his Vicodin and ibuprofen prescriptions. Dr. Bailey ordered the patient to undertake physical therapy for both the left knee and right shoulder at Mayberry Memorial Hospital.

MRI scans were performed at Mayberry Memorial Hospital on September 16, 2017. The left knee MRI scan reportedly showed degenerative changes in the left knee including chondromalacia patella and degenerative fraying and tears of the meniscus, as well as what was described as a partial ACL tear. The right shoulder MRI reportedly showed spurring of the acromion resulting in impingement, a SLAP lesion, and a partial tear of the rotator cuff, as well as fluid accumulation which was felt to be consistent with tendinitis. The patient attended one physical therapy session at Mayberry Memorial Hospital on September 16, 2017, and then failed to show up for or call and cancel his next two appointments.

After reviewing the MRI scans during the patient's visit on September 26, 2017, and despite the patient's failure to undertake physical therapy as prescribed previously, Dr. Bailey scheduled an arthroscopic left knee surgery at Mayberry Memorial Hospital on October 10, 2017. Dr. Bailey scheduled the patient for an arthroscopic right shoulder surgery on November 21, 2017, six weeks after the left knee surgery; he reasoned that the patient would need his right upper extremity for crutch usage immediately following the left knee surgery, such that both procedures should not be performed contemporaneously. He indicated that the patient would remain in the healing period until after he recovered from the surgeries and that for the time being, he was authorized to remain off of work entirely.

Before performing surgery, Dr. Bailey had the patient sign a drug contract on September 26, 2017, in which he agreed that he would bring his prescription bottles to appointments, undertake drug testing when requested to do so, and obtain his prescriptions from Dr. Bailey only. Per the terms of the contract, the patient would be discharged from care for violating its provisions. Dr. Bailey and his staff did not hold the patient to the requirements of the drug contract while caring for him, however, and his records do not disclose his usage or contain any toxicology reports.

The arthroscopic left knee surgery was performed by Dr. Bailey on October 10, 2017 on an outpatient basis at Mayberry Memorial Hospital as scheduled. The operative report indicates that Grade III chondromalacia patella and plica were visualized by Dr. Bailey in the surgery. Dr. Bailey reportedly debrided several tears in the medial meniscus, and the partial tear of the ACL in the surgery. The patient was ordered to undertake six weeks of physical therapy to strengthen and rehabilitate his left knee at Mayberry Memorial Hospital, and authorized to remain off of work altogether pending surgery on his right shoulder.

The patient did follow through with physical therapy at Mayberry Memorial Hospital between October 10 and November 21, 2017, when he undertook an arthroscopic surgery on his right shoulder by Dr. Bailey at Mayberry Memorial Hospital. Dr. Bailey performed a Neer acromionectomy and debrided the SLAP lesion and what was described as a “minor” rotator cuff tear in the surgery. The patient was ordered to undertake six additional weeks of physical therapy to strengthen and rehabilitate his right shoulder, and prescribed Vicodin to be used as needed for post-surgical pain complaints.

The patient followed up at Bailey Orthopaedics on November 7, 2017, primarily with Dr. Bailey’s PA. He was discharged from care for his left knee condition. He was given permanent restrictions against more than occasional kneeling or squatting, and told to avoid walking over uneven ground or stairs as much as possible. He was told that he would likely experience pain in the left knee joint from time to time, which should be treated with rest, ice, and ibuprofen. He was told that at some point in time in the future, he will likely need a total knee replacement procedure because of the osteoarthritis in his left knee. With respect to his right shoulder condition, he was instructed to continue physical therapy and to use Vicodin as needed for pain. He was permitted to return to work with restrictions against reaching or lifting overhead, pushing or pulling, or lifting or carrying more than ten pounds.

The patient finished his prescribed physical therapy regimen at Mayberry Memorial Hospital on January 2, 2018. He undertook a “final” evaluation by Dr. Bailey on January 9, 2018 at Bailey Orthopaedics. He was permitted to return to work without restrictions as far as his right shoulder was concerned, except that he was instructed to avoid reaching or lifting overhead more than occasionally. He was told to treat episodic pain complaints with rest, ice, and ibuprofen, and to return as needed. He was felt to have full range of motion on examination, although he reported some discomfort with internal rotation.

Dr. Bailey filled out two WKC-16 forms, one for each condition, on February 13, 2018. Dr. Bailey indicated that both the left knee and the right shoulder conditions were caused by aggravation, acceleration and precipitation of pre-existing conditions in the September 1, 2017 occurrence at work. He rated the patient as having 25% permanent partial disability at the left knee (5% PPD pre-existing the September 1, 2017 occurrence) following surgical repair of “multiple meniscal tears” and “a partial ACL repair” on October 10, 2017. He rated the patient as having 10% permanent partial disability attributed to the November 21, 2017 right shoulder surgery.

Subjective Complaints

Left knee: The patient complains of joint stiffness, usually lasting more than 15 minutes, and typically following activity of the joint. He also complains of pain on motion of the joint, which is made worse with activity or weight-bearing and relieved by rest. The patient indicates that his symptoms typically improve with rest and that he does not remain symptomatic at night time. The patient indicates that his

left knee condition is usually better in the morning, and worsens as the day progresses. He indicates that he does not feel that his left knee condition has improved following his surgery. He is worried that he will soon require a total knee replacement procedure, given the chronicity of his complaints.

Right shoulder: He has essentially no complaints of pain or stiffness in his right shoulder. He indicates that he believes that as far as his right shoulder is concerned, he should be able to resume playing softball, and that he is currently bowling in a tavern league without right shoulder difficulty. He says that he is pleased with the outcome of his right shoulder surgery.

Physical Examination

Left knee: Arthroscopic surgical scars are present. Strength is 5/5 in the major motor groups in the lower extremities bilaterally and equal, except quad testing, 4-/5. There is some atrophy around the left knee consistent with long term degenerative joint disease. Limitation of motion of the left knee is present. Coarse crepitus is appreciated in the joint. There is mild joint swelling and tenderness to touch. The joint feels warm. These findings are all consistent with degenerative joint disease, and not with the residuals of a relatively recent traumatic injury.

Right shoulder: Arthroscopic surgical scars are present. Although initially his voluntary range of motion was limited, with assistance he has full range of motion in his right shoulder on examination. He has essentially no complaints of pain or stiffness, although he says that he feels soreness after pitching a softball for seven innings or bowling. On inspection the shoulder does not show any atrophy. Rotator cuff strength is normal.

Radiological Findings

I reviewed the x-rays and MRI scan films, and concur with the radiologists who reported contemporaneously that they showed findings consistent with degenerative joint disease in the left knee and right shoulder.

Opinions

The above-mentioned discrepancies in the patient's medical history and in the reported mechanisms of his alleged injury lend doubt to the patient's claim that he was injured on September 1, 2017, as alleged.

Assuming that the September 1, 2017 occurrence took place as now alleged, the patient sustained at most temporary aggravations of pre-existing degenerative left knee and right shoulder conditions, which should have resolved without residuals by September 26, 2017. Neither surgery was occasioned by the September 1, 2017 occurrence. Dr. Bailey was correct when he initially examined the patient, and diagnosed him as having sustained (at most) a left knee contusion and right shoulder strain or sprain, superimposed over pre-existing degenerative conditions. Neither of the surgeries performed by Dr. Bailey was occasioned by the September 1, 2017 occurrence. The patient had documented pre-existing, degenerative left knee and right shoulder conditions which would not have been affected in any structural sense by the incident as it is now described as having occurred. The reported findings in objective diagnostic testing and in the operative reports from both surgeries are consistent with pre-existing, degenerative joint conditions, and not with the residuals of any recent traumatic injury.

Regardless of causation, the surgeries performed by Dr. Bailey were not reasonable or medically necessary. The October 10, 2017 left knee surgery was exploratory in nature, consisted of the debridement of degenerative changes and did not include an anterior cruciate ligament repair procedure. Along these same lines, the November 21, 2017 shoulder surgery did not address any structural damage or acute injury, and instead was more consistent with a “clean-up” procedure directed to cure or relieve the effects of Pyle’s preexisting shoulder condition. These “clean-up” procedures are ill-advised on patients with symptomatic arthritis because the arthritis is the pain generator, not the soft tissue structures which are being debrided. The result is often a surgical procedure that provides no significant improvement in function and fails to provide the sought after pain relief.

Here, it was not medically reasonable to perform either the left knee or right shoulder surgeries, regardless of causation, because there was no anatomical structure requiring fixation, and the procedures themselves did not and could not do anything to prevent the natural progression of the underlying degenerative disease.

Regardless of causation, the patient reached an endpoint in healing six weeks after each surgery.

Regardless of causation, the patient has 10% permanent partial disability at the left knee, all of which preexisted the October 10, 2017 surgery, and stems from his 1982 meniscectomy, which removed a large portion of the medial meniscus, which deprived Mr. Pyle from the anatomical benefit of the shock absorbing function of the meniscus, which likely resulted in the onset of the arthritis Mr. Pyle has complained of through the years. It would have been more favorable in 1982 for the patient to have undergone a repair of the meniscus (i.e., stitch the bucket handle portion of the cartilage to the uncompromised red zone of the meniscus, which has an adequate blood supply to permit healing), rather than a debridement procedure which removed more than half of his medial meniscus, and deprived the patient of the protection of that soft tissue structure.

Regardless of cause, the patient has sustained no permanent disability at the right shoulder. Although he claimed an inability to fully flex and abduct the right shoulder, upon physical examination I was able to forward flex and abduct the shoulder through a relatively full, smooth and functional range of motion. In sum, Mr. Pyle has an adequate range of motion in his right shoulder on examination, and essentially no residual symptoms. Since Mr. Pyle has more than 135 degrees of both flexion and abduction, he does not qualify for any of the “minimum” permanency ratings set forth in the Wisconsin Administrative Code. See Wis. Admin. Code Rule DWD 80.32(7).

Regardless of causation, the patient can return to work without restrictions, and needs no additional care for either his left knee or right shoulder condition. He is capable of bow hunting, gun hunting and fishing, so he is capable of working without restriction. The patient should bicycle or engage in some other non-impact exercise to strengthen the muscle in his left leg to better support his knee.

All opinions are rendered to a reasonable degree of medical certainty, that is, within the field of medical science, to a 51% certainty.

The information contained within this document was prepared by and is the work product of the undersigned and is based on the information provided.

Harrison Everett Breen, M.D.

Harrison Everett Breen, M.D.
Orthopaedic Surgeon
HEB:rjf

**Chimera Corporation
777 Fletcher Road, Suite 1234
Mayberry, Wisconsin 53773
1-800-NOT-HURT**

PRACTITIONER'S REPORT ON ACCIDENT OR INDUSTRIAL DISEASE IN LIEU OF TESTIMONY

Department of Workforce Development
Worker's Compensation Division
 201 E. Washington Ave., Rm. C100
 P.O. Box 7901
 Madison, WI 53707-7901
 Telephone: (608) 266-1340
 Fax: (608) 267-0394
<http://dwd.wisconsin.gov/wc>
 e-mail: DWDDWC@dwd.wisconsin.gov

FILED ON BEHALF OF:

☐ EMPLOYEE

☐ EMPLOYER OR INSURANCE CARRIER

*Provision of your Social Security Number (SSN) is voluntary. Failure to provide it may result in an information processing delay.
 Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04 (1)(m), Wisconsin Statutes].

1. WC Claim Number 2017-62923779		Employee Name Gomer Pyle	
Employee Social Security Number* 081-55-8741		Employee Address 485 Mapleton Drive, Mayberry, Wisconsin 53999	
2. Employer Name Wally's Service Station, LLC		3. Date of Traumatic Event 9/01/2017	
Employer Address 625 S. Main Street, Mayberry, Wisconsin 53999		Worker's Compensation Insurance Carrier Mount Airy Mut. Ins. Co.	
4. Describe the accidental event or work exposure to which the patient attributes his/her condition. (A copy of medical history or notes containing this information will suffice if complete.) See attached report.			
5. Give a complete description of physical or mental disability and diagnosis. (A copy of the medical history or notes containing this information will suffice if complete and limited to the work injury.) See attached report.			
6. Did you treat the patient? If so, between what dates? <input type="checkbox"/> Yes <input type="checkbox"/> No and		7. Date of last examination or evaluation	8. Date disability from work began
9. Date injured was or will be able to return to a limited type of work: State any temporary limitations.			
10. Date injured was or will be able to return to full time work subject only to permanent limitations: State any permanent limitations.			
11. In your opinion, is it probable that the event in Item 4 directly caused the disability? <input type="checkbox"/> Yes <input type="checkbox"/> No		12. If not directly, is it probable that the event described in Item 4 caused the disability by precipitation, aggravation and acceleration of a pre-existing progressively deteriorating or degenerative condition beyond normal progression? <input type="checkbox"/> Yes <input type="checkbox"/> No	
13. If the patient suffers from a condition caused by an appreciable period of work place exposure (from Item 4), was that exposure either the sole cause of the condition, or at least a material contributory causative factor in the condition's onset or progression? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, give date disability from work began:	

14. Has accident or industrial disease resulted in any permanent disability? ☐ Yes ☐ No

15. Estimate percentage of permanent disability to the member, eye or ear involved, or compare to permanent total disability if injury is to torso or head, caused by the accident or work exposure described in Item 4.

See attached report.

16. What elements constitute permanent disability (such as limitation of motion, deformity, weakness, pain, lack of endurance or components of illness, e.g., isoiconias, photo toxicity, liver disease)? If limitation of motion, describe nature and percentage of limitation of each part of each member affected. (Make estimates on voluntary, not passive motions.) If amputation, state exact point bone was amputated and whether stump is tender or hardy.

See attached report.

17. What is the prognosis of this disability? If guarded, please explain:

18. Do you expect that any further treatment will be necessary for this condition?

☐ Yes ☐ No If YES, explain:

19. Prior to this accident or illness, did employee have any permanent disability?

☐ Yes ☐ No If YES, explain:

20. I am a practitioner licensed in and practicing in Wisconsin.

Practitioner Typed or Printed Name:

Harrison Everett Breen, M.D.

Practitioner Address (Street or P.O. Box):

777 Fletcher Road, Suite 1234

Practitioner Address (City, State and Zip Code):

Mayberry, Wisconsin 53999

Practitioner Phone Number:

1(800) NOT HURT

College:

CERTIFICATION

I certify, subject to the penalty of fine and/or imprisonment, as provided in Sec. 943.39 of the Wisconsin Statutes, that the above report truly and correctly sets forth the history, my findings, diagnosis and opinion.

Harrison Everett Breen, M.D. 6/11/18

Signature of Practitioner

Date Signed

If not licensed and practicing in Wisconsin, state where practitioner is licensed and practicing:

IMPORTANT: Section 102.17(1)(d) of the Wisconsin Statutes provides that the contents of certified medical and surgical reports presented by parties shall constitute prima facie evidence as to the matter contained therein. Reports must be filed with the department and the other parties fifteen days prior to the date of hearing to be acceptable as evidence. If not so filed, it will be necessary to produce the doctor to give oral testimony at the time of hearing.

EARL HAGEN, S.C.

8025 Excelsior Drive
Mayberry, Wisconsin 53773
262-677-4308

July 11, 1979

Patient: Gomer Pyle
DOB: February 26, 1964
PCP: Charles Maxwell, M.D.

HISTORY: The patient is a pleasant 15 year-old male in no acute distress presenting with complaints of right shoulder pain secondary to his participation in recreational sporting leagues this summer, which did require use of the right shoulder to throw baseballs and footballs. The patient also reports feeling an immediate onset of pain in the anterior portion of his right shoulder while throwing a Frisbee with friends. Patient is accompanied by his parents.

EXAM: Upon physical examination patient demonstrates a near full range of motion, with pain at end ranges. Strength is 5/5 bilaterally in the upper extremities. Negative Neers and Hawkins impingement signs. Neurological exam is without gross abnormality. X-rays were negative for fracture or dislocation.

ASSESSMENT/PLAN: Likely strain/sprain injury, superimposed upon overuse condition of right shoulder due to summer recreational sporting activities. There does not appear to be any structural damage. Patient was provided with ibuprofen 800mg, to be taken p.r.n. If symptoms persist in two weeks, schedule follow up appointment.

Earl Hagen, M.D.

Earl Hagen, M.D.
EH:rjf

**Mayberry Memorial Hospital
1100 Hospital Drive
Mayberry, Wisconsin 53773
(262) 555 – 3031**



CERTIFICATION OF MEDICAL RECORDS

Patient: Gomer Pyle

Dates: October 23, 1981

I, George Patterson, records custodian at Mayberry Memorial Hospital, hereby certify that the documents annexed hereto, and consisting of 1 page(s), constitute an accurate and legible duplicate of the medical records in our possession regarding the above named patient, as requested, and for which authorization was granted.

Date: February 19, 2019

Custodian: George Patterson

Mayberry Memorial Hospital
1100 Hospital Drive
Mayberry, Wisconsin 53773
(262) 555 – 3031



EMERGENCY ROOM REPORT

Patient: Gomer Pyle
DOB: February 26, 1964
Date: October 23, 1981
PCP: Mayfield Clinic, VA Hospital

History: The patient is a high school athlete who complains of a left knee injury occurring while participating in football practice this afternoon. He was being brought down by a teammate during a tackle drill when his left knee twisted awkwardly. He reports an immediate onset of pain on the medial aspect of his knee, with associated swelling. He is particularly concerned about this injury because he does not want it to interfere with his athletic activities. He reportedly participates in football, basketball, baseball and track.

Examination: The patient reports moderate tenderness over the medial joint line with palpation. There is mild edema diffusely around the knee joint which is mildly pink in color.

X-rays: AP view and lateral radiographic views of the left knee reveal no indication of a fracture or other acute injury.

Assessment: Left knee strain/sprain.

Plan: The patient will rest and ice his knee over the weekend, with minimal weight bearing. He is instructed to follow up with his primary care physician at the Mayfield Clinic on Monday if symptoms persist.

Rockne Tarkington, M.D.

Mayberry CLINIC
1110 Hospital Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032



CERTIFICATION OF MEDICAL RECORDS

Patient: Gomer Pyle

Dates: October 26, 1981

I, George Wyle, records custodian at Mayberry CLINIC, hereby certify that the documents annexed hereto, and consisting of 1 page(s), constitute an accurate and legible duplicate of the medical records in our possession regarding the above named patient, as requested, and for which authorization was granted.

Date: March 3, 2019

Custodian: George Wyle

Mayberry CLINIC
1110 Hospital Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032



Patient: Gomer Pyle
DOB: February 26, 1964
Date: October 26, 1981

History: Mr. Pyle is well known to me. I have treated him throughout his high school athletic career for various complaints including pain in his right shoulder from time to time associated with high school athletic activities including throwing a football, pitching a baseball, and lifting weights overhead. He has treated for these complaints under my supervision with over-the-counter anti-inflammatory medication and ice. He returns to my office today with complaints of a left knee sprain. He sustained a twisting injury to his left knee during football practice this past Friday and was seen in the emergency room at Mayfield Memorial Hospital. X-rays were reportedly negative. He treated conservatively over the weekend with rest and ice but continues to have some pain on the medial aspect of his left knee. The initial swelling has reportedly resolved.

Objective: On examination, there is mild tenderness over the medial joint line. No edema is noted.

Assessment: Left knee strain/sprain, resolving.

Plan: I recommend continued rest and ice until Wednesday, October 28, 1981, as well as compression, elevation, and OTC anti-inflammatory medication.

Robert Benson, M.D.



**UNITED STATES NAVAL MEDICAL CENTER
BEAUFORT, SOUTH CAROLINA**

PATIENT NAME: Gomer Pyle **AGE:** 18

DOB: February 26, 1964
DATE: August 21, 1982
ACCT #: 4018

PRE-OPERATIVE DIAGNOSIS: Left knee medial meniscus tear.

POST-OPERATIVE DIAGNOSIS: Left knee medial meniscus tear.

PROCEDURE: Left knee arthroscopy with removal of bucket-handle medial meniscus tear.

SURGEON: Lt. Commander Paul Smith, M.D.

ASSISTANTS: None.

DATE OF OPERATION: August 21, 1982

HISTORY, PHYSICAL, AND INDICATION: The patient is an 18-year-old USMC recruit, who sustained an injury to his left knee while descending a rope during basic training. The patient has experienced difficulty with walking and buckling and giving way. X-rays were negative for fracture or any sign of degenerative changes. When conservative treatment failed, and orthopedic testing indicated that the likely source of the injury was the meniscus, surgery was scheduled.

OPERATIVE DICTATION: The patient comes to the OR, and 2 grams second-generation cephalosporin (Ancef) given 30 minutes prior to incision and then discontinued. A timeout was performed. The surgery site, instruments, time of surgery, and blood loss of surgery were all identified and agreed upon. With that, general anesthetic. Left leg prepped and draped in usual sterile fashion. Medial compartment with a bucket handle red-white zone meniscus tear, ratty in nature, resected and

debrided smooth. One large medial loose body was removed. Lateral compartment was inspected and is intact without tear. No other internal derangement noted. All portal sites were closed with 3-0 nylon. The patient returned to the recovery room in stable condition.

Lt. Commander Paul Smith, M.D.

DD: 8/21/82

DT: 8/23/82

RJ/rjf

Date & Time

KERNERSVILLE VETERANS HOSPITAL

1695 Kernersville Medical Parkway

Mayberry, Wisconsin 53773

(262) 843-8626

July 21, 1995

Patient: Gomer Pyle

DOB: February 26, 1964

PCP: Mayberry Clinic, VA Hospital

HISTORY: The patient is a 31-year old male in no acute distress with complaints of joint pain in several different extremities, including his left knee and right shoulder. The patient has a past medical history of a left medial meniscectomy in 1982, while serving in the U.S. MARINE CORPS (Beaufort, NC). The patient initially made a good recovery from the surgery, and served the remainder of his commitment with the armed services, but now occasionally experiences discomfort in the left knee, including occasional crepitus and a sensation that his knee needs to "pop." The patient also reports occasional clicking and general discomfort in his right shoulder, although this is much less than in his left knee. The patient indicated that from time to time he will "self-medicate" with "White Lightning" (ETOH).

EXAM: Upon exam, the left knee has a full range of motion with 4+/5 strength. Scars from the meniscectomy are visible and well-healed. Minimal tenderness over the medial joint line. Negative McMurray's. The upper extremities have a full unrestricted range of motion bilaterally, with 5/5 strength.

ASSESSMENT/PLAN: I had a long discussion with the patient about the fact that he is getting older, and with age, arthritis from prior injuries can progress. This seems to be the case with his left knee. His right shoulder symptoms are rather mild, but would likely improve from a short course of physical therapy and/or a home exercise program, and both were offered here today. I also recommended starting a regimen of glucosamine and chondroitin, as recent research suggests the same could be beneficial in treating arthritic conditions.

I will prescribe Vicodin and anti-inflammatories without any refills. Follow up in two months if no improvement.

Very truly yours,

Edith Gibson, M.D.

Edith Gibson, M.D.

EG:rjf

KERNERSVILLE VETERANS HOSPITAL

1695 Kernersville Medical Parkway

Mayberry, Wisconsin 53773

(262) 843-8626

October 1, 2002

Patient: Gomer Pyle

DOB: February 26, 1964

PCP: Mayberry Clinic, VA Hospital

HISTORY: The patient is 38-year old male well known to this physician and the Veterans Hospital for his jovial personality, clumsiness and good luck, who presents complaining of coming and going joint pain in both his upper and lower extremities. The patient has a history of left medial meniscectomy in 1982 with apparent good results. The patient previously treated for minor complaints in his left knee and right shoulder, but failed to attend the physical therapy previously recommended. The patient has seen some improvement in the overall health of his joints since starting a regimen of glucosamine and chondroitin, but is interested in additional treatment options.

EXAM: Upon examination, the left knee has a full range of motion with 4-/5 strength. The right shoulder has a full range of motion without any true signs of impingement.

ASSESSMENT/PLAN: The patient's knee pain is likely secondary to degeneration and early onset arthritis following his 1982 medial meniscectomy. Recommend starting a course of physical therapy for the knee, and continue regimen of glucosamine and chondroitin. A booklet of upper extremity exercises and a stretch band were provided to the patient so he could conduct a home exercise program to increase the strength in his right shoulder. If symptoms do not improve, follow up in two months.

Very truly yours,

Edith Gibson, M.D.

Edith Gibson, M.D.

EG:lf

December 26, 2016

Gomer Pyle
625 S. Main Street (Wally's)
Mayberry, WI 53773

Department of Veterans Affairs
Winston-Salem VA Regional Office
251 N. Main Street
Winston-Salem, NC 27101

Dear Sirs:

I served in the United States Marine Corps between 1982 and 1987. I received an honorable discharge in 1987. While in basic training in Beaufort, North Carolina in 1982, I sustained a twisting injury to my left knee, and subsequently was diagnosed as having sustained a medial meniscus tear in the occurrence. I undertook an arthroscopic meniscectomy to repair the tear. I served out my tour as a Marine, participating in Operation "Urgent Fury" in Grenada in October of 1983. After discharge from the military, I applied for and was awarded a 10% disability by the Department of Veterans Affairs (VA) in relation to my left knee surgery.

Since the time of my discharge in 1987, I have treated for left knee complaints at the VA Hospital in Mayberry. My medical records show that I have experienced pain in my left knee, which has been getting worse and worse. I have been taking over-the-counter ibuprofen and glucosamine chondroitin for my left knee complaints. I have been told that I have arthritis in my left knee because of my injury in 1982 and the surgery, and that I will need a total knee arthroplasty in the future. This letter is to request an increase in my service-connected disability to 25%, on the basis that my left knee is becoming arthritic and more painful. Please see the attached letter from Dr. Gibson of December 22, 2016 which supports my claim.

Please send me any forms necessary to make this request official. Thank you.

Sincerely yours,

Gomer Pyle

Gomer Pyle



KERNERSVILLE VETERANS HOSPITAL

1695 Kernersville Medical Parkway

Mayberry, Wisconsin 53773

(262) 843-8626

December 22, 2016

Department of Veterans Affairs
Winston-Salem VA Regional Office
251 N. Main Street
Winston-Salem, NC 27101

To Whom It May Concern:

My patient, Gomer Pyle, injured his left knee in basic training in the United States Marine Corps., in 1982. He was diagnosed at the Naval Medical Center in Beaufort as having sustained a medial meniscus tear in the occurrence. An arthroscopic meniscectomy was performed at the Naval Medical Center in Beaufort to repair the tear. He served out his tour as a Marine, participating in Operation "Urgent Fury" in Grenada in October of 1983. After discharge, he was awarded a 10% disability for his service-connected left knee injury by the Veterans Administration.

I have treated the patient for left knee complaints at the VA Hospital here in Kernersville since 1987. He recently has complained of increasing pain in his left knee, which has been treated conservatively with over-the-counter anti-inflammatory medication and glucosamine chondroitin, and occasional physical therapy. The patient is developing arthritic changes in his left knee due to the residuals of the 1982 service-connected injury, and I believe that eventually, he will need a total knee arthroplasty. I believe that his service-connected disability should be increased because of the arthritic changes in the left knee, and the pain complaints and dysfunction associated with them to 25%. Thank you.

Very truly yours,

Edith Gibson, M.D.

Edith Gibson, M.D.
EG:rjf

Mayberry CLINIC
1110 Hospital Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032



CERTIFICATION OF MEDICAL RECORDS

Patient: Gomer Pyle

Dates: September 1, 2017 through September 5, 2017

I, George Wyle, records custodian at Mayberry CLINIC, hereby certify that the documents annexed hereto, and consisting of 3 page(s), constitute an accurate and legible duplicate of the medical records in our possession regarding the above named patient, as requested, and for which authorization was granted.

Date: March 3, 2019

Custodian: George Wyle



MAYBERRY CLINIC – URGENT CARE

Patient: Gomer Pyle
DOB: February 26, 1964
Date: September 1, 2017
PCP: VA Hospital

History: The patient is a full time auto mechanic for Wally's Service Station, LLC in Mayberry. The patient is brought in for examination and treatment by the Mayberry County Sheriff's Department. The patient was involved in trip and fall incident earlier today, after giving two Sheriff Deputies a lift to the old Rimshaw house. He does not recall what exactly happened, but noted that one minute he was exiting the old Rimshaw house, and the next he found himself on the ground. He believes he fell on his right shoulder, and presents with right shoulder and left knee complaints.

The patient is a United States Marine Corp veteran, and indicated that he generally seeks treatment within the VA system, and does not have any health insurance.

Past History: He indicates that he "long ago" (in the military) had surgery on his left knee, but has had no recent difficulties with it until the accident. He does take over-the-counter ibuprofen and glucosamine chondroitin for "aches and pains" in his left knee, right shoulder and other joints as needed.

Medications: Ibuprofen, glucosamine chondroitin.

Examination: The patient complains of locking, clicking, swelling and redness in the left knee. The knee does appear to be somewhat swollen and discolored. There is some atrophy in the musculature surrounding the left knee, as compared with the right knee. Strength is 4-/5. Range of motion is somewhat restricted, although the patient indicates that this is not unusual for him. Palpation reveals crepitation with flexion. Lachman's test is equivocal. The patient describes his right shoulder as "aching." Range of motion is somewhat restricted, particularly as to internal rotation, although the patient indicates that this is not unusual for him. The patient has no apparent lacerations, bumps or bruises on his head, and denies striking his head on anything in the incident.

X-rays: AP view and lateral radiographic views of the left knee x-rays reveal degenerative arthritic changes (joint space narrowing and osteophyte formation) and post-surgical changes, but no indication of a fracture or other acute injury. X-rays of the right shoulder also show degenerative changes (prominent osteophytes at the AC joint, degenerative changes at the greater tubercle humerus with cystic degenerative changes at the insertion of the supraspinatus tendon, and minimal degenerative changes at the inferior right glenoid rim) but no indication of an acute injury (no fracture or subluxation, no osteochondral defects, no intra-articular loose bodies or bony abnormalities).

Assessment: Bruises. Strain or sprain, left knee, with a possible meniscal tear and underlying degenerative joint disease. Strain or sprain, right shoulder, with underlying degenerative joint disease.

Recommended Treatment: The patient is given a prescription for Vicodin for his pain complaints and ibuprofen as an anti-inflammatory agent. A knee brace is prescribed which should be worn to support his left knee. It is suggested that he rest and ice his knee and shoulder for the next several days. He may return to work as tolerated. He should follow up here, at the Mayberry Clinic if he has further difficulties.

Dr. Thomas Peterson, M.D.

Addendum: At the request of the Mayberry County Sheriff, and with the patient's consent, a legal blood draw test was administered when the patient was seen in Urgent Care on September 1, 2017. The patient was found to have a .12 BAC.



MAYBERRY CLINIC

Patient: Gomer Pyle
DOB: February 26, 1964
Date: September 5, 2017
PCP: VA Hospital

History: The patient is known to me from a prior Urgent Care visit four days ago following a September 1, 2017 trip and fall incident at the old Rimshaw house. The patient did not know what caused his trip and fall, noting that one moment he was exiting the front door of the old Rimshaw house, and the next he was on the ground. He presented at that time with complaints of left knee and right shoulder pain. X-rays were negative for fracture, he was prescribed pain medication, NSAIDs, and a knee brace and told to follow up if his symptoms persisted.

Now, the patient reports that he was working for Wally's Service Station, LLC at the time of the injury, and asked that worker's compensation be billed for his medical treatment.

Past History: He indicates that he "long ago" (in the military) had surgery on his left knee, but has had no recent difficulties with it until the accident. He does take over-the-counter ibuprofen and glucosamine chondroitin for "aches and pains" in his left knee, right shoulder and other joints as needed.

Medications: Ibuprofen, glucosamine chondroitin.

Examination: The patient complains of morning stiffness in the left knee. The knee does appear to be somewhat swollen and discolored. There is some atrophy in the musculature surrounding the left knee, as compared with the right knee. Strength is 4-/5. Range of motion is somewhat restricted. Palpation reveals crepitation with flexion. Lachman's test is equivocal. Mildly positive McMurray's sign.

The patient describes increased right shoulder pain, especially at night. Upon physical examination the patient is noted to have a reduced range of motion. Strength is 4+/5. Pain is reported with rotator cuff testing. Some signs of possible impingement syndrome with further testing.

Assessment: Strain or sprain, left knee, with a possible meniscal tear and underlying degenerative joint disease. Strain or sprain, right shoulder, with underlying degenerative joint disease.

Recommended Treatment: We are going to refer the patient to Dr. Lou Bailey, M.D., in orthopedics for further workup of the left knee and right shoulder conditions. The patient is given a small amount of additional Vicodin for his pain complaints and is instructed to continue using ibuprofen as an anti-inflammatory agent. Rest, ice, compress and elevate (RICE) both the right shoulder and left knee. Continue wearing the right knee brace. He is not to return to work until cleared by orthopedics.

Dr. Thomas Peterson, M.D.



BAILEY ORTHOPAEDICS, S.C.

8025 Excelsior Drive
Mayberry, Wisconsin 53773
262-829-5800

Patient: Gomer Pyle
DOB: February 26, 1964
Date: September 12, 2017
PCP: VA Hospital

HISTORY: The patient is seen on referral from Dr. Thomas Peterson, M.D. (Mayberry Clinic), for left knee and right shoulder complaints since a trip and fall incident nearly two weeks ago. The patient recalled twisting his left knee while falling over the front door jamb in the occurrence, and landing on his outstretched right arm. This was a work-related incident, apparently.

PMH: The patient reports an “old” left knee surgery in the military, but reports that the knee has been “fine ever since.” He reports having had right shoulder complaints from time to time in the past, but denies any symptoms as serious as he has been experiencing since his September 1, 2017 trip and fall.

EXAM: Upon physical examination, the patient has reduced ranges of motion in both the left knee and right shoulder. Crepitus in both joints upon manipulation. 4+/5 strength in the right shoulder. Positive McMurray’s sign in the left knee, which is otherwise stable. Right shoulder testing was equivocal, with suspicions of a possible torn rotator cuff and/or SLAP lesion.

DX: Strain/sprain of the left knee with possible internal derangement of the medial meniscus. Strain or sprain of the right shoulder, superimposed over a pre-existing impingement syndrome, with a possible rotator cuff tear.

PLAN: Proceed with MRI scans of the left knee and right shoulder at Mayberry Memorial Hospital. Patient may return to work with temporary restrictions (avoid prolonged standing, walking, climbing, driving, etc.), as tolerated. I will refill his Vicodin and ibuprofen prescriptions. I am also recommending that the patient begin physical therapy for both the left knee and right shoulder at Mayberry Memorial Hospital. Follow up with me after the MRI scans.

Dr. Lou Bailey, M.D.

Dr. Lou Bailey, M.D.
DLB:rjf



**Mayberry Memorial Hospital
123 Emergency Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032**

IMAGING REPORT

Patient: Gomer Pyle
DOB: February 26, 1964
Date: September 16, 2017
PCP: VA Hospital

History: The patient sustained injury to his left knee as a result of a slip and fall on September 1, 2017. Clinical exam concerning for meniscal and/or ACL pathology.

MRI KNEE LEFT (160355562) Resulted: 09/19/17 1443

Order Status: Completed
Performed: 09/16/17 1059 – 09/16/17 1139
Study Status: Final
Resulted by: Shawn McGuire, M.D.

Signing Signed by: McGuire, Shawn M, M.D.
Radiologist

Narrative:

MRI LEFT KNEE WO CONTRAST, 09/16/17 11:20 AM, Mayberry Memorial

INDICATION:
S/P Knee pain; suspect internal derangement.

COMPARISSON:
None.

TECHNIQUE:

Multiplanar, multisequence imaging of the right knee.

FINDINGS:

Tendons and ligaments: Quadriceps and patellar tendons are intact. ACL shows evidence of small partial-thickness tear. PCL, MCL and LCL are intact.

Articular cartilage: Medial compartment articular cartilage shows moderate thinning, more so medially. There is moderate thinning over the medial femoral condyle, likely osteoarthritis related. Lateral compartment articular cartilage shows minimal thinning. Patellofemoral joint shows mild thinning of the medial facet articular cartilage.

Menisci: Medial meniscus shows evidence of previous partial meniscectomy involving the posterior horn and body. Linear signal abnormality is noted in the remaining portion of the posterior horn, along with moderate fraying of the edge of the meniscal body and several small horizontal delamination tears of the medial meniscus. The lateral meniscus shows no significant tears.

Bone: Small amount of localized subchondral edema in the medial tibial plateau, and a mild to moderate area of subchondral edema involving the medial femoral condyle, likely osteoarthritis related. No grossly aggressive lesions detected.

Other: No significant Baker's cyst.

IMPRESSION:

1. Prior medial meniscectomy, with linear signal abnormality in the remaining portion of the posterior horn and body medial meniscus;
2. Findings suggestive of osteoarthritis of the medial compartment of the knee with mild to moderate articular cartilage thinning, more so medially as well as subchondral edema, primarily localized to the anterior aspect of the medial tibial plateau. Lateral compartment shows minimal osteoarthritis. Patellofemoral joint shows minimal osteoarthritis, more so medially.
3. Small joint effusion.

Reading Radiologist – McGuire, Shawn, M.D.

Dictation Date Time – 09/16/17 14:43



**Mayberry Memorial Hospital
123 Emergency Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032**

IMAGING REPORT

Patient: Gomer Pyle
DOB: February 26, 1964
Date: September 16, 2017
PCP: VA Hospital

History: The patient sustained injury to his right shoulder as a result of a slip and fall on September 1, 2017. Clinical exam concerning for torn rotator cuff and possible SLAP lesion.

MRI SHOULDER RIGHT WO CONTRAST (160355561)

Resulted: 09/19/17 1433

Order Status: Completed
Performed: 09/16/17 0959 – 09/16/17 1039
Study Status: Final
Resulted by: Shawn McGuire, M.D.

Signing Radiologist Signed by: McGuire, Shawn M, M.D.

Narrative:

MRI RIGHT SHOULDER WO CONTRAST, 09/16/17 10:20 AM, Mayberry Memorial

INDICATION:

Z98.89 S/P rotator cuff tear; increased pain and difficulty with ROM

COMPARISON:

None.

TECHNIQUE:

Multiplanar, multisequence imaging of the left shoulder performed without gadolinium.

FINDINGS:

Diffuse moderate loss of articular cartilage at the acromioclavicular joint. Spurring on the margins of the acromion, likely resulting in impingement.

Small partial-thickness tearing of the underside of the supraspinatus tendon with fluid accumulation consistent with tendonitis.

Increased T1 signal intensity in superior portion of labrum, consistent with possible SLAP lesion.

Small-sized shoulder joint effusion present with fluid extending into subacromial/subdeltoid bursa.

IMPRESSION:

1. Partial thickness under surface tear of the supraspinatus tendon;
2. Tendinosis in the rotator cuff;
3. Mild to moderate glenohumeral and acromioclavicular degeneration;
4. Probable SLAP lesion.

Reading Radiologist – McGuire, Shawn, M.D.

Dictation Date Time – 09/16/17 14:33



BAILEY ORTHOPAEDICS, S.C.

8025 Excelsior Drive
Mayberry, Wisconsin 53773
262-829-5800

Patient: Gomer Pyle
DOB: February 26, 1964
Date: September 26, 2017
PCP: VA Hospital

HISTORY: The patient is seen on referral from Dr. Thomas Peterson, M.D. (Mayberry Clinic), for left knee and right shoulder complaints since a trip and fall incident nearly two weeks ago. The patient recalled twisting his left knee while falling over the front door jamb in the occurrence, and landing on his outstretched right arm. This was a work-related incident, apparently.

Patient recently underwent MRI scans of both the left knee and the right shoulder and is here now to discuss those results.

PMH: The patient reports an “old” left knee surgery in the military, but reports that the knee has been “fine ever since.” He reports having had right shoulder complaints from time to time in the past, but denies any symptoms as serious as he has been experiencing since his September 1, 2017 trip and fall.

EXAM: Upon physical examination, the patient has reduced ranges of motion in both the left knee and right shoulder. Crepitus in both joints upon manipulation. 4+/5 strength in the right shoulder. Positive McMurray’s sign in the left knee, which is otherwise stable. Right shoulder testing was equivocal, with suspicions of a possible torn rotator cuff and/or SLAP lesion.

IMAGING: The MRI of the left knee shows chondromalacia patella, multiple tears of the menisci, and a small partial tear of the ACL, along with joint space narrowing and osteophyte complexes. The MRI of the right shoulder shows spurring of the acromion, resulting in impingement, along with cystic changes and a SLAP lesion. There is accumulation of fluid in the rotator cuff, along with increased signal intensity consistent with a partial tear.

DX: The patient appears to have internal derangement of the left knee with a multiple meniscal tears and a partial ACL tear. The patient also has evidence of tears of both the rotator cuff and labrum.

PLAN: I have offered arthroscopic surgery to address the MRI findings in both the left knee and right shoulder. I have recommended an arthroscopic knee surgery to debride or repair the various tears to the menisci and address the ACL tear. I have also recommended an arthroscopic procedure to address the patient's impingement syndrome, and apparent rotator cuff and labral tears. I have recommended that the patient undergo the left knee surgery first, and then approximately six weeks later, he should proceed with the right shoulder surgery. I had a lengthy discussion with the patient about the potential risks of undergoing surgical intervention, including increased symptoms, an aggravation of dormant arthritis or other less than ideal surgical results, and also the very serious risks associated with anesthesia and surgical intervention itself, including but not limited to stroke, seizure, paralysis and even death. The patient is aware of the risks involved, but due to his symptoms and the positive findings on the MRI scans has elected to proceed with surgery as recommended. The surgeries will be scheduled six weeks apart, followed by physical therapy and routine follow up here.

Dr. Lou Bailey, M.D.

Dr. Lou Bailey, M.D.
DLB:rjf



**Mayberry Memorial Hospital
123 Emergency Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032**

OPERATIVE REPORT

Patient: Gomer Pyle
DOB: February 26, 1964
Date: October 10, 2017
PCP: VA Hospital

History: The patient sustained injury to his left knee as a result of a slip and fall on September 1, 2017. Clinical exam concerning for meniscal and/or ACL pathology.

PRE-OPERATIVE DIAGNOSIS: Tear of the medial meniscus with partial thickness tear of the ACL.

POST-OPERATIVE DIAGNOSIS: Tear of the medial meniscus with partial thickness tear of the ACL.

SURGEON: Dr. Lou Bailey, M.D.

ANESTHESIOLOGIST: Robert Louis Stevenson, M.D.

FINDINGS:

1. Multiple small tears of the medial meniscus were debrided.
2. Partial-thickness tear of the ACL was debrided.
3. Grade III Chondromalacia of the medial tibial plateau and medial femoral condyle.
4. Multiple osteophyte complexes.
5. Plica.

INDICATIONS: Gomer Pyle is a 53 year-old male with a past medical history of a prior medial meniscectomy in 1982, and a more recent slip and fall in the beginning of September, resulting in increased knee symptoms, despite conservative treatment. The patient now wishes to proceed with arthroscopic intervention. Risks of surgery were discussed, including bleeding, infection, injury to nerves or blood vessels, wound complications, blood clots, need for a blood transfusion, failure of the operation and need for additional surgery. All questions were answered and no guarantees were made. The patient consents to the procedure of his own free will.

The patient was identified in the preoperative area. The appropriate extremity was identified and marked. He was brought back to the operating room and placed on the operating table. Anesthesia was commenced. A timeout was performed. The left lower extremity was prepped and draped in the usual sterile fashion. A lateral portal was made and the scope inserted into the suprapatellar pouch. The lateral gutter was free from debris. The medial compartment was then entered and several small tears of the medial meniscus were noted, along with prior operative changes, presumably from the 1982 meniscectomy. A combination of arthroscopic biters and the shaver were used to perform a medial meniscectomy. The notch was then entered. The ACL had a small partial-thickness tear which

was debrided back to a stable base. A final lavage of the knee was carried out. Instruments removed. Portals were closed with 3-0 nylon in a standard fashion. Sterile dressing was applied and Ace wrap was applied. Anesthesia was discontinued. The patient was taken to the recovery room in stable condition. There were no complications. Minimal blood loss. He tolerated the procedure well.

D: 10/10/17
T: 10/11/178:21:23
Job No: 2635801



BAILEY ORTHOPAEDICS, S.C.

8025 Excelsior Drive
Mayberry, Wisconsin 53773
262-829-5800

Patient: Gomer Pyle
DOB: February 26, 1964
Date: November 7, 2017
PCP: VA Hospital

HISTORY: The patient was previously diagnosed both clinically and via MRI scans as having internal derangement in the left menisci along with a partial ACL tear. Patient recently underwent left knee surgery on October 10, 2017, and is here in follow up. He is scheduled to undergo right shoulder surgery with Dr. Bailey on November 21, 2017. The surgeries were staggered six weeks apart to permit use of crutches following the left knee surgery.

EXAM: The left knee has two arthroscopic surgery portals, well-healed without any redness or sign of infection. The patient has been attending physical therapy with good results. Near full range of motion in terms of his ability to flex and extend the left knee. Some tenderness upon palpation, but mostly over the anterior portion of the knee and patella. Negative McMurray's. Negative Drawer sign.

DX: Post-arthroscopic medial meniscal repair and partial ACL repair, with a fair result.

PLAN: The patient has reached an end of healing in relation to his left knee condition. Although he has obtained a fair result thus far, the patient is aware that his knee will continue to be symptomatic on and off in the future as a consequence of his arthritis. It is believed that the patient will likely need a total knee arthroplasty at some point in the future. In the meantime, he

may return to work with permanent work restrictions permitting occasional kneeling or squatting and avoid climbing stairs and walking on uneven ground.

In terms of the right shoulder, the patient is permitted to lift or carry a maximum of 10 pounds until his November 21, 2017 surgery, and is to avoid any reaching, lifting overhead or pushing/pulling more than 10 pounds.

John Bender, PA-C

John Bender, PA-C

JJB:rjf

ADDENDUM: The patient was seen in the presence of Dr. Lou Bailey, M.D.



**Mayberry Memorial Hospital
123 Emergency Drive
Mayberry, Wisconsin 53773
(262) 555 – 3032**

OPERATIVE REPORT

Patient: Gomer Pyle
DOB: February 26, 1964
Date: November 21, 2017
PCP: VA Hospital

History: The patient sustained injury to his right shoulder as a result of a slip and fall on September 1, 2017. Clinical exam concerning for rotator cuff tear, SLAP lesion and/or impingement syndrome.

PRE-OPERATIVE DIAGNOSIS: Rotator cuff tear, SLAP lesion, impingement syndrome.

POST-OPERATIVE DIAGNOSIS: Rotator cuff tear, SLAP lesion, impingement syndrome.

PROCEDURE: Neer Acromionectomy, debridement of minor rotator cuff tear and SLAP lesion

SURGEON: Dr. Lou Bailey, M.D.

ANESTHESIOLOGIST: Robert Louis Stevenson, M.D.

FINDINGS:

1. Minor partial-thickness tear of the supraspinatus tendon.
2. SLAP lesion on superior aspect of labrum.
3. Downward slopping acromion with hypertrophy.
4. Degenerative changes of the glenoid and acromioclavicular joint.

INDICATIONS: Gomer Pyle is a 53 year-old male who sustained an injury to his right shoulder as a result of a slip and fall in the beginning of September, and has subsequently failed conservative treatment. The patient now wishes to proceed with arthroscopic intervention. Risks of surgery were discussed, including bleeding, infection, injury to nerves or blood vessels, wound complications, blood clots, need for a blood transfusion, failure of the operation and need for additional surgery. All questions were answered and no guarantees were made. The patient consents to the procedure of his own free will.

The patient was identified in the preoperative area. The appropriate extremity was identified and marked. He was brought back to the operating room and placed on the operating table. Anesthesia was commenced. A timeout was performed. The right upper extremity was prepped and draped in the usual sterile fashion.

The arthroscopy portals were marked. A posterior viewing portal was first established and arthroscope was inserted into the glenohumeral joint. An anterior cannula was placed in the mid glenoid position anteriorly. There was no

gross evidence of arthritic changes. Biceps anchor was intact. The subscapularis was intact. There was a minor partial-thickness tear of the supraspinatus tendon, which was debrided to a stable condition. There was a lesion on the superior aspect of the labrum, which was also debrided back to a stable condition. The infraspinatus was intact.

Instruments removed. Portals were closed with 3-0 nylon in a standard fashion. Sterile dressing was applied and Ace wrap was applied. Anesthesia was discontinued. The patient was taken to the recovery room in stable condition. There were no complications. Minimal blood loss. He tolerated the procedure well.

D: 11/21/17

T: 11/21/17 10:21:23

Job No: 2635801



BAILEY ORTHOPAEDICS, S.C.

8025 Excelsior Drive
Mayberry, Wisconsin 53773
262-829-5800

Patient: Gomer Pyle
DOB: February 26, 1964
Date: January 9, 2018
PCP: VA Hospital

HISTORY: The patient was previously diagnosed both clinically and via MRI scans as having a rotator cuff tear, a SLAP lesion and impingement syndrome. Patient recently underwent right shoulder surgery on November 21, 2017. He has been enrolled in a physical therapy program and is now here for case closure.

EXAM: Surgical wounds appear clean and well-healed without any sign of infection. Upon physical examination the patient has a full range of motion of the right shoulder, with the exception of some discomfort with internal rotation.

DX: Surgically repaired rotator cuff, SLAP lesion and acromioplasty.

PLAN: The patient has reached an end of healing in relation to his right shoulder condition. He should treat future episodic pain with the RICE method. He may return to work without restrictions as far as the right shoulder goes, except he should avoid reaching or lifting overhead more than occasionally. The patient says he may need some worker's compensation forms completed for legal reasons, and I told him I would be happy to assist in any way that I could. He is being discharged from care at this point, but was told to follow up as needed in the future.

Dr. Lou Bailey, M.D.

Dr. Lou Bailey, M.D.

DLB:rjf