

Barbara Clark
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May 21, 2009

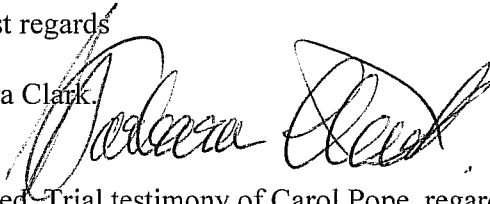
Re: WCAB BAK 0112784
Barbara Clark vs. San Joaquin Community Hospital

Dear Sir,

As you are well aware, due to the fact that I am not allowed to communicate with the claims adjuster, please inform your Client (Adventist Health, claims adjuster Carol Pope) to forward to me in a timely manner, copies of the correspondence sent to utilization review regarding the request for spinal surgery from my primary treating physician (PTP) Dr Allen Salick. (Feb 7th, 2006)
Please also include the **DENIAL** from the utilization review company.

Kindest regards

Barbara Clark.

A handwritten signature in black ink, appearing to read 'Barbara Clark', written over the typed name.

Attached, Trial testimony of Carol Pope, regarding Utilization review.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE FIFTH APPELLATE DISTRICT
METROPOLITAN DIVISION

Sections of Testimony Carol Pope,

BARBARA CLARK ,)	VOLUME 8
Plaintiff/Appellant,)	Pages 789-964
vs.)	COURT OF APPEAL
)	NO. FO56620
SAN JOAQUIN COMMUNITY HOSPITAL,)	CV-245966
Et al)	
Defendant/Respondent.)	September 22, 2008

COPY

APPEAL TO THE COURT OF APPEAL
FROM THE SUPERIOR COURT OF KERN COUNTY
HONORABLE WILLIAM D. PALMER, JUDGE PRESIDING DEPT. 15
REPORTER'S TRANSCRIPT OF TESTIMONY AND PROCEEDINGS
Prepared under 8.130 of Rules of Appeal
Adopted by Judicial Council

APPEARANCES:

For the Plaintiff: MR. JAMES ELLIS ARDEN
5200 Lankershim Blvd., Suite 850
North Hollywood, CA 91601

For the Defendant/
Respondent: MR. MICHAEL C. DENISON
Attorney at law

Reported by: Cynthia Rodriguez, CSR 13038
Official Reporter

1 please.

2 MR. ARDEN: Thank you.

3 If I could ask the witness to turn to
4 Exhibit 49. It has been premarked.

5 THE WITNESS: There is no 49.

6 MR. ARDEN: I have four pages. May --
7 it's already marked. May I?

8 THE COURT: Has Mr. Denison seen it?

9 MR. ARDEN: I'm assuming. Thank you,
10 Your Honor.

11 THE CLERK: I need to mark that.
12 Plaintiff's 75 marked for identification.

13 MR. ARDEN: Okay. Thank you.

14 BY MR. ARDEN:

15 Q. Take a look at that, if you might. You
16 recognize the --

17 A. Yes.

18 Q. And what do you recognize it as?

19 A. A medical report from Dr. Salick dated
20 February 7th, 2006.

21 Q. Requesting authorization for a spinal
22 surgery. Correct?

23 MR. DENISON: Objection. Hearsay.

24 THE COURT: Overruled.

25 A. Yes.

26 BY MR. ARDEN:

27 Q. Did you object to that request?

28 A. I believe I sent it through the

1 utilization review for them to determine whether or
2 not surgery was appropriate.

3 Q. All right. Before we back up to
4 utilization review. Do you know if Ms. Clark ever
5 had that surgery?

6 A. She has had that surgery.

7 Q. Now, can you real quickly explain
8 utilization review.

9 A. It's enacted in 2004 that all reports
10 should go through utilization review which is a pure
11 review of doctors determining whether or not requests
12 from that physician is appropriate based on their
13 medical history, whether it was physical therapy, CT
14 Scan, MRI needed, surgery, physical therapy tens
15 unit, TMJs.

16 Q. Fair to say utilization review is
17 a process where you can have someone else get an
18 expert opinion on whether something is medically
19 necessary?

20 A. Yes.

21 Q. Kind of like a private insurance adjuster
22 but in the workers' comp. setting. Is that fair?

23 MR. DENISON: Objection.

24 MR. ARDEN: I'll withdraw the question.

25 I'm sorry.

26 BY MR. ARDEN:

27 Q. So you submitted to utilization review
28 this request for spinal surgery and what happened to

1 it with utilization review process?

2 A. I believe that they denied it.

3 Q. And the utilization review that is
4 a private company. It's not a government agency of
5 any kind, is it?

6 A. It's enacted throughout the state. It's
7 not a state agency. They are a private entity, but
8 they review all of the medical reports.

9 Q. And there is more than one such private
10 entity that does this, a number of them?

11 A. I'm assuming there are.

12 Q. The utilization review entity the company
13 that actually does this or the entity that does this,
14 is that something that you picked yourself?

15 A. It was the company decision to use them
16 as our utilization review company.

17 Q. Your employer, you are referring to as
18 the company?

19 A. Correct.

20 Q. So your employer picks the utilization
21 review entity?

22 A. Correct.

23 Q. All right. Nothing that Ms. Clark had
24 any input in picking?

25 A. No.

26 Q. Nothing that the Court had any input in
27 picking?

28 A. No.

1 Q. Do you happen to know how long after the
2 spinal surgery was requested before you submitted it
3 to utilization review?

4 A. I don't.

5 Q. Do you know who is -- have you heard of
6 the name Carrie Nevans, N-e-v-a-n-s?

7 A. Yes.

8 Q. Who is that?

9 A. I don't know exactly her title, but she's
10 with the state.

11 Q. Can I ask you to turn, please, to Exhibit
12 68. It's three letters, but it does not look like it
13 was premarked.

14 THE CLERK: We marked it on the 17th.

15 MR. ARDEN: I'm sorry. It was marked.

16 BY MR. ARDEN:

17 Q. Excuse me. Ms. Pope, have you seen --
18 this is an exhibit consisting of three letters. Have
19 you seen any or all of these before?

20 A. Yes.

21 Q. All of them?

22 A. All three of them.

23 Q. Okay. And so did you understand then
24 that Ms. Clark had written to Carrie Nevans, who is
25 with the division of workers' compensation division?

26 A. Yes.

27 Q. Did you take any action in response to
28 Ms. Clark's letter to Carrie Nevans?