

How To Spot The Naughty From The Nice W.C. Claimant: Three Case Studies

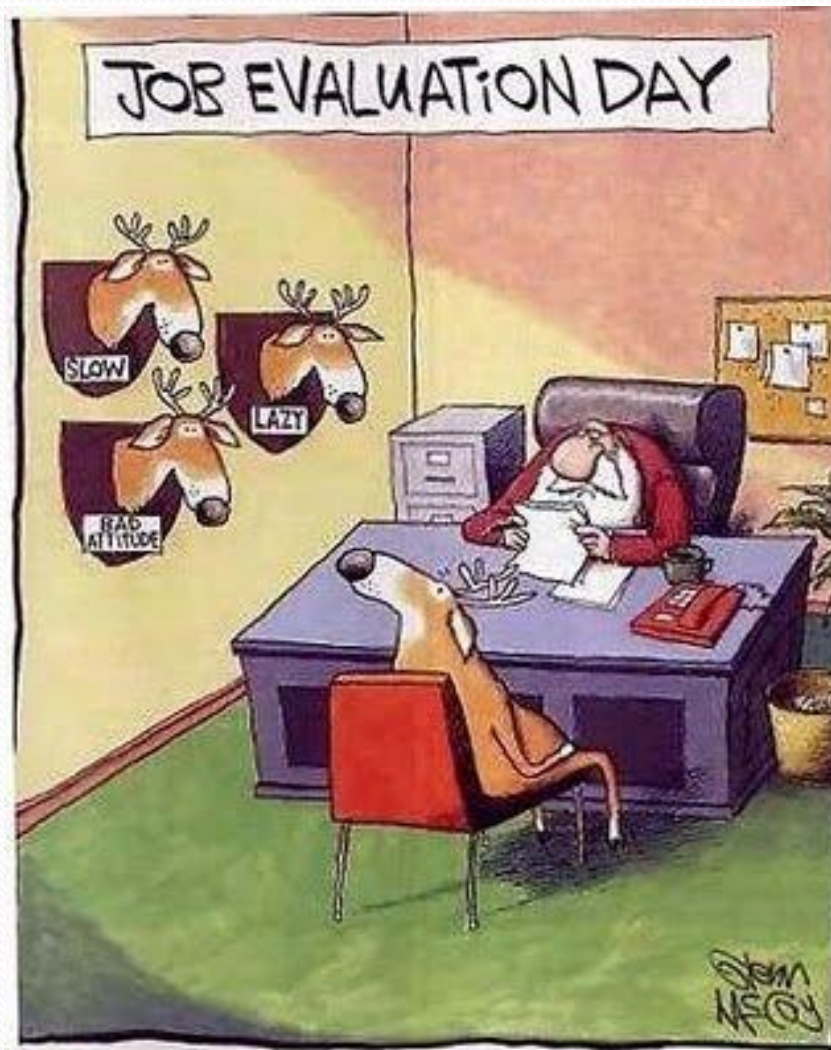
By: Michael J. Bertsch
Nicola, Gudbranson & Cooper, LLC



Telltale Troublesome Claimants

Exceptions = Trouble

- * New Hire Claimant
- * Problem Employee / Multiple Claimant
 - * No or Late Reporting of Incident
- * No Witnesses When There Should Be
 - * Lawyer – Early On
 - * Recent Discipline



Profile Number 1: Teresa

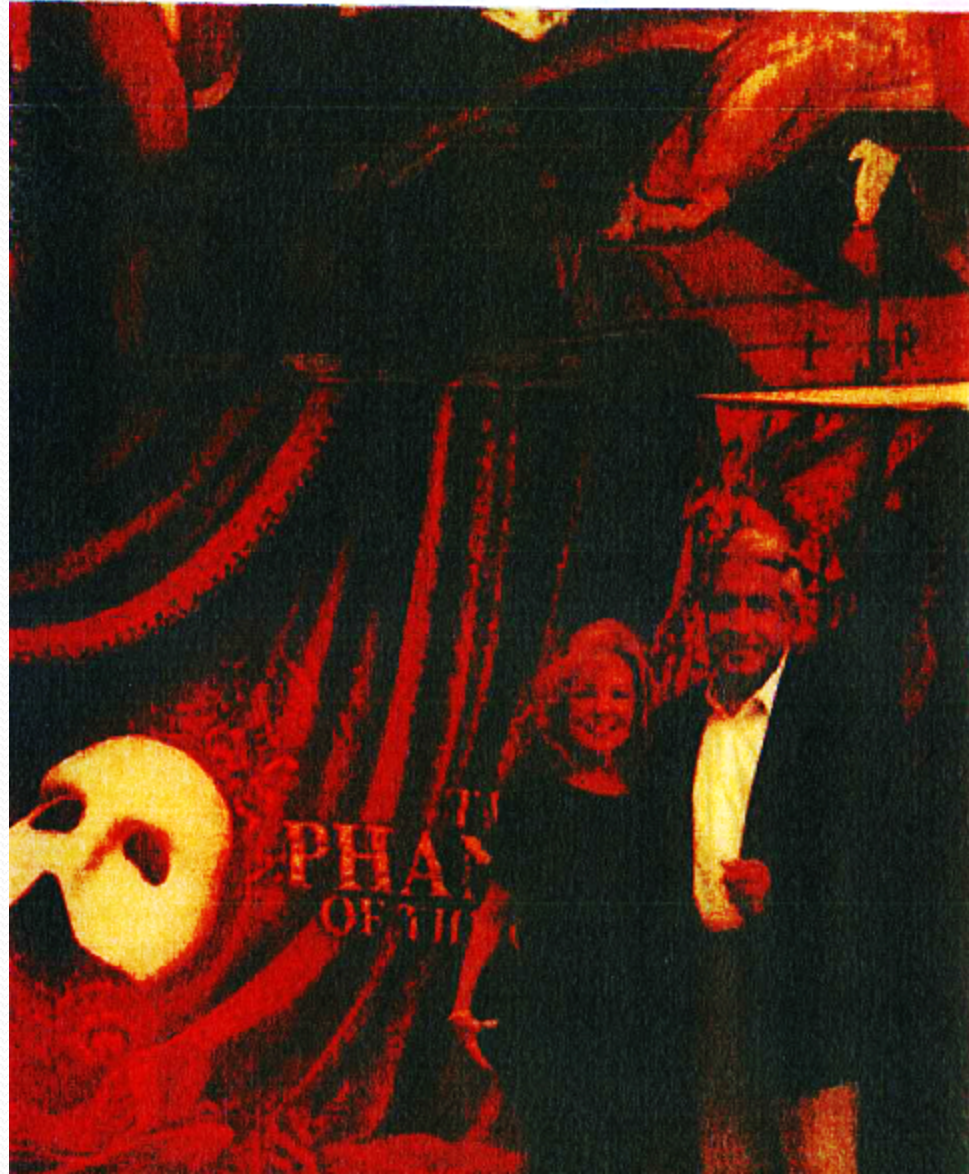
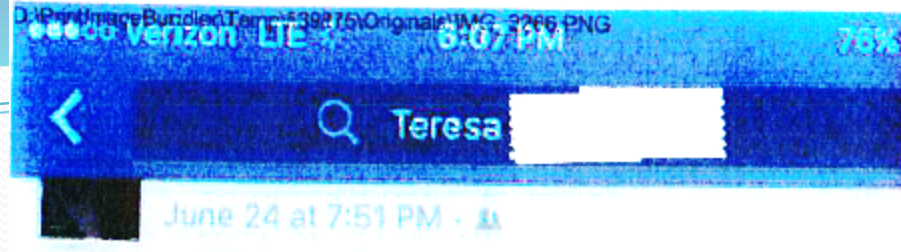
- 56 year old female
- Retail sales associate
- Alleged incident on 6/1/16
- Alleged injury – knee strain
- Trip and fall
- 1st medical visit 5 days post incident
- Late reported by phone
- No incident report
- No witnesses
- History of absenteeism
- Medical records with same symptoms
- Facebook friends



I NO LONGER KEEP A
NAUGHTY OR NICE LIST. I'M
ONLY CONCERNED WITH
WHO FRIENDS ME.







< Teresa [redacted]

Teresa [redacted]

Saturday at 7:35 PM · 🌐

A beautiful evening in town







Teresa

3

September 23, 2016

TO WHOM IT MAY CONCERN:

This is to certify that Teresa is unable to work as of 6/1/2016 do to a work related injury. She had a medical evaluation with me on 6/6, 6/21, and 8/24.

Sincerely yours,

Telephone

Contact Information

Date & Time
10/11/2016 1:46 PM

Provider

Department

Encounter #

Center

Contacts

10/11/2016 01:54 PM

Type
Phone (Incomin

Contact
Teresa

Phone

Reason for Call

Letter

Call Documentation

Author

Status
Signed

Last Editor

Updated
10/11/2016 1:54 PM

Created
10/11/2016 1:46 PM

Teresa is calling T# today - She needs letter for court hearing tomorrow, regarding her workmen's compensation.

The letter needs to state she has been under the care of since 06/06 due to left knee injury and unable to return to work. She is unable to stand more than 15 minutes at a time and would require her knee iced. That she needs assistance going up and downstairs and getting up from a crouching position and is currently taking medication for this injury. Patient said she still continued to get shooting pain down her leg and into her foot.

Patient said she needs this written today.

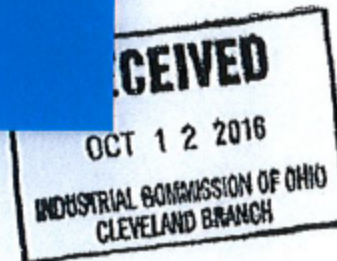
10/12/2016

TO WHOM IT MAY CONCERN:

This is to confirm that Teresa _____ has been under the care of _____ since 06/06 due to left knee injury and unable to return to work. She is unable to stand more than 15 minutes at a time and would require her knee iced. That she needs assistance going up and downstairs and getting up from a crouching position and is currently taking medication for this injury. Patient said she still continued to get shooting pain down her leg and into her foot.

Please do not hesitate to contact my office at the above phone number if you have any questions or concerns.

Sincerely,



Teresa [REDACTED]

[REDACTED] OH | 56 yrs old

7 years experience

Part Time \$15-\$20/hr



BIO

I was a [REDACTED] school teacher for preschool-age children for three years. I have also cared for children in my home ages six-weeks to 3-years old. I am

Profile Number 2: Daniel

- 41 year old male
- 1 month employee
- Tow truck driver
- Injured 11/27/15 while working
- Allowed claim for lumbar strain
- Off work 2 weeks: then radiating leg pain
- PCP requests MRI
- Motion for L4-5, L5-S1 Disc
- PCP refuses to turn over pre-incident records

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"I remind you that my client is nice
until proven naughty."

SPENCER D.
BOK DRIVE

City: N State: OH Zip: 44130

Wage from: 12.00 per Hour ☒ Hour ☐ Month ☐ Year ☐ Other

Have you been offered or do you expect to receive payment or wages for this claim from anyone other than the Ohio Bureau of Workers' Compensation? ☐ YES ☒ NO If yes, please explain.

Employer's name: UN9

Mailing address: UN9

Location, if different from mailing address: UN9

Was place of accident or exposure on employer's premises? ☐ YES ☒ NO If no, give accident location, street address, city, state and ZIP code: EXIT 173 OHIO TURNPIKE

Date of injury/disease: 11-27-15 Time of injury: 3:30 AM If fatal, give date of death: 4 Day of week: THU Date to last worked: 11-27-15 Date returned to work: 11-27-15

Date hired: SEPT 2015 State where hired: OHIO

Description of accident (describe the sequence of events that directly injured the employee, or caused the disease or death): I WAS LAYING ON GROUND LOOKING UP A CAR TO TOW, AND WHEN I GOT UP I TWISTED MY BACK

Date employer notified: 11-27-15

Type of injury/disease and part(s) of body affected (For examples: sprain of lower left back, etc.): HURT LOWER BACK

Remarks (Application/Notice of Release - I am applying for recognition of my claim under the Ohio Workers' Compensation Act for work-related injuries that I did not purposely inflict. I request payment for compensation and/or medical expenses as allowable. Direct payment(s) to the provider of my medical services are authorized. I understand that I am offering my provider no liability in return for my workers' compensation claim to the Ohio Bureau of Workers' Compensation, the Industrial Commission of Ohio, the employer listed in this claim, that employer's assigned care administrator, and any authorized representatives. I further authorize the Ohio Administrative Services Commission to release information about my physical, mental, vocational and social condition that is related directly and indirectly to physical or mental injuries relevant to being necessary for the administration of my workers' compensation claim to the aforementioned parties.)

Injured worker's signature: [Signature] Date: 11/28/15 Telephone: 216 Work number: ()

Health care provider name: SON Telephone number: () Fax number: () Initial treatment date: 11/29/15

Street address: () City: () State: OH ZIP code: 44130

Diagnosis (only include ICD code(s)): Acute Low Back Strain

Was this incident cause the injured worker to miss eight or more days of work? ☐ YES ☒ NO Is the injury causally related to the industrial incident? ☒ YES ☐ NO

Health care provider signature: [Signature] 11-digit IWC provider number: 11/29/15

Employer policy number: () Employer is self-insuring? ☐ YES ☒ NO Injured worker is Owner/Partner/Member of Firm? ☐ YES ☒ NO

Telephone number: () Fax number: () E-mail address: () Federal ID number: () Manual number: ()

Is employee treated in an emergency room? ☐ YES ☒ NO Was employee hospitalized overnight as an inpatient?

- Chief Complaint

Initial Complaint: BWC BACK INJ @ WORK 316 536 3547

Chief Complaint: Pain, Back, Lower-Traumatic

- Allergies

Allergies/Adverse Rxn:

Allergies

Penicillins Allergy (Verified 11/28/15 09:10)

Nausea

- Narrative

HPI/ROS/Exam:

11/28/15 09:21

11/28/15 09:21

This patient was seen independently

CHIEF COMPLAINT: Patient with a history of sciatic back pain radiating into the right leg recently which he says has resolved presents for a new type of lower back pain since last night. States that he was working as a tow truck driver, was laying on his back looking up a tow truck and when he went to stand up and felt a mild pain starting in his lower back with no radiation. Pain located midline. Denies any leg paresthesia. Pain worsened overnight, currently 7 out of 10. He has used 800 mg ibuprofen last night and this morning for pain relief some relief. Patient states he has absolutely no interest in narcotic pain killers. He has never had imaging performed on his back. He denies any elbow or bladder dysfunction, saddle anesthesia.

He states that he was diagnosed with sciatica couple of months ago by his primary doctor for back pain radiating into the right leg. He used to have a large wallet in his right back pocket and was told to move that. Since he stopped putting his while it in his right back pocket he says all of these symptoms have resolved and today's back pain is completely dissimilar to his previous sciatica.

<Electronically signed by Erik K Johnson PA-C>

11/28/15 2056

Patient Name

DANIEL

Unit No:

2

EXAM#

TYPE/EXAM

001215238 RICMR/MRI LUMBAR SP WO CONTRAST

CPT(s)

72148

MRI scan of the lumbar spine without gadolinium 12/28/2015

History: Low back pain

Technique: Multiplanar multisequence MRI scan of the lumbar spine was obtained without gadolinium

Findings: The alignment of the lumbar vertebrae is normal. Marrow signal is within normal limits. The conus appears normal.

L5-S1: There is a shallow central disc herniation which does not cause significant central canal or neural foraminal stenosis.

L4-5: There is diffuse disc bulge. There are moderate hypertrophic facet changes bilaterally. There is mild central canal stenosis. The neural foramina are patent.

L3-4: The findings are unremarkable.

L2-3: The findings are unremarkable.

L1-2: There is mild diffuse disc bulge without significant canal or foraminal stenosis.

Impression:

1. Shallow central disc herniation at the L5-S1 level
2. Mild degenerative changes at the L4-5 and L1-2 levels

** REPORT SIGNED IN OTHER VENDOR SYSTEM 12/28/2015 **
Reported By:

(M)

2015 JAN

11/08/2015

Service 2/9/2016 11:45:10 AM

PAGE 06/29

Med Pa
PCN
Drug Allergies: ☐ NKDA

Daniel

INTERNAL MEDICINE

C/O: Left Pt. Back pain



6-18-15

VS: BP 118/80 P 80 Temp 96.6
Rr 18 Ht 6'1 Wt 270
SpO₂ 97

OFFICE VISIT

EPI:

(Level 4-5 = Address All histories; Level 3 = 1 history; Level 1-2 = 0 histories)

Past Med/Surg History: ☐ HBP ☐ DM ☐ elev. lipids

MEDS

Prevacid

SH: M S D W

FH:

TOB

Fa

ETOH

Mo

Sib

Sib

ROS: (+/-) Const Eyes ENT Cardio Resp GI GU GYN Breast/Skel Skin Neuro
Psych Endocrine Hem/Lymph Allergy/Immuno See additional notes

(≥ 3 for level 4, ≥ 9 for level 5)

PHYSICAL EXAMS: ** Circle (+) findings. Comment abnormal findings. NA = Not Assessed **

General Appears well in no distress
Skin NA (+) itching (+) hives (-) jaundice (-) cyanosis (-)
HEENT NA NOSE: PERFORATED (-) nasal polyps (-) about fundi
Oropharynx: (-) tonsils (-) erythema (-) enlargement
Neck NA (+) Thyroid enlargement (+) nodule (+) adenopathy
CV NA Regular (+) normal cardiac exam (+) S4
Lungs NA Clear (+) normal breath (+) normal crackles
Breast NA Symmetrical (+) normal breast (+) normal axillary
Abd NA (+) ES normal exam (-) normal abdominal

Ed. NA (+) edema (+) distended (+) normal
Back NA Normal back exam (+) normal back
Rectal NA Normal rectal exam (+) normal rectal
Male GU NA Penis/scrotum: (-) lesions
Testicles: (-) masses (+) inguinal hernias
Prostate: not enlarged (-) nodules
GYN NA Ext. Genitalia: (-) lesions
Vaginal: (-) pink mucosa (-) lesions (-) discharge
Cervix: (-) lesions (-) discharge (-) CMT
Bimanual: (-) normal (-) normal
Neuro NA Normal neuro exam (+) normal neuro
Strength 4/5 bilat UE's LE's
Sensation intact to light touch bilat UE's LE's
DTR 2/2 bilat UE's LE's

Profile Number 3: Dorothy

- 60 something female
- Environmental service housekeeper
- Injured in elevator fall
- Allowed for fracture of right 4th and 5th finger
- Surgery
- Off work and paid benefits for 18 months - MMI
- Retired
- SSD
- Lawyer referred Dorothy to psychologist; diagnosed with depression
- “Cannot use right hand”

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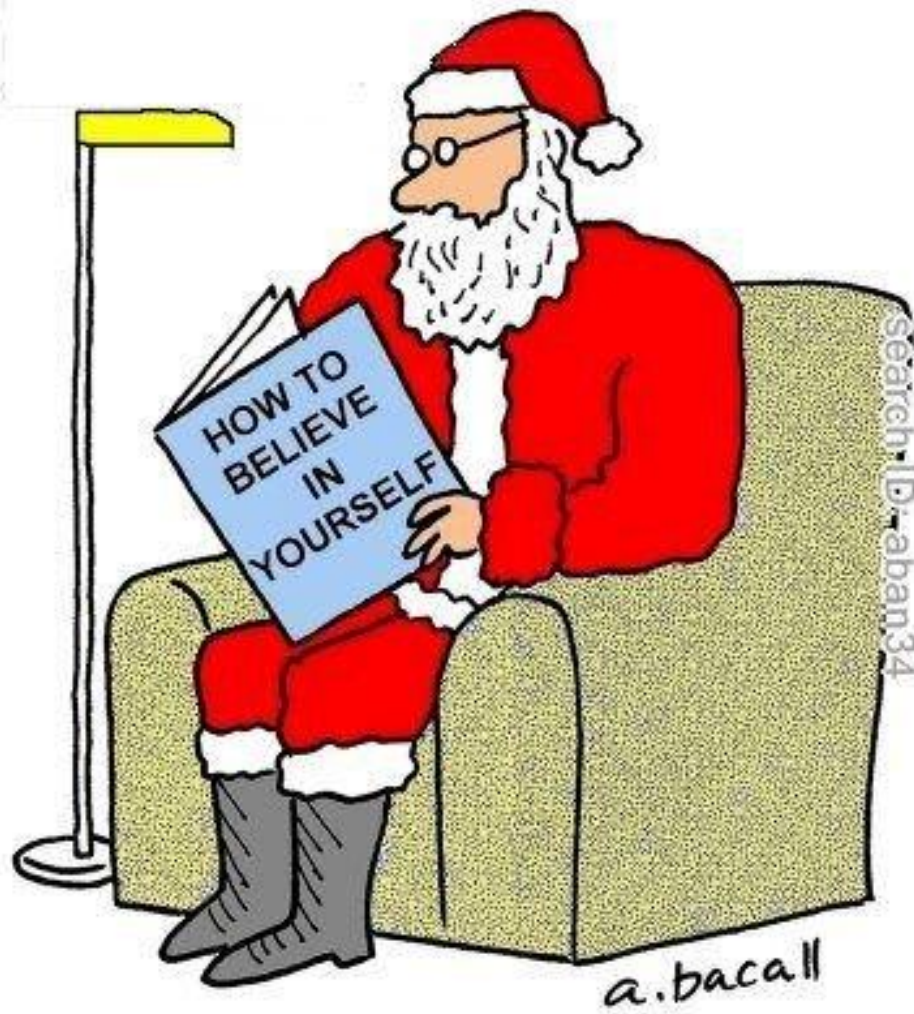


"I didn't ask for a nuanced explanation, it's a very simple question. Is he or is he not on the naughty list?"



NAUGHTY CLAIMANT CHECKLIST

- ☐ Delegate vs. Abdicate
- ☐ Investigate Facts/Medical
- ☐ IME (?)
- ☐ Surveillance(?)
- ☐ Extra ICO Hearing Time







THE END