STATE OF NEW YORK

WORKERS' COMPENSATION BOARD

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CLAIMANT: INDERJIT SINGH

EMPLOYER: NYBCOICF

CARRIER: NY BLACK CAR OPERATORS'S INJURY COMPENSATION FUND

CLAIM: 70000279

WCB: 00753358

D/O/A: 11/28/2007

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TELECONFERENCE
New York, New York

May 21, 2012
12:30 p.m.

EXAMINATION of SEBASTIAN LATTUGA, M.D., a non-party witness, held at the above time and place, pursuant to Order, taken before CARRIE O'TOOLE, a shorthand reporter and Notary Public within and for the State of New York.

APPEARANCES:

TERRY KATZ & ASSOCIATES, ESQS.

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Attorneys for Claimant
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Jericho, New York 11753
BY: DAVID ROSEN, ESQ.

WEISS, WEXLER & WORNOW, P.C.
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25 Park Place
New York, New York 10007
BY: MICHAEL REYNOLDS, ESQ.

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S-E-B-A-S-T-I-A-N L-A-T-T-U-G-A, M.D., the witness herein, having first been duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

DIRECT-EXAMINATION BY

MR. ROSEN:

Q. Please state your name for the record.

A. Sebastian Lattuga, M.D.

Q. Please state your address for the record.

A. 2001 Marcus Avenue, Lake Success, New York 11042.

Q. Good morning, Doctor. My name is David Rosen. I am an attorney from Terry Katz's office, we represent the Claimant.

I am going to ask you some qualification questions to start off the deposition.

Doctor, what was your medical school and year of graduation?

A. I graduated medical school in 1989, Stonybrook. I did my internship at Mount

Sinai residency in Stonybrook. My license has always been in good standing and not subject to disciplinary review. I am a board certified orthopedic surgeon, certified and re-certified in the year of 2008. My board certification is in good standing. I am a chief at North Shore Franklin Hospital.

MR. ROSEN: Thank you. Mr. Reynolds, do you have any questions for the Doctor's qualifications?

MR. REYNOLDS: I am an attorney were Weiss, Wexler & Wornow on behalf of the carrier and the employer in this matter. I just have a few questions for you.

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Are you licensed to practice medicine in any other state besides New York?

THE WITNESS: New Jersey.

MR. REYNOLDS: Is your license in good standing in New Jersey?

THE WITNESS: Yes.

MR. REYNOLDS: When were you

so licensed?

THE WITNESS: 2002.

MR. REYNOLDS: So it has always been in good standing?

THE WITNESS: Yes, sir.

MR. REYNOLDS: Have you ever had any disciplinary actions against you in New Jersey?

THE WITNESS: No.

MR. REYNOLDS: Have you ever been disciplined in New Jersey?

THE WITNESS: No.

MR. REYNOLDS: I will accept the Doctor's qualifications as coded by the board.

Q. Doctor, during the course of your practice have you ever treated the Claimant, Mr. Singh?

A. Yes.

Q. When was the first time you saw and treated Mr. Singh?

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A. 6/23/11.

Q. What were the complaints, if any?

A. He presented a 60 year old male

driver injured in a motor vehicle accident on 11/28/07, injuring his back and leg as a result.

He presented to my office on this date complaining of back and leg pain, numbness, tingling and dysesthesia. He also complained of neck pain, 6 to 7 out of 10. Lumbar spine at that date was 7 out of 10. He had problems with his activities of daily living, carrying, bending, sitting, standing, descending and ascending stairs.

Q. Did you review any records for that examination?

A. Yes.

Q. What records did you review?

A. I reviewed an MRI of his cervical spine and an MRI of his lumbar spine.

Q. What were the findings on those?

A. The findings on cervical spine showed some spondylosis of the C5-6 disc space and foraminal narrowing. And lumbar MRI 6/15/11 showed consistent with muscle spasm, central herniation at L1-2, bulge at L2-3, lateral bulge at L3-4, recessed

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stenosis at L3L4 and L5S1. Broad based bulge at L5S1 with impingement on the neuro element, left greater than right.

Q. Doctor, can you explain I guess in lay terms what that lumbar spine MRI shows?

A. MRI is consistent with someone who has an injury of a traumatic event. Muscle levels is of a disc injury at L3-4, L1-2, L4-5 and L5S1, most specifically at -- significant impingement of the nerve roots at L5S1, again greater on the right than on -- greater on left-hand side than the right with associated central spinal stenosis.

What that means is that he had a traumatic injury collapse of the disc protruding of the disc compression on the nerve roots and that is what that MRI showed.

Q. Doctor, did you have any findings on physical examination at that time?

A. Yes.

Q. What were they?

A. As follows: Examination of the lower back showed goniometric range-of-motion 20 degrees of flexion, 90 being normal. 10

degrees of extension with 40 being normal. Left and right turning 50 with 60 being normal.

The following abnormality in the wrist five plus out of five on the right hand side. Sensory changes C5-6, C-5, C-6, C-7

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and L4L5. Patient had a positive straight leg raise. And the patient had a normal gait and symmetrical on that date.

Q. Doctor, were the findings consistent with the MRI that you reviewed?

A. Yes.

Q. Was it consistent with the Claimant's complaint?

A. Yes.

Q. Doctor, at that time what was your diagnosis?

A. I guess it was herniated disc with radiculopathy lumbar spine.

Q. Did you have an opinion regarding degree of disability?

A. Yes. He was totally disabled from his regular occupation.

Q. What was your treatment plan for

the Claimant?

A. Based on the fact that he had a two year old injury, based on the fact that he did have prior symptoms including epidural steroid injections and physical therapy, massage, exercise. Based on the fact that he had a subsequent symptoms with an associated neurological deficit and his pain wasn't controlled with narcotic medicine, in addition to the other conservative treatments. Based on the fact his MRI had objective findings, based on the fact that he

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had objective neurological examination, I recommended spinal surgery.

Q. About how often after this examination did you treat him?

A. I saw him on 7/22/11, 9/19/11, 1/14/11, 1/5/12, 1/26/12. And then he had surgery on 2/28/12. And then I had seen him on three visits post-op.

Q. Doctor, in those visits prior to surgery that you noted, had the Claimant's condition improved, worsened or remained the same?

A. It got worse.

Q. Doctor, what type of surgery was performed on the Claimant?

A. He had a posterior compression and fusion 2/28/12 at L4-5, L5S1. Interoperative findings that is recorded in that record revealed a herniated disc, herniation at L4-5, central herniation at L5S1. Patient had a procedure on 2/28/12.

Q. Doctor, how has the Claimant's condition progressed after the surgery?

A. Patient has been coming in since the surgery thus having been satisfactory with respect to operative/post-operative course. He appears to have some pain and disability with respect to his back consistent with his pre-operative condition. He has not yet healed completely. And he

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continues to have objective findings, physical findings consistent with his pre-operative surgery.

Q. Doctor, what is your opinion with regards to the Claimant's level of disability?

A. He is totally disabled.

Q. What is your current prognosis of the Claimant?

A. Prognosis is guarded. Generally it can take many months to fully heal after surgery. The most recent examination I have not seen that the patient has completely healed and ordinarily you probably wouldn't till after three months -- any where from four months to a year you will see.

So at this point it is still guarded, my prognosis.

MR. ROSEN: Thank you very much, Doctor. I have nothing further at this time until redirect, if any.

CROSS-EXAMINATION BY MR. REYNOLDS:

Q. Just a few questions for you on cross examination.

First of all, you're exam and findings prior to the Claimant's surgery which was on February 28, 2012; correct?

A. Yes.

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Q. Doctor, you mentioned that one of the reasons for your taking the surgery was that the Claimant still had persistent complaints of pain which were being controlled with narcotics; is that correct?

A. Yes.

Q. And Doctor, is pain something that can wax and wane on a daily basis?

A. In general.

Q. So reports of pain are subjective in nature?

A. There is a subjective component, yes.

Q. Doctor, the range-of-motion test that you performed on the Claimant, were those limited by pain?

A. Repeat the question.

Q. Sure. The range-of-motion findings that you performed on the Claimant, were those findings limited by pain?

A. Yes.

Q. Would it be fair to say that the Claimant's range-of-motion findings are partially subjective or have a subjective

component to them?

A. There is a subjective component, yes.

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Q. You mentioned in your reports that the Claimant has decreased sensation; is that correct?

A. Yes.

Q. Doctor, how did you determine that the Claimant had decreased sensation?

A. You examine the patient by placing on object in the skin and asking if the patient can respond.

Q. Doctor, when this is being placed where you determine the decrease, would that be compared to a pin-prick test?

A. Yes.

Q. The pin-prick test, does that also have a subjective component to it?

A. Yes, there is.

Q. Doctor, did you note any atrophy at any time with regards to the Claimant's spine?

A. No.

Q. Would it be fair to characterize

the Claimant's reflexes as normal?

A. On which day?

Q. Was there a day during your exams prior to surgery where the reflexes were not normal?

A. They were symmetrical on all days.

Q. Would that be considered a normal finding?

A. Yes.

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Q. Doctor, did you have an opportunity to review the report of a Doctor Hudak and a Doctor Nathan?

A. No.

Q. Would you agree that reviewing those reports would be helpful in coming to an opinion on the Claimant's condition?

A. Not necessarily.

Q. I have a few questions for you. During your examination with the Claimant post surgery, in your report you note that the Claimant's condition has improved, would it be fair to say that his complaints right now are consistent of pain in the lumbar spine?

A. No. I mean, my notes can be abbreviated. Yes, he had some improvement in his complaints before -- from before surgery, but he continues to have similar symptoms prior surgery so there is some objective improvement but not as limited to only that as you characterized it.

Q. Doctor, you noted in your report -- specifically the report that I am looking at, the report dated March 9th of 2012 where you had performed an X-ray on the Claimant's spine, is that on the cervical spine or lumbar spine?

A. On 3/8/12?

Q. 3/9/12, I believe.

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A. Lumbar X-rays satisfactory.

Q. Doctor, can you describe what specific findings on the X-ray led to that?

A. The quality of the bone, the quality of the soft tissue is all that I should be looking at to render an opinion. The March of 2012 were satisfactory.

Q. Doctor, when you characterize the X-ray as being satisfactory, what

specifically does that entail, in laymen terms?

A. The position of the screws having migrated or moved. No erosion due to infection. No collapse or fracture. The soft tissue was intact. And the fusion -- you know, that there is evidence of graph material that hopefully will --

Q. Would you characterize the X-ray as successful?

A. I mean, that is yet to be determined. But it is not affected, the implants were still where I put them and that his symptoms have some subjective improvement, it is not completely healed.

Q. Doctor, you mentioned in your direct testimony that there is a certain period of recuperation that the Claimant will need to undergo before we can determine what his condition is, ultimately how long was that recuperation date?

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A. Six months to a year.

Q. Doctor, finally your examination on the Claimant's cervical and lumbar spine,

that is all you examined?

A. Yes, sir.

MR. REYNOLDS: I have no further questions.

MR. ROSEN: Thank you very much, Doctor.

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(Whereupon, the examination of Sebastian Lattuga, M.D. was concluded at 1:00 p.m.)

Sebastian Lattuga, M.D.

Subscribed and sworn to before me this day of , 2012.

NOTARY PUBLIC

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CERTIFICATE

I, CARRIE O'TOOLE, a Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is hereinbefore set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

CARRIE O'TOOLE

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Sylvia Galina

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Subject: Inderjit Singh/ wcb 00753358/ transcript/ Dr Lattuga/ 5/21/12

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CLAIMANT: INDERJIT SINGH

EMPLOYER: NYBCOICF

CARRIER: NY BLACK CAR OPERATORS' INJURY COMPENSATION FUND

CLAIM: 70000279

WCB: 00753358

D/O/A: 11/28/2007

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TELECONFERENCE
New York, New York

May 14, 2012
10:00 a.m.

STATEMENT ON THE RECORD, of Dr. Sebastian Lattuga, held at the above time and place, taken before CARRIE O'TOOLE, a reporter and Notary Public within and for the State of New York.

APPEARANCES:

TERRY KATZ & ASSOCIATES, ESQS.

Received by WCB Email on 5/22/2012 1:32:07 PM

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MS. LANGDALE: This is Maggie Langdale on behalf of the Claimant. We were scheduled for a deposition this morning of Doctor Lattuga at 10:00 a.m. In communicating with the Doctor's office I have been advised that Doctor Lattuga would have been available at 10:30 this morning.

however, there is a conflict with the carrier's counsel's office with regard to the time. As such we are not able to go forward today due to scheduling conflict. I have also been advised by the Doctor's office that they will compile a list of dates and times for which the Doctor can be rescheduled so we ask that all of the offices continue to be cooperative in trying to get the Doctor to be deposed. Thank you.

MR. MCDONNELL: This is Brian McDonnell appearing on behalf

of the carrier. This is the second time that the Doctor was scheduled for a deposition. He is not available on this second scheduled date as well as on May 8, 2012. We were contacted by the Doctor's office that they are making an application for preclusion but we will cooperate in getting the Doctor to be testified. Thank you.

MS. LANGDALE: Our contact with Weiss, Wexler & Wornow is Sylvia on the 10th and the 11th of May. Thank you.

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CERTIFICATE

I, CARRIE O'TOOLE, a Notary Public within and for the State of New York, do hereby certify:

That the within statement is a true and accurate record of the stenographic notes taken by me.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

CARRIE O'TOOLE

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