State of New Jersey Department of Labor and Workforce Development DIVISION OF WORKERS' COMPENSATION WC-168 r. 4/24/13	**CASE EXHIBIT LISTING** FOR: ☒ PETITIONER ☒ RESPONDENT	CASE NO'S.: 2017-0001 VICINAGE: Atlantic City

Judge: HON. BENJAMIN WARREN WRIGHTMAN, JWC

Petitioner: JAMES JOHN JONES **Respondent:** WASTE AWAY, INC.

Petitioner Attorney: OFFICE OF MICHAEL MONET & ASSOCIATES **Respondent Attorney:** LAW OFFICES OF DONALD MACDONALD, P.C.

					Retained		
Hearing Date	*No.*	*ID*	*Ev.*	*Description*	*Court*	*Atty.*	*Reporter*
07/11/2019	**P-1**	x	x	11/01/2005 report of Jules Irving, M.D.	☒	☐	
07/11/2019	**P-2**	x	x	06/01/2018 report of Jules Irving, M.D.	☒	☐	
07/11/2019	**P-3**	x	x	02/15/2018 report of Alan D. Drake, D.O	☒	☐	
07/11/2019	**R-1**	x	x	10/31/2005 report of Monte Jordan, M.D..	☒	☐	
07/11/2019	**R-2**	X	x	06/02/2018 report of Monte Jordan, M.D	☒	☐	
07/11/2019	**R-3**	x	x	02/15/2018 report of Sigmund Voyyd, M.D.	☒	☐	
07/11/2019	**J-1**	x	x	Summary of Transcript of March 1, 2006 Order Approving Settlement	☒	☐	
07/11/2019	**J-2**	x	x	05/16/18 letter from Donald MacDonald, Esquire to Monte Jordan, M.D.	☒	☐	
07/11/2019	**J-3**	x	x	02/01/2018 letter from Donald MacDonald, Esquire to Sigmund Voyyd, M.D.	☒	☐	
07/11/2019	**PR-1**	x	x	Abbreviated CV for all expert witnesses	☒	☐	
07/11/2019	**PR-2**	x	x	All treating records and reports including relevant MRI studies and report of I.M. Mello of 02/10/2018	☒	☐	
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P-1
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7-11-19

Jules Irving, M.D.
Board Certified
Physical Medicine Rehabilitation, Internal Medicine
Pain Management

431 Complex Street
Northfield, NJ 08215

PERMANENCY EVALUATION

November 1, 2005

Jonas Cochran, Esquire
1750 Main Street
Linwood, NJ 08221

Petitioner:	James John Jones
Respondent:	Waste Away, Inc.
Date of Injury:	January 2, 2003
Date of Examination:	November 1, 2005

Dear Mr. Cochran:

Mr. James John Jones presented for a permanency evaluation in connection with the above referenced work-related injury. The narrative that follows is a summary of the review of the relevant medical records that were provided to me for the purpose of this evaluation. The history and complaints have been obtained from the Petitioner and the clinical findings of the physical evaluation are the results of my personal assessment of the Petitioner.

Mr. James John Jones is a 35 year old male who sustained a serious cervical spine injury during the course and scope on his first day of employment as a driver for Waste Away, Inc. on January 2, 2003. He states that his vehicle was struck in the driver's side door by a pick-up truck which was being operated by an intoxicated individual who ran a red light. The collision caused a significant torsion and flexion/extension trauma to the patient's cervical spine.

The trauma caused Mr. Jones to lose control of his vehicle which then struck a telephone pole causing a brief loss of consciousness.

Mr. Jones was taken by ambulance to the Smithtown General Hospital where x-rays were taken which were negative for fracture.

The Petitioner was admitted for a one-day observation in view of his having lost consciousness and complaining of a severe headache. A brain MRI study was negative as was a skull CT scan, however, a cervical spine MRI study revealed a significant herniation at the left side at C6-7 with

cord contract but no significant indentation of compression. The Petitioner had left-sided radiculopathy. He was seen in neurosurgical consultation by Dr. Samuel Greene who felt that he could safely be discharged for conservative management.

He did not undergo any meaningful physical therapy because it was only making his symptoms worse. He was developing an increase in cervical spine pain with increase in left-sided radiculopathy.

The patient had declined any recommended epidural injections and it was determined that the Petitioner required a C6-7 instrumented fusion to decompress and stabilize his massive disc extrusion which was causing both radiculopathy and myelopathy.

The above-referenced surgical procedure was performed on August 1, 2004 notwithstanding that the original surgery was recommended in May of 2003 but the patient wanted to try everything he could to avoid undergoing surgery. Ultimately the patient had a relatively uneventful surgical rehabilitation. The patient had been preliminarily terminated from his position when he failed a functional capacity evaluation, but upon union intervention, another functional capacity evaluation was performed which demonstrated the patient's ability to perform the essential functions of his job duties.

He had some low back pain initially following the accident, but his symptoms fully resolved after a few weeks.

Mr. Jones now presently complains of pain averaging a 3-5/10 at baseline and worsens to 7-9/10 with any type of overhead exertional activities. He has residual numbness in his left upper extremity in the C6-7 distribution. He has been permitted to resume full duty employment with no lifting restrictions. He currently is taking 2 200 mg of Advil/Tylenol in the morning and evenings and on more physically demanding days, he is taking double the dosage. He is continuing stretching exercises on a daily basis.

He had been an avid bowler and softball player, neither of which he has performed since the compensable accident. He no longer goes into the ocean which he previously enjoyed. He tends to twist his torso to look in the side view mirrors while driving rather than rotating his head. He has some difficulty swallowing. The swallowing difficulty occurred during intubation in connection with his ACDF, however he has not had any formal diagnosis of any esophageal issue on either a traumatic or a neurologic basis.

PHYSICAL EXAMINATION: Physical examination reveals a well-developed male in moderate distress with pain especially with overhead reaching or pulling. There was hyper-esthetic sensation to pinprick in the C6 and C7 dermatomal distribution on the left with decreased sensation to pinprick in the C6 distribution in the left upper extremity. Muscle testing revealed 5/5 motor power throughout both upper extremities. Cervical spine range of motion revealed 20 degree deficits in all spheres with palpable spasm and tenderness at C4-T1 with bilateral posterior trapezius tightness.

IMPRESSION: Orthopedic residuals of chronic cervical spine pain with cervical spine loss of motion and left cervical radiculopathy with residual left upper extremity sensory loss and left upper extremity weakness status-post work related disc herniation at C5-6 status-post decompression of large extruded C6-7 disc with anterior cervical discectomy with interbody fusion.

Within a reasonable degree of medical probability, the above noted injuries are directly and causally related to the patient's work related accident of January 2, 2003. These injuries have produced demonstrable objective medical evidence of restriction of function and lessening to a material degree of working ability as well as interferences with the ability to perform activities of daily living as noted in my narrative report above. The objective findings noted in the body of this report have resulted in permanency in the amount of 65% permanent partial disability with reference to the cervical spine. The estimated disability is based upon demonstrable objective medical evidence and restriction of function to a material degree and is based upon a reasonable degree of medical probability. He has no lumbosacral disability.

Mr. Jones was examined for the sole purpose of evaluating permanent disability and has consented to the release of this report.

Sincerely,

Jules Irving, M.D.

JI/vlh

P2
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7-11-19

Jules Irving, M.D.
Board Certified
Physical Medicine Rehabilitation, Internal Medicine
Pain Management

431 Complex Street
Northfield, NJ 08215

PERMANENCY EVALUATION

June 1, 2018

Michael Monet, Esquire
1217 Lock Road
Cherryfield, NJ 08035

Petitioner:	James John Jones
Respondent:	Waste Away, Inc.
Date of Injury:	July 1, 2016
Date of Examination:	June 1, 2018

Dear Mr. Monet:

Mr. James John Jones presented for a permanency evaluation in connection with the above-referenced work-related injury. The narrative that follows is a summary of the review of the relevant medical records that were provided to me for the purpose of this evaluation. A history and complaints have been obtained from the Petitioner and the clinical findings of the physical examinations are the results of my personal assessment of the Petitioner.

Mr. James John Jones is a 48-year-old male who sustained head, cervical spine and lumbosacral spine injuries during the course and scope of his employment as a waste removal "driver/ specialist" for Waste Away, Inc. on July 1, 2016. He states that he had a slip and fall while descending the steps of his employer's rear loading dock and fell forward down five stairs falling face first [striking his forehead] onto a concrete sidewalk with his body twisted and his arms extended forward in a preventative bracing posture to avoid major head trauma. His head nevertheless struck the concrete with force and with a hyperextension of his neck with his torso twisting with his momentum causing him to tumble forward and ending in a supine position on the concrete based area around the loading dock.

He describes immediate knifelike pain in his neck and a "popping" sensation in his low back. He does not recall whether or not he lost consciousness but describes having felt "dazed" for a few seconds.

He was able to drive himself directly to emergency care at which time he had X-rays performed of his neck, jaw and low back all of which were negative for fracture but were positive for mild

osteoarthritic findings throughout the last three cervical and lumbosacral vertebra. He was diagnosed by that facility as having suffered "facial contusions and abrasions" together with "cervical spine and lumbar spine pain". He was prescribed 800 mg of Ibuprofen three times per day and was referred to "Back to Work Medical" for any further assessment which he would need "if symptoms persisted more than 3 days".

He was given, but did not utilize a "two-day out of work certificate." He actually returned to work the next day performing his regular duties and sought chiropractic treatment with Dr. Manish Knipp by whom he had been treated on a "maintenance basis" for an approximate 15 year period. Dr. Knipp performed manipulations therapy on his cervical spine and lumbosacral spine. The chiropractic modality did not help him and he ultimately was seen at Back to Work Medical on July 16 and on July 17, 2016 by Dr. James Payne (orthopedic surgeon) Dr. Payne performed a routine orthopedic clinical assessment and his impression was "closed head trauma", "neck and low back pain" with a diagnosis of "mild cervical and lumbar strains without radiculopathy".

Petitioner underwent a total of 7 weeks of physical therapy which did not improve his clinical presentation or symptomology. He had been placed on modified duties and had no compensable lost time. He continued with Ibuprofen 800 mg three times per day and was also undergoing a regimen of Flexeril for cervical and lumbosacral paravertebral spasm. The X-rays performed at Emergency Care demonstrated "mild straightening of the cervical and lordotic curvature" together with an early stage of mild osteoarthritis C4-7 and L3-5.

Dr. Payne discharged him for full duty on August 31, 2016 with "no restrictions". The Petitioner thereafter saw his primary care physician [Dr. Hope Moore] beginning September 15, 2016. She found that his bilateral cervical rotation was decreased by 40 degrees; cervical flexion and extension both decreased by 15 degrees with palpable bilateral trapezial spasm; she further found that the lumbosacral spine region demonstrated palpable paravertebral muscle spasm with forward flexion of the lumbar spine decreased by 30 degrees. His straight leg-raising test was negative bilaterally and there was no apparent muscle reflex sensory or strength abnormalities in either the upper or lower extremities.

Her records indicate that the Petitioner was having difficulty sitting in a normal upright fashion. She prescribed a pain management assessment with possible injection modalities regarding her impression of "chronic cervical and lumbosacral pain". It should be noted the Petitioner had also been complaining of headache and continued lightheadedness but there was no referral to a neurologist notwithstanding the signs of a post-concussion disorder at that time. She also took a history of Petitioner developing increased "anxiousness" over the failure of his symptomatology to improve and that he was similarly concerned about maintaining employment if his symptoms persisted much longer.

Ultimately Petitioner declined injection modalities. Parenthetically this report should reference that I previously evaluated this Petitioner on November 1, 2005 in connection with a prior January 2, 2003 injury which resulted in massive disc herniation left sided at C6-7 for which he

underwent August 1, 2004 instrumented fusion surgery notwithstanding that this surgery had been recommended in May 2003. This Petitioner was unusually adamant about rejecting any type of injection modalities and he further attempted to defer recommended and obviously needed significant spinal intervention since his spinal cord was compressed and he had significant cervical myelopathy.

He provided a previous history of being "anti-narcotics" and similarly, it appeared that he was taking a very "holistic" view of rehabilitation following his most recent compensable injury.

Petitioner did not improve with conservative management although he was able to maintain full duty employment but described working in "great pain".

He underwent a weight reduction program and lost 25 pounds. He was home exercising both before and after work for ½ hour with a particular focus on core strengthening and improvement of both cervical and lumbosacral range of motion performing prescribed exercises from the authorized physical therapy.

The Petitioner underwent December 20, 2016 MRI studies of both his cervical spine and lumbosacral spine which revealed C2-5 mild spurring centrally, bilateral facet arthropathy and mild disc desiccation at C3-5. At C5-7 there was mild concentric disc bulging. His C6-7 instrumented fusion was intact. The lumbosacral MRI was normal at all levels except L5-S1 which revealed left sided focal disc bulge with disc desiccation.

The patient had undergone a further course of physical therapy at Core Physical Therapy from June 2, 2017 through September 1, 2017 for the purpose of formal core strengthening and range of motion improvement. These records were not provided but this facility is well known to me because it is the facility which has the reputation as being the best outpatient rehabilitation program for most serious orthopedic injuries.

The Petitioner also was seen by Dr. I.M. Mello on September 10, 2017 who felt he was a candidate for epidural and transforaminal injections. It appears that Dr. Mello had also recommended that Petitioner avail himself of medicinal marijuana especially in view of his aversion to narcotic/opioid pain management modalities. He was not accepted by New Jersey's medical marijuana program. He was "extremely frustrated" and extremely disappointed" over his inability to obtain a course of treatment that was efficacious. I would suggest that he should consider re-application as eligibility pre-requisites have been broadened since his rejection and may have better luck. He would appear to be an ideal candidate given his anxiety and chronic pain with his aversion to narcotics/opioids.

The Petitioner advises that following his previous compensable award for his C6-7 instrumented fusion which award was entered on March 1, 2006 [and I have been provided with a copy of that award] his condition slowly but surely improved. He credited continued aggressive chiropractic maintenance program with Dr. M. Knipp as being a material contributing factor to his functional improvement. By the time of the compensable accident of July 1, 2016 the Petitioner had no

restrictions in connection with his employment duties. He was able to work full time employment with routine overtime without restriction. He had been playing competitive softball and was in two bowling leagues with a reported bowling average in the area of 200. He could routinely lift up to 100 pounds on a repetitive basis in connection with his employment with no difficulty or restrictions. He stated that he had no problem with swallowing. He described occasional symptoms in his C6-7 region which he described as achiness with some radiation into his occipital region and upwards into his temples. He did not describe specific headaches but rather a generalized achiness as above described.

His symptoms lasted no more than an hour and the pain was usually not more than 3/10.

Petitioner has no other history of any pre-existing medical conditions or treatment to his head, cervical spine and/or low back. Petitioner continues to work as a waste removal driver specialist and has had no new accidents or injuries.

PRESENT COMPLAINTS:

He has persistent and moderately severe neck pain that is present on a daily basis. There is no radiculopathy. Petitioner describes his average pain as moderate to severe in the cervical spine region. He has moderately severe axial cervical spine pain that is present on a daily basis. He has similar moderately severe low back pain which is axial in nature and only occasionally radiates into his buttocks on a bilateral basis. All activities such as sitting, standing, lifting or bending increases his neck and low back symptomatology and as such the Petitioner attempts to limit as much of his activities as possible impacting his neck and low back. Petitioner is not sleeping well at night. He is up frequently and has to reposition himself. Petitioner is taking ibuprofen 800 milligrams 3 times per day. Petitioner has discontinued bowling and playing softball. Petitioner has had no new accidents or injuries.

PHYSICAL EXAMINATION:

Examination of the lumbar spine revealed lumbar paraspinal muscle spasm with trigger points noted in both lower paraspinal areas with positive jump and apprehension signs. Sensation to light touch was appreciated fairly symmetrically and in all major dermatomal distributions tested in both lower extremities. Reflexes were +1 and symmetric at the knees and ankles bilaterally. Straight-leg raising to 90 degrees was negative for any radiation of pain in the lower extremity. Manual muscle testing of both legs revealed 5/5 motor power throughout. Range of motion of the lumbar spine revealed lumbar extension of 15 degrees [normal 25 degrees], lumbar flexion of 30 degrees [normal 60 degrees], left and right lumbar flexion of 10 degrees ; 15 degrees lumbar normal (25 degrees]. All normal range of motion values were taken from the AMA Guide to the Evaluation of Permanent Impairment, Fifth Edition.

Examination of the cervical spine revealed bilateral paraspinal muscle spasm with trigger points noted at C4-T1. Sensation to light touch was appreciated fairly symmetrically and in all major

dermatomal distributions tested in both upper extremities. Range of motion revealed deficits in all spheres of 20 degrees.

DIAGNOSES:

1. Orthopedic residuals of cervical strain: chronic cervical spine pain disorder, loss of cervical range of motion, cervical myofascial pain syndrome with likely facet arthropathies at C4-7 with degenerative early disc desiccation and of C3 through C7 with early osteoarthritis at C3 through 7 superimposed upon prior C6-7 instrumented fusion with chronic pain disorder, symptomatic facet arthropathies , cervical myofascial pain syndrome, secondary to aggravation of previous asymptomatic osteoarthritis and relatively asymptomatic degenerative disc disease together with compensable facet arthropathies at C4 through C7.

2. Orthopedic residuals with lumbar strain; chronic low back pain with loss of range of motion, lumbar myofascial pain syndrome and disc desiccation with focal bulge with likely facet arthropathy at L5 - S1.

In my medical opinion, within a reasonable degree of medical probability, the injuries above-noted are directly and causally related to the work-related injuries of July 1, 2016. These injuries have produced demonstrative objective medical evidence of restriction of functioning and lessening of a material degree of the working ability as well as interferences with the ability to perform activities of daily living as noted in my narrative report above.

PERMANENCY RATINGS:

- The objective medical findings noted in the body of this report resulted in a 40% permanent partial disability in reference to the cervical spine secondary to compensable residuals only with overall disability greater due to the pre-existing cervical spine instrumented fusion for which the Petitioner has received an award of 27½% of permanent partial total.
- Objective medical findings in the body of this report have resulted in a 30% permanent partial disability in reference to the Petitioner's for lumbar spine solely to the compensable accident of July 1, 2016.

These estimated disabilities are based on demonstrable objective medical evidence and restriction of function of the above body parts to a material degree and are based upon a reasonable degree of medical probability. Mr. Jones was examined for the sole purpose of evaluating permanent disability and has consented to the release of this report.

Sincerely,

Jules Irving, M.D.
JI/vlh

P3
evid
7-11-19

ALAN D. DRAKE, D.O., P.A.
242 Mallard Road
Ducktown, NJ 08442

609-242-0844
Fax: 609-424-4408

February 15, 2018

Michael Monet, Esquire
1217 Locke Road
Cherry Field, NJ 08035

Re: James John Jones

Dear Mr. Monet:

I psychiatrically evaluated Mr. James John Jones on February 15, 2018. This evaluation considered the numerous reports which have been downloaded and reviewed and as set forth below:

1. Employee Claim Petition
2. Respondent's Answering Statement
3. Treating records of Back to Work Medical of 07/16/16 – 08/31/16 (Dr. Payne)
4. Chiropractic Records of Dr. Manish Knipp of 01/10/03 – 01/10/18
5. March 1, 2006 Order Approving Settlement for 01/02/03 Motor vehicle accident
6. Treating records of Dr. Samuel Greene – 01/10/03 – 05/01/23
7. Transcript of Petitioner's testimony of March 1, 2006
8. Records of Ultimate Recovery Fitness of 06/01/17 – 09/01/17
9. Treating records of Dr. Hope Moore
10. Treating records of Dr. I.M. Mello – 09/10/17 and 02/10/18
11. Cervical and lumbar MRI studies of 12/20/16
12. Report of Dr. Jules Irving dated 11/01/05
13. Report of Dr. Monte Jordan – 10/31/05

Mr. Jones indicates that Waste Away, Inc. employed him. He describes a rather significant trauma which occurred on July 1, 2016 near the end of his shift when he was walking down concrete steps of his employer's rear loading dock and accidently slipped falling forward down five-seven stairs falling face-first on to a concrete sidewalk striking his forehead with his arms unsuccessful in bracing the fall causing not only a severe frontal blow to his head, but also a significant hyper-extension of his neck with his torso twisting and rolling forward wherein he landed on his back feeling a knife-like pain in his neck and a "pop" in his back. He describes an alteration of consciousness inasmuch as he was "dazed for a few seconds" and "saw stars" for a few seconds.

He felt an immediate onset of significant pain of his neck and low back both of which have been chronic to this date and have failed all modalities of conservative management which he has received. Of significance is a past medical history of a compensable accident which occurred on his first day of employment on January 2, 2003 for this very same Respondent when he was involved in a motor vehicle accident. This was the subject matter of a formal Claim Petition and he received an Order Approving Settlement on March 1, 2006 for the orthopedic and neurologic residuals of a disc herniation at C6-7 for which there was an instrumented fusion to decompress and stabilize a massive left-sided extruded disc which was pressing on the left side of the cervical cord and causing left-sided extremity radiculopathy and myelopathy. There was no third party claim filed. He also sustained a lumbosacral strain but this was minimal in nature and resolved. His permanency award was confined solely to his cervical spine and I reviewed a copy of the transcript of March 1, 2006 concerning his complaints at that point in time. I inquired of this patient how he was doing from the date he was in Court until the date of this compensable accident at which time he advised that he continued to make slow and steady progress as a result of his very high determination to "fully" recover. He stated that he was "absolutely determined" to be as strong as he possibly could for his wife and three daughters to which he consistently made reference in a way that made it clear that they are the most important considerations in his life. He stated he had minimal cervical spine residuals by the time his compensable accident of July 1, 2016 occurred.

He stated that his compensable accident of January 2, 2003 was the only time in his 15 years of employment at Waste Away, Inc. that he even lost one day from work for any reason. In fact, he stated that he would have been back to work within two weeks after the surgery, but the employer would not allow him to go back to light duty employment. He stated that I could "look it up" regarding the accuracy of his statement. I suggested that his memory might not be perfect, but he quickly and politely stated that he was "certain of it" as this attendance record is a "very big deal to me." He stated that immediately prior to the accident of July 1, 2016 he was very active in sporting activities including competitive bowling and softball and he was the coach of his three daughters' softball teams. He conceded that immediately before the accident of July 1, 2016, he still had some occasional neck pain and "soreness" notwithstanding that he was in a health maintenance chiropractic program. However, he had no limitations in doing his job. He was not taking any type of medication and he felt very "optimistic" about his future. He stated that he was actually "up for a promotion" as he felt that he was an integral part of his employer's business as it pertained to dealing with customer relations and general employee productivity/responsibility. He felt that he got along with everyone and that he was "respected" by his colleagues at work especially for his take charge attitude.

He states that "everything has changed" since the July 1, 2016 accident occurred. He has basically been in chronic and occasionally severe pain. He admitted that he has been very guarded about admitting as much. He has not been able to undergo a modality of treatment that has allowed him any meaningful recovery. I inquired of him at greater length because I have reviewed the medical records and recognize that he did not have an obvious surgical lesion in either his neck or his low back according to the December 20, 2016 MRI studies nor did he have any significant neurologic deficit in either of his upper or lower extremities. It seemed at first blush somewhat odd to me that a man who has professed such a strong work ethic and desire to provide for his family, was not availing himself of at least preliminary mundane pain

management modalities to determine treatment efficacy. He then provided me with better insight as to this seeming irreconcilable issue. He stated that he is against opioids/narcotics as his main goal in life is providing for his family. He explained the extremely close relationship he had with his twin brother who had been seriously injured in a motor vehicle accident and tragically became addicted to opioids and ultimately died of what appears to be an accidental overdose although this is not entirely clear. The Petitioner did not clearly exclude the possibility of suicide. He was tearful while discussing the issue and therefore I did not press a complete history on the cause of death as being other than an overdose. What is clear is that the brother suffered for a long time with intractable pain and drug addiction and the Petitioner suffered watching his beloved brother experience such a personal nightmare. Mr. Jones was closer to his brother than even the usual enhanced closeness which twin siblings frequently experience. His brother represented a role model to him. His brother was accomplished in academics and athletics and essentially he was successful in almost everything that he tried to do. He lived his life in a way that the Petitioner admired and all of this "came crashing down" when the brother's motor vehicle accident occurred. He never recovered. The Petitioner saw his brother every day of his life (they were next door neighbors as adults) and described that he actually "felt his brother's pain" as he watched his brother spiral downward with his opioid addiction. The Petitioner admitted to feeling "guilt and responsibility" for his brother's death for failing to be more aggressive with his brother in trying to get him to different doctors and/or possibly detoxification. It is clear to this examiner that this tragedy has had a marked effect on the Petitioner at a very deep level representing a major depression. He could benefit from psychiatric intervention inclusive of anti-depressants and psychotherapy even at this late date. I actually discussed this with the Petitioner, but his notions of "masculinity" are such that he would never undergo psychiatric treatment for any level of "mere anxiety and/or depression" as he views such treatment as representing being "weak" and therefore "unmanly."

Other than these deep-seeded convictions, the Petitioner has an otherwise relatively benign psychosocial history. He has spent his entire life in a stable environment in Southern New Jersey. He graduated high school. His parents are living and they are healthy. He has no military or police record. By his account he has had a successful marriage and a faithful marriage over the past 15 years. He is very devoted to his wife who he states has been very understanding of him although he feels a feeling of guilt for "not being the husband she deserves" due to his spinal symptomatology. He derives a great deal of self-esteem from his unusual work ethic and commitment to his employment. He is clearly obsessed with his inability to rehabilitate himself to the point where he could functionally perform physically exertional activities without the significant pain he experienced.

He has insomnia because of his obsessive thoughts regarding his future which he perceives as an uncertainty. He feels that as integral a person which he has been with the company, he will only stay in that position so long as he can provide value to his employer. While he has been doing everything he can to conceal his chronic pain presentation, he is concerned that management "senses" that he is not the same person at this point in time. He feels he is moving slower and cannot perform the repetitive tasks of exertional activities the way he could previously. Sometimes he is not as enthusiastic nor energized as he once was. He does not describe despair, but he does describe being "really scared" about his future.

He further relates that he felt a "potential solution" for his situation was the recommendation of medicinal marijuana by his primary care physician and a pain management physician, Dr. I. M. Mello with whom he consulted. He describes a number of acquaintances who had successfullyutilized medical marijuana and they had previously been hard-working people who were similarly afflicted as he was, but they had both failed surgeries. No physician has suggested that he needs spinal surgery. He feels a further depression due to his ineligibility to at least attempt to benefit from medicinal marijuana.

Mr. Jones presents himself as a 5'6" tall 225 pound 48 year old man. He is very polite. He appears to be a forthcoming individual who is not accustomed to expressing his true inner feelings. He is afraid of his inner feelings insofar as they pertain to a "worse outcome" (i.e. in ability to continue with his employment.) He candidly advised that he has not expressed the depth of what we spoke about to anyone else including his wife. He feels vulnerable. He was alert, cogent and of at least normal intellect. His affects evidenced a certain level of fear in his face and voice when discussing his deep concerns over chronic pain disorder. Analysis of his mood noted dysphoria. Thought content is coherent and goal directed. Analysis of his thought content notes an underlying sense of despair, a loss of sense of wellbeing in which his ambitions and hopes in his life are at risk. He feels that he has done the right thing in devoting himself to his employment as a means for supporting, protecting and providing for his family. He is not a bitter person. His determination is not destructive. There is no evidence of psychosis noted. He was oriented x3. Judgment and reality testing were in keeping with his education.

Mr. Jones has been through two traumatic incidents in his life. The first is the death of his brother which clearly pre-existed his compensable accident of July 1, 2016. The second is his chronic pain disorder secondary to his compensable accident. He is having difficulty coping with his "new normal" of chronic pain which he is having a great deal of difficulty accepting as being potentially permanent in which case he feels his present employment career will be lost. Accordingly he has a Mood Disorder (NOS) with overtones of depression and anxiety causing a 35 percent permanent partial psychiatric disability on a compensable basis. There is an inadequately treated Mood Disorder (NOS) secondary to the trauma of the loss of his brother under very unfortunate circumstances for which the Petitioner feels a certain level of blame. His pre-existing disability on an un-treated basis is 25% permanent partial disability.

He has post concussive syndrome with chronic cephalgia representing 17 ½% permanent partial total.

This examiner recognizes that to the untrained eye it may very well be that the patient is performing the essential functions of his employment duties at work, but they are being performed in spite of a significant pain disorder challenge which has both physical and emotional components.

These estimates of psychiatric disability are based upon objective medical findings and do materially impair the ordinary pursuits of life. My professional opinion is based upon a careful professional analysis of the Petitioner's subjective, observations of the physical manifestations of the symptoms related to his subjective statement and analysis of states of mind beyond his mere subjective statement. All of my opinions are stated within a reasonable degree of medical probability.

Sincerely yours,

Alan D. Drake, D.O.,

ADD/fap

RJ
evid
7-11-19

MONTE JORDAN, M.D.
714 Jersey Road
Westmont, NJ 08108

Phone: 609-108-2018

October 31, 2005

Donald MacDonald, Esquire
16 Rockwell Avenue
Northfield, NJ 08215

Re: James John Jones vs. Waste Away, Inc.
Date of Accident: July 1, 2016

Dear Mr. MacDonald:

You requested an Independent Medical Evaluation for the purpose of addressing the issues of permanency made by Mr. James John Jones which examination was performed on October 31, 2005 at 9:30 a.m. The following is the report on that examination. Mr. James John Jones offers the following past medical history, past work history, a history of injury and present physical complaints, statements and past medical history and subsequent unrelated medical history.

PAST MEDICAL HISTORY AND SUBSEQUENT UNRELATED HISTORY: The examinee relates no prior medical history other than the compensable accident of January 2, 2003. The examinee denies any prior to or problems referable to his cervical or low back. He also denies history of any prior surgeries, fractures, motor vehicle accidents or work-related injuries.

ALLERGIES: None.

FAMILY PHYSICIAN: Dr. Hope Moore

PAST WORK HISTORY: At time of the incident in question, the examinee was employed by Waste Away Inc. as a waste removal driver/specialist.

HISTORY OF INJURY OR CONDITIONS: The examinee alleges primary injury to the cervical spine and secondary low back as a result of a motor vehicle accident occurring on January 2, 2003. Following that accident there was a loss of consciousness with an admission to Smithtown General Hospital where X-rays were negative for fracture. MRI study was negative. CT scan was also negative. An MRI study revealed right-sided C6-7 herniation. He came under the neurosurgical care of Dr. Samuel Greene. His physical therapy only made his overall

symptomology worse. He declined epidural injections and ultimately underwent August 1, 2004 C6-7 instrumented fusion and was released to full duty employment after 3 months of post-surgical rehabilitation.

PRESENT COMPLAINTS: The examinee offers complaints regarding low back: occasional soreness and achiness but essentially he feels he has made a "full recovery". Cervical spine: he complains of occasional mild to moderate pain in the neck with increased severity on overhead activities. He has mild numbness in his left upper extremity extending to his wrist. He has no restrictions on his duties of employment. He takes Advil and Tylenol as needed.

The physical examination of the cervical spine reveals an approximate 4-inch horizontal scar in the anterior cervical spine. Range of motion of all spheres lacked 10 degrees. He has 5/5 motor strength throughout both his upper extremities. He has no spasm or tenderness in his paravertebral cervical musculature or lumbosacral musculature. He has a completely normal examination with respect to his lumbosacral spine with full range of motion; negative sitting and supine straight leg raising; no reflex abnormalities.

I find that the patient has a compensable disability with respect to his cervical spine in the amount of 7 ½% which disability is primarily in connection with the impairment associated with his successful cervical spine instrumented fusion. He has no objective evidence of any permanent partial disability in his low back.

Should you have any further information available on this examinee, I would be happy to review it and offer a supplemental report. Thank you for the privilege of examining this patient regarding the incident in question.

Very truly yours,

Monte Jordan, M.D.

MJ/vlh

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7-11-19

MONTE JORDAN, M.D.
714 Jersey Road
Westmont, NJ 08108

Phone: 609-108-2018

June 2, 2018

Donald MacDonald, Esquire
16 Rockwell Avenue
Northfield, NJ 08215

Re: James John Jones vs. Waste Away, Inc.
Date of Accident: July 1, 2016

Dear Mr. MacDonald:

You requested an Independent Medical Evaluation for the purpose of addressing the issues of permanency made by Mr. James John Jones which examination was performed on June 2, 2018 at 9:30 a.m. The following is the report on that examination. Mr. James John Jones offers the following past medical history, past work history, a history of injury and present physical complaints, statements and past medical history and subsequent unrelated medical history.

PAST MEDICAL HISTORY AND SUBSEQUENT UNRELATED HISTORY: The examinee relates no prior medical history other than a previous compensable accident of January 2, 2003 for which I examined for residual alleged permanency on June 2, 2005. The examinee denies any prior problems referable to his cervical or low back. He also denies history of any prior surgeries, fractures, motor vehicle accidents or work-related injuries.

ALLERGIES: None.

FAMILY PHYSICIAN: Dr. Hope Moore

PAST WORK HISTORY: At time of the incident in question, the examinee was employed by Waste Away Inc. as a waste removal driver/specialist.

HISTORY OF INJURY OR CONDITIONS: The history is a compilation of the examinee's statements and a review of the medical records provided as set forth in the report.

Following my previous evaluation of the examinee, an award of compensation was entered on March 1, 2006 in the amount of 27 ½% permanent partial total for the orthopedic and neurologic residuals of the Petitioner's instrumented fusion at the C6-7 level. The Petitioner states that he continued to perform the essential functions of his job duties which were physically demanding without limitation and that he routinely worked overtime.

He states that he actually never missed a day of work since the time of his last examination by me. He further states that his cervical spine condition progressively improved to the point where he was functioning very well (his words) by the time of the most recent alleged compensable accident of July 1, 2016. He stated that he was able to resume a very ambitious non-working exercise regimen including competitive league bowling two times per week and high performing softball play every season prior to the last compensable accident. He also states that he was not on any medication and had no ongoing medical treatment other than chiropractic maintenance management which he basically was undertaking for what he described as health purposes rather than addressing any type of injury or particular symptom complex.

He states that on July 1, 2016 he fell during the course of his employment sustaining an alleged injury to his neck and low back. He was seen at a local Emergency Care facility on the date of the accident and was diagnosed as having soft tissue injuries and was conservatively managed by way of approximately seven weeks of physical therapy through August 31, 2016. He had undergone a December 20, 2016 MRI studies of his neck and low back which did not reveal any trauma related abnormalities. He had no compensable time lost in connection with this claim. He is performing his full duties and is not treating with any physician at this time nor is he taking any prescription medication.

PRESENT COMPLAINTS: He describes ongoing pain in his neck and low back without a radicular component. He continues to be employed in the same capacity as he was before the accident occurred. He describes enjoying activities involving his family, but that he no longer plays softball or bowls because this type of exertional activity aggravates his spine pain. He has specifically declined any use of narcotic medication. He has declined any potentially helpful pain management injection modalities. He states that his pain presentation has not improved with time nor any physical therapy modalities which he has undertaken. He continues on chiropractic management on a maintenance basis which was part of his "health maintenance" program before July 1, 2016. He denies any new accidents or injuries.

He does not utilize any type of brace or supports.

PHYSICAL EXAMINATION:

Height:	5' 6"
Weight	225
Occupation:	Waste Removal Driver/Specialist
Blood Pressure:	126/82
Age:	48
Dominant Hand:	Right
Pulse:	70

Mr. James John Jones presented to the scheduled appointment in a timely manner. The purpose of this IME is to determine permanency and work status and the need for treatment. My opinions expressed in this report are within a reasonable degree of medical probability. I did not engage in any doctor/patient relationship with the examinee. The examinee was aware of this fact. No radiologist images were provided to me for review at the time of this examination.

GENERAL APPEARANCE: The examinee is generally well-developed, well-nourished male who appears his stated age of 48.

He is a right-handed person who does not wear glasses and appears moderately obese, but appears otherwise fit and in no acute distress.

MUSCULOSKELETAL SYSTEM:

Lumbosacral Spine: On gross examination of the lumbar spine there was no measurable or palpable paraveretbral muscle spasms, swelling or tenderness. He appears to have some flattening of the normal lordotic curvature at the lumbosacral spine. There are no trigger points or tender points noted and there was no asymmetry at the erector spinae. There was no sciatic tilt or list noted at this time. Sitting root test is negative bilaterally. Straight leg raising is accomplished to 80 degrees on the right, as well as 80 degrees on the left.

He extends to 30 degrees and flexes to 70 degrees and could reach the lower part of his lower leg, and the movement of the spine appears to be smooth without any muscle spasm or discomfort. He right laterally rotates to 30 degrees and left laterally rotates to 30 degrees and laterally flexes to 70 degrees bilaterally.

He could stand on toes and heels, and accomplish walking in the examination room without muscle spasm or radicular pain. He appears to have a normal gait with a normal walking pattern and secure balance with good coordination.

LOWER EXTREMITIES: There is no joint effusion swelling, tenderness or muscle atrophy noted about the lower extremities.

NEUROLOGIC: There is no focal neurological deficit or radiculopathy noted at this time.

CERVICAL SPINE: On gross inspection, there is an approximate 4" (four inch) size scar of the anterior cervical spine. All range of motion lacked approximately 10 degrees. He had 5/5 motor strength throughout his upper extremities. He has no significant spasm nor any significant tenderness in his paravertebral cervical musculature.

He had a completely normal examination with respect to his lumbar spine. I find that there has been no change in his clinical presentation since he was last evaluated by me except for his complaints of increased "pain" His overall cervical examination is improved over my last evaluation.

I find that he continues to have a compensable disability with respect to his cervical spine in the amount of 5% solely due to his prior cervical repair. This disability is entirely associated with his successful cervical spine instrumented fusion. He has no objective evidence of any permanent partial disability with respect to his low back.

Should you have any further information available on this examinee I would be happy to review it and offer a supplemental report. Thank you for the privilege of examining this patient regarding the incident in question.

Very truly yours,

Monte Jordan, M.D.

MJ/vlh

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7-11-19

SIGMUND VOYYD, MD.
284 Center Street
Jonesville, NJ 08332

Telephone: 609-123-0796

February 15, 2018

Donald MacDonald, Esquire
c/o MMI INSURANCE COMPANY
P.O. Box 123
Bargainville, NJ 07960

Re:	James J. Jones
DOB:	01/01/1970
Claim #:	ZZZ9876
DOA:	07/01/2016

Dear Mr. McDonald:

Thank you very much for referring to me for an Independent Medical Evaluation, Mr. James John Jones who I examined in my office on February 15, 2018. Mr. Jones was identified by photo ID, was unaccompanied and was advised that there was no doctor-patient relationship.

The following records were reviewed:

1. Employee Claim Petition
2. Respondent's Answering Statement
3. Treating records of Back to Work Medical of 07/16/16 – 08/31/16
4. Chiropractic Records of Dr. Manish Knipp of 01/10/03 – 01/10/18
5. March 1, 2006 Order Approving Settlement for 01/02/03 Motor vehicle accident
6. Treating records of Dr. Samuel Greene – 01/10/03 – 05/01/23
7. Transcript of Petitioner's testimony of March 1, 2006
8. Records of Ultimate Recovery Fitness of 06/01/17 – 09/01/17
9. Treating records of Dr. Hope Moore
10. Report of Dr. I.M. Mello; Treating records/report of Dr. I.M. Mello – 02/10/18
11. Cervical and lumbar MRI studies of 12/20/16

Mr. Jones is a 48-year old married man who states that he was injured on July 1, 2016 while working for Waste Away, Inc. He was employed as a Waste Removal Truck "Driver/Specialist." On July 1, 2016 he fell down "three or four steps" during the course of his employment. Following the accident he was evaluated and treated at a local emergency care on July 1, 2016. He underwent a course of medical treatment which essentially consisted of seven weeks of physical therapy for what appeared to be minor soft tissue injuries through August 31,

2016. He underwent December 20, 2016 MRI studies which were reported to be negative for any trauma related pathology.

The patient did not lose any time from work. The patient has stated he has a chronic "pain" condition for which he is self-medicating.

When asked about his present medical condition, he stated that he experiences constant pain in his low back and constant pain in his neck. Upon further questioning he indicates that it does not prevent him from performing his "full duties" and he further states with some prideful tone in his voice that he has never missed a day of work since this accident occurred.

Mr. Jones' present situation is that he lives in a house two miles from where he works. He has been married one time to his present wife for the past 17 years. They have three daughters ages 15, 12 and 10 all of whom reside in his household. He describes the intra-family relationship as "very close."

His wife and three children are reportedly "doing well."

The Petitioner continues to be employed as a Waste Removal "Driver/Specialist" for the same employer where he has been employed for the last 15 years.

He states that he enjoys watching his children participate in various school activities including sports. They are all softball players and he "never misses a game." He enjoys listening to music, attends church and church social activities. He is capable of driving an automobile without limitation. He will walk for exercise. He does little in terms of cooking, housework or home maintenance, all of which is mostly done by his wife and daughters. Mr. Jones has lived in New Jersey all of his life. He came from a "close family." He denies any prior criminal record by way of any arrest or conviction. He denies the past or present use of alcohol or narcotics. Both of his parents are alive and "healthy." He describes having a twin brother who passed away approximately five years ago after being involved in a very serious motor vehicle accident. He denies any family history of any emotional disorder or substance abuse except for his twin brother who he stated had an "opioid addiction." He denies any history of psychiatric illness. He denies any psychiatric diagnosis in the past. He has never sought psychiatric treatment for any condition. He has no relevant past medical history except for a work related injury of January 2, 2003 when he injured his cervical spine and underwent a C6-7 instrumented fusion. He pridefully states that he was determined to succeed in accomplishing an "almost" complete recovery despite records revealing a 27 ½% permanency award.

He graduated high school and basically has worked throughout his adult life. When asked about his current emotional state, he stated that his chronic physical symptoms are a "challenge" for him, but thus far he has been able to function in an adequate capacity at work. He describes a strong aversion to any type of prescription narcotic medications. He has taken 800 mg Ibuprofen three times per day for his chronic pain presentation. He has sought various modalities of treatment including chiropractic and physical therapy. He investigated the use of medicinal marijuana but it appears that he was not eligible for same in view of what

appears to be an inadequate or insufficient debilitating medical condition to give rise to eligibility. He reports "diminished sleep" because of chronic pain in his cervical and lumbosacral regions. He reports diminished frequency of sexual relations with his wife because of his spine pain. He states that she has been understanding which he "appreciates." He describes having a "strong" relationship with his wife who he states has been "better than any medicine" for him since his accident occurred.

On examination, Mr. Jones appeared as a physically healthy individual who appeared to his stated age. He appeared to have a somewhat muscular build but also appeared to be mildly overweight. He stated that he had gained approximately 20 pounds since the date of the accident.

He related to me in an open, friendly and cooperative manner. His dress and grooming were causal and appropriate. I could detect no bizarre gesturing or posturing. He displayed a normal range of emotions, sometimes smiling appropriately during the evaluation. His thought processes revealed reasonable focus and were goal directed. He seemed prideful of his work ethic and his ability to raise and maintain his family. He stated with conviction that he was not going to let these injuries "get the best of me."

He did not appear to have any difficulty presenting his chronological history. He was clearly oriented as to time and space. There was no evidence of trembling, strained facies, restlessness or other signs of anxiety. There was pause in his response concerning the loss of his brother and he presented with a "healthy concern" about his future as any normal person in his position would. He displayed sadness primarily related to the loss of his brother, but he did not appear to be clinically depressed nor obsessively focused with his loss. I could not detect any evidence of anxiety or depression concerning any of his remarks, tone, gestures or general body language. His memory and orientation were grossly intact. He had no sign of any psychotic thinking, of delusion or formation or hallucinations. There was no sign of obsessional thinking, compulsive activity or phobic avoidance. Judgment was adequate. Intellect was consistent with his level of education.

On the basis of my evaluation, I find at present that Mr. James John Jones is suffering from no clinical evidence of psychiatric disability resultant from his compensable accident of July 1, 2016. Any clinical manifestation of depression or anxiety is most likely related to his brother's death.

Thank you again for referring to Mr. James John Jones. If you have any further questions regarding this case, please do not hesitate to contact me.

Sincerely yours,

Sigmund Voyyd, M.D.

SV/wmh

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7-11-19

SUMMARY OF TRANSCRIPT OF MARCH 1, 2006 ORDER APPROVING SETTLEMENT

Petitioner described his pain as basically a "general achiness in the back of my neck that is there most of the time and varies in intensity between a 3 to a 5 on a scale of 0 to 10." There was "sometimes" a "sharp jabbing pain" that was "more intense" but that was only occurring about "two or three times per month" and seemed to mostly occur with any type of "sudden movement" of his head. He would also experience "frequent" headaches that "seemed to start from the base of my skull and go up to my temples" which would occur approximately once per week and would last about a half an hour to an hour. He described some "radiation" of pain from the neck into his shoulders which seemed to occur more towards the end of the workday. He did not have to wear a brace/collar on his neck. He described his biggest problem as a general "stiffness" of the neck which basically had prevented him from "going back to any of his sports" which had included being both an avid softball player and an avid bowler." He hoped to try to return to them within "a few months." He had basically discontinued both of those sports following the compensable accident and did not return to them until almost a year after he had testified in connection with his claim and gradually progressed in frequency of performing athletics as his functionality improved.

He was also taking at least 800 milligrams of ibuprofen every day; 400 milligrams in the morning and 400 milligrams in the evening. Sometimes he would take two additional pills. He had a prescription for Percocet but he "never used it" after approximately 3 days following his surgery. He testified that he initially had injured his low back but the back pain had only lasted approximately 2 months and he felt that he did not have any ongoing back pain but that it was his intention to continue with chiropractic maintenance so that he could "have the best health possible" both with respect to his neck and his low back. He conceded that he understood that the chiropractic management was not authorized and that he would have to pay the same for himself. He told the court that "the most important thing to me is being able to work and support my family and I want to do everything I can to keep my spine as healthy as possible. I do not intend to do anything that would jeopardize my health but I now believe in chiropractic manipulation. It makes my spine feel more flexible and stronger and I intend to continue to have chiropractic management even once I am able to get back into more rigorous exercising." In response to the question as to whether or not his condition has remained the same, improved or worsened since the time he had been evaluated by the physicians, he stated that he felt that his condition was "slowly improving" and he was hoping that it would continue to do so until "I fully get rid of this problem."

J2
evid
7-11-19

Law Offices of Donald MacDonald, P.C.

16 Rockwell Avenue Northfield,
New Jersey 08215

Certified by the NJ Supreme Court as a
NJ Worker's Compensation Law Attorney

Telephone: 609-873-8713

May 16, 2017

Dr. Monty Jordan
226 76th Street
Smithtown,NJ 08443

Re: James John Jones vs. Waste Away, Inc.
Date of Accident: 01/02/2003
Claim Petition: 2017-001

Dear Dr. Jordan:

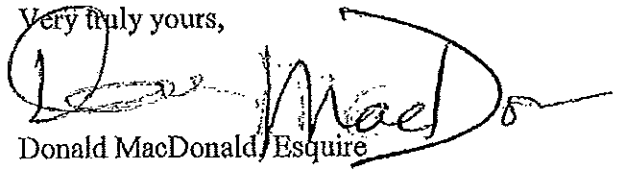
The permanency evaluation in the above-referenced matter has been scheduled for June 2, 2017. You will note that you performed a previous evaluation on this Petitioner on June 2, 2005, a copy of which is enclosed for your quick and easy reference. That was in connection with a compensable accident of January 2, 2003, at which time the Petitioner was involved in a compensable accident and ultimately underwent an August 1, 2004 C6-7 instrumented fusion for which you found compensable disability in the amount of 5% permanent partial total. I am also enclosing a copy of the transcript in connection with the Order Approving Settlement entered on March 1, 2006, for which Petitioner received an Award of 27 1/2% of permanent partial total.

Normally this award would be the baseline for all pre-existing cervical spine disability as of the time of the accident of which we are concerned [July 1, 2016] except all the medical records suggest that the Petitioner was functioning with little or no "disability" at the time of the most recent compensable accident. You are not necessarily bound to your previous rating. The issue in this case is the extent to which the Petitioner has any compensable cervical and/or lumbosacral disability. You will note that he has only had 7 weeks of aggregate physical therapy and that he never lost a day from work. He is now doing his full duty employment without any known requests for accommodation. By all reports he was one of the hardest working employees of the 150 waste removal specialists/drivers that the Respondent employs.

You will further note that there is no evidence of radiculopathy from the cervical spine and or lumbosacral spine and the Petitioner has no disc herniations. Please take a careful history to determine what, if any new accidents or injuries he may have had either at work or otherwise. We are not aware of any. If you have any questions please do not hesitate to contact me directly on my cell phone 201-412-3456.

It is Respondent's position that there is no compensable permanent disability because this claim does not reach the threshold of representing "demonstrable objective medical evidence" of permanent loss of function. At best this would appear to he a minor cervical and/or lumbosacral strain and/or contusion based upon the diagnoses of the authorized treating physicians. It would seem that the MRI findings are strictly degenerative in nature both in respect to disc and vertebral appearance. Please do not hesitate to contact me should you have any questions or wish to discuss any of these issues further.

Very truly yours,



Donald MacDonald, Esquire

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7-11-19

Law Offices of Donald MacDonald, P.C.

16 Rockwell Avenue
Northfield, New Jersey 08215

Certified by the NJ Supreme Court as a
NJ Worker's Compensation Law Attorney

Telephone: 609-873-8713

February 1, 2018

Dr. Sigmund Voyyd
284 Center Street
Jonesville, NJ 08332

Re: James John Jones vs. Waste Away, Inc.
Date of Accident: 01/02/2003
Claim Petition: 2017-001

Dear Dr. Voyyd:

You are scheduled to evaluate the Petitioner on February 1, 2018, in connection with the existence of any compensable neuropsychiatric disability resulting from a compensable fall which occurred on July 1, 2016. It appears that the Petitioner fell forward down a flight of steps and in fact had actually fallen perhaps three or four steps forward striking his face and sustaining alleged trauma to his neck and low back. He was treated conservatively [7 weeks of physical therapy] which he successfully completed. He did not have any loss of consciousness or alteration of consciousness. He did not lose any time from work. He has had no known limitations in his ability to perform his duties. By all reports he is one of the hardest working individuals who continue to drive a waste removal vehicle.

He has had no authorized compensable psychiatric treatment nor any real psychiatric treatment at all for that matter. He does have what appears to be a prior personal tragedy when his twin brother died approximately 4 years ago. There was no known form of psychiatric treatment in connection with that death but it is well-known to his co-workers that he was very close to his brother and the loss was of significance to the Petitioner.

Apparently he has some level of an aversion to narcotic medications. He has not taken any in his life as far as we can tell. He recently alleged that there may be "neuropsychiatric" residuals in connection with his claim. Please conduct your customarily thorough evaluation and advise what if any compensable neuropsychiatric disability you feel the Petitioner has either with respect to his alleged "concussion" and/or any compensable neck/low back disability. Please note that he did have a prior C6-7 instrumented fusion for which he received the previous award of 27 1/2% permanent and partial total which appears has significantly improved to the point where that disability was probably non-existent at the time the most recent accident occurred.

We are in the process of obtaining whatever additional records exist regarding any previous psychiatric treatment but to the best of our knowledge and based upon answers to interrogatories there have been none presented. As you are no doubt aware the statute normally requires both "demonstrable objective medical evidence" of permanent loss of function and/or material interference in his working or non-working activities. That statute applies to all injuries inclusive of head injury and/or neuropsychiatric claims. Here there has been no objective study indicating that there has been any brain injury nor has the Petitioner actually treated for any alleged "concussion syndrome." The medical records suggest some headache and lightheadedness in the physical therapy records but nothing of any significance and certainly no significant course of treatment. It would appear that by the time this accident occurred most if not all of his previous cervical residuals no longer existed.

A psychiatric claim's case law requires a "careful professional analysis" to support a finding of actual psychiatric disability. It would appear that at most this patient may have had some pre-existing depression referable to his brother's death. He had a twin brother with whom he was extremely close. The brother died of an opioid overdose 4 years ago. Please take a careful history in that regard as it may very well explain most if not all of any psychiatric "presentation" that this patient may have.

Should you have any questions please don't hesitate to contact us.

Very truly yours,

Donald MacDonald, Esquire

DMD/fap

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7-11-19

ABBREVIATED CREDENTIALS OF MEDICAL WITNESSES IN LIEU OF FORMAL CV

JULES IRVING: Dr. Irving is a graduate of Johns Hopkins University School of Medicine and has been licensed to practice medicine in the State of New York for the past 30 years and the State of New Jersey over the past 25 years. He holds Board Certifications in physical medicine and rehabilitation; internal medicine and pain management. He is a Fellow of the American Family of Physical Medicine and Rehabilitation and a member of the American Congress of Rehabilitation Medication and he is certified with the National Board of Medical Examiners.

For the past 10 years his medical practice has been split between performing workers' compensation need for treatment and permanency evaluations on behalf of petitioners together with an active pain management practice (Recover Now Institute) of which he is a 25% Principal. He has performed approximately 10,000 permanency evaluations and has appeared for testimony in the Workers' Compensation Court at least 50 times.

ALAN D. DRAKE: Dr. Drake is a Stanford University School of Medicine graduate and is licensed to practice medicine in New Jersey for the past 25 years primarily in the clinical practice of psychiatry with a solo medical practice with the last 20 years spent performing permanency evaluations as to the existence of need for treatment or permanency in the area of workers' compensation on behalf of injured workers. For the past 5 years, 90% of his practice is devoted to workers' compensation evaluations. He has testified in Workers' Compensation Court 75 times. He is Board Certified in the area of both psychiatry and psychology.

MONTE JORDAN: Dr. Jordan is a graduate of the Geisel School of Medicine (Dartmouth) and licensed to practice medicine in New Jersey for the past 35 years. His first 10 years of practice was in the area of emergency room medicine. He was certified by the American Board of Emergency Medicine, but thereafter left that practice to become a principal in the "Back to Work Medical Group" where he was employed for 10 years. He retired from that group to become a need for treatment/permanency evaluator exclusively for respondents in the area of New Jersey workers' compensation for the last 15 years. He has appeared in Workers' Compensation Court at least 40 times.

SIGMUND VOYYD: Dr. Voyyd is a graduate of the Medical University of Vienna. He practiced medicine in Vienna for 10 years and has been licensed to practice psychiatry in New Jersey for the past 20 years. His first 10 years was spent in a private adult clinical practice with his last 10 years confined solely to performing psychiatric evaluations as to the extent of permanency for respondents in workers' compensation. He has testified in Workers' Compensation at least 20 times. He became a US Citizen in 2000 and is fluent in Austrian.

PR-2
evid
7-11-19

DR. I.M. MELLO
12 Weed Street
Northfield, NJ 08225

February 10, 2018

Michael Monet, Esquire
1217 Locke Road
Cherry Field, New Jersey

Re: James J. Jones vs. Waste Away, Inc.
DOB: 1/1/1970

Dear Mr. Monet:

You had requested that I provide you a narrative report regarding my treatment of the above-named patient and my opinion concerning the patient's diagnosis [diagnoses], course of treatment, prognosis and whether or not he has any medical condition within my area of expertise which is related based upon reasonable medical probability by way of causation, aggravation, acceleration and/ or exacerbation to a specific work accident of July 1, 2016.

You have advised that under workers' compensation law if a particular trauma is more likely than not a material contributing factor to either the causation, aggravation, acceleration and/ or exacerbation of a medical condition, the same is compensable under the New Jersey workers' compensation law.

It may be of interest to you concerning my credentials. I am the Medical Director of Holistic Pain Management. I am board certified in both pain management and physical medicine and rehabilitation. I received my fellowship training in pain management at Thomas Jefferson University Hospital. I received my pain fellowship from the Memorial Sloan-Kettering Cancer Center. I also have a PhD in psychology. I specialize in interventional procedures including epidural steroid injections, sympathetic blocks and facet injections.

I saw Mr. Jones as a referral from his primary care physician Dr. Hope Moore on September 10, 2017. Mr. Jones provided a medical history of being in an otherwise normal state of health when on July 1, 2016 he fell during the course of his employment. He apparently fell down five to seven stairs landing face first onto a concrete sidewalk striking his forehead causing significant skull trauma but also a hyperextension of his neck with his torso twisting and rolling forward and landing on his back on a concrete surface with immediate sensation of knifelike pain in his cervical spine and a "pop" in his lower back. He also stated that he did not lose consciousness but had a mild alteration of consciousness being "dazed" and "seeing stars" for a "few seconds." This was treated as a workers' compensation injury. He received approximately 7 weeks of

physical therapy for what was diagnosed as cervical and lumbosacral strains which treatment was unsuccessful. He had persistent pain in both his neck and low back. He received chiropractic manipulations performed by Dr. Mannish Knipp [with whom he had treated on a maintenance basis since January 2003]. Because of persistent symptoms he ultimately underwent cervical and lumbar MRI studies on December 20, 2016. I had opportunity to review the reports in connection with those studies together with X-rays taken by both Emergency Care and Back to Work Medical [Dr. Payne]. The patient provided me with a relevant past medical history of having undergone a successful C6-7 instrumented fusion two years following a motor vehicle accident on January 2, 2003 which surgery was performed by Dr. Samuel Greene. He recovered in relatively uneventful fashion and was able to resume full-duty employment with no restrictions and only occasional soreness. He had no restrictions in connection with the performance of his employment duties which were physically demanding. He was athletic playing both competitive softball and bowling. He advised that the only other minor issues he had with the surgery was that he had lost "a little" range of motion mostly in bilateral rotation but basically he felt that he had made a "95%" recovery. He had not been seen by any physician for any cervical spine condition following his discharge by Dr. Greene in 2004.

He would have "routine" chiropractic maintenance which involved his entire spine but these periodic adjustments were more prophylactic in nature rather than addressing any ongoing medical condition. He has only had the above mentioned one set of MRI studies performed regarding his spine. My personal review of the December 20, 2016 cervical and lumbosacral MRI studies vary to some extent from the radiologist's assessment. I am also a certified "B-reader" although I am no longer practicing radiology. The radiographic studies clearly indicate degenerative disc disease as accurately stated by the radiologist. However more specifically there is multilevel facet arthropathies at the affected vertebral levels referenced in both the cervical and lumbosacral spines. There is also moderate diffuse disc bulging at these same levels with mild to moderate foraminal stenosis.

The patient has described a chronic unabated pain presentation that has been moderately severe since the date of his accident with no meaningful improvement despite modalities of conservative management of traditional physical therapy of 7 weeks at Back to Work. He had subsequent failed core physical therapy at "Ultimate Recovery Fitness" from June 1, 2017 to September 1, 2017. This facility is the leading facility in our area and it is our medical group's preferred facility for core strengthening.

The patient explained to me the tragic loss of his twin brother from an apparent opioid overdose relative to an addiction associated with a serious spinal injury. The patient has an abnormal but understandable aversion to any type of injection modalities and as such he declined any preferred facet injection modalities which I feel are otherwise clearly indicated in this patient as a starting point for a regimen of efficacious pain management as also suggested by his primary care physician.. I explained to him that while there is no "guarantee," at this point the risk would be worth the potential benefit but the patient stated that he simply "could not" undergo any type of injection modalities unless and until he had such severe intractable pain that he was absolutely dysfunctional from working. He preferred to live in chronic significant pain than undergo injection modalities.

He is clearly not a surgical candidate at this point in time. There is no need for any neurosurgical referral. He does not have any type of a serious, significant nerve compression but he clearly has a chronic pain disorder and at the time of my evaluation I felt that he potentially could qualify for medicinal marijuana. I feel this would also be helpful in connection with what appears to be an obvious anxiety which he has over the potential of his losing his employment. He confided that he was not forthright with authorized doctors concerning the severity of his pain. To be sure, while a chronic pain condition can be exacerbated by a concurrent psychiatric diagnosis, the severity of chronic pain created by an aggravation of an otherwise asymptomatic pre-existing facet arthropathy can be severe notwithstanding that the radiographic findings now stating that the diagnostic testing may not necessarily reveal "severe" pathology. In other words the level of chronic pain is not necessarily directly proportionate to the amount of degeneration or osteoarthritic pathology demonstrated by the diagnostic testing. This is a well-established pain management phenomenon.

Utilizing your medical causal relationship test I would conclude that the compensable accident was indeed the material contributing factor for the patient's present onset of chronic pain disorder. Specifically there has been aggravation of asymptomatic pre-existing facet arthropathy for which the most efficacious modalities of treatment would start with injections for facet arthropathies and secondarily medicinal marijuana. The prerequisites for admission to the program have been relaxed by recent legislation and I have recommended the Petitioner to the New Jersey program as a reasonable treatment option for him given his aversion to narcotics and his failure to improve notwithstanding reasonable sustained efforts at physical rehabilitation.

Mr. Jones also could be a candidate for epidural steroid transforaminal injections and possible acupuncture but these would be secondary considerations after a failed attempt at addressing his presumed symptomatic facet arthropathies,

I trust this report addresses your concerns. The prognosis is somewhat guarded. The patient appears to be highly motivated but at the same time his failure to improve is of concern from not only a physical perspective, but it is also an increasing stressor driving his anxiety for which he should take anti-anxiety medications. He clearly has been affected by the loss of his brother but but I have not been able to determine the severity of his depression in my one-time session with him. He may or may not need treatment in that regard.

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Ingrid M. Mello

Ingrid M. Mello, M.D.

IMM/vlh

AMI
APEX MEDICAL IMAGING

474 Apex Avenue
Somers Point, NJ 08244

PATIENT:	James John Jones
MRN #:	920593812
D.O.B.:	01-01-1970
GENDER:	Male
Exam Date:	05/05/2003

MRI OF THE CERVICAL SPINE WITHOUT CONTRAST

HISTORY: Neck pain with paresthesias of bilateral upper extremities after a work related motor vehicle accident of 01/02/2003.

COMPARISON: None

TECHNIQUE: Multiplanar, multisequence imaging was performed on a 1.5 Tesla MRI scanner without intravenous contrast. There is motion artifact on some of the sequences, mildly limiting evaluation.

FINDINGS:

- CRANIOCERVICAL JUNCTION: Unremarkable.
- ALIGNMENT: Normal.
- MARROW: Within normal limits.
- FRACTURES: None.
- SPINAL CORD: No abnormal signal is seen within the cervical spinal cord.
- DISC SPACES: A few mild degenerative changes are seen in the mid cervical region.
- SOFT TISSUES: Within normal limits.

- C2-3: No disc bulge or herniation is seen. The neural foramina are patent.
- C3-4: No disc bulge or herniation is seen. The neural foramina are patent.
- C4-5: No disc bulge or herniation is seen. The neural foramina are patent.
- C5-6: No disc bulge or herniation is seen. The neural foramina are patent.
- C6-7 There is a large central to left-sided disc herniation impinging the bilateral sides of the thecal sac and to a lesser extent, the cord with bilateral inferior extrusion to the disc margin
- C7-T1 No disc bulge or herniation is seen. The neural foramina are patent.

IMPRESSION:

1. There is a large herniation asymmetric to the left at C6-7

Date of Dictation – 05/05/2003 at 8:37 a.m.

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John Jacobs

AMI
APEX MEDICAL IMAGING

474 Apex Avenue
Somers Point, NJ 08244

PATIENT:	James John Jones
MRN #:	920593812
D.O.B.:	01-01-1970
GENDER:	Male
Exam Date:	12/20/2016

MRI OF THE CERVICAL SPINE WITHOUT CONTRAST

HISTORY: Prior cervical fusion of 06/20/2003 with good recovery with re-injury after a work-related fall down steps with hyper-extension of cervical spine and low back trauma.

COMPARISON: 05/05/2003

TECHNIQUE: Multiplanar, multisequence imaging was performed on a 1.5 Tesla MRI scanner without intravenous contrast. There is motion artifact on some of the sequences, mildly limiting evaluation.

FINDINGS:

- CRANIOCERVICAL JUNCTION: Unremarkable.
- ALIGNMENT: Normal.
- MARROW: Within normal limits.
- FRACTURES: None.
- SPINAL CORD: No abnormal signal is seen within the cervical spinal cord.
- DISC SPACES: A few mild degenerative changes are seen in the mid cervical region.
- SOFT TISSUES: Within normal limits.
- There is straightening of the cervical spine
- C2-3 No disc bulge or herniation is seen. The neural foramin are patent.
- C3-4 Mild spurring is noted centrally with mild narrowing of the canal with mild disc desiccation with bilateral facet arthropathy.
- C4-5 Mild spurring is noted centrally with mild narrowing of the canal with mild disc desiccation with bilateral facet arthropathy.

- C5-6 Mild spurring is noted centrally with mild narrowing of the canal with mild disc desiccation with bilateral facet arthropathy. Mild concentric disc bulging is noted
- C6-7 There is evidence of a solid symmetric instrumented fusion.
- C7-T1 No disc bulge or herniation is seen. The neural foramina are patent.

IMPRESSION:

1. There is a mild degenerative osteoarthritis an degenerative disc disease at C3-6 with mild bulge at C5-6 representing early adjacent disc disease.
2. There is a solid symmetric instrumented fusion with no signs of instability or pseudoarthoris. As compared to prior 05/05/03 MRI study, there is multi-level evidence of early osteoarthritic and degenerative disc disease.

Date of Dictation – 12/20/2016 at 10:17 a.m.

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John Jacobs

AMI
APEX MEDICAL IMAGING

474 Apex Avenue
Somers Point, NJ 08244

PATIENT:	James John Jones
MRN #:	920593812
D.O.B.:	01-01-1970
GENDER:	Male
Exam Date:	12/20/2016

MRI lumbar spine without contrast.

HISTORY: Low back pain without radiculopathy after a work-related fall down steps on July 1, 2016.

COMPARISON:

TECHNIQUE: Multiplanar, multisequence imaging was performed on a 1.5 Tesla MRI scanner without intravenous contrast. There is motion artifact on some of the sequences, mildly limiting evaluation.

FINDINGS:

- There is straightening of lumbar spine.
- Conus medullaris is normal in location and signal.
- At L1-L2 there is no spinal canal or neural foramina stenosis nor any disc abnormality.
- At L2-L3 there is no spinal canal or neural foramina stenosis nor any disc abnormality.
- At L3-L4 there is no spinal canal or neural foramina stenosis nor any disc abnormality.
- At L4-L5 there is no spinal canal or neural foramina stenosis nor any disc abnormality.
- At L5-S1 there is mild disc desiccation with left sided focal bulge abutting the thecal sac.

IMPRESSION:

Normal age specific presentation with minimal early signs of degenerative disc disease at L5-S1

Date of Dictation – 12/20/2016 at 10:37 a.m.

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John Jacobs