



1. Relator, James O. Caldwell, is the claimant in the workers' compensation claims carried on the dockets of the Industrial Commission and Bureau of Workers' Compensation as Claim Numbers 85-7164, 92-57172, 94-16613, 99-448741, and 01-335948. Relator's claims resulted from injuries he sustained in the course of, and arising out of his employment with Respondent New Boston Coke Corporation ("New Boston"). Relator suffered severe injuries including conditions recognized in his claims as follows: Claim No. 85-7164 is allowed for strain back (left hip area); Claim No. 92-57172 is allowed for inguinal hernia; Claim No. 94-16613 is allowed for fracture mid shaft of proximal phalang of right index finger; Claim No. 99-448741 is allowed for sprain of neck, sprain thoracic region, sprain lumbar region, aggravation of preexisting spondylosis at C2-3, C3-4, C4-5, C6-7, T11-12, and L5-S1, aggravation of preexisting arthrosis at C5-6, C6-7, L4-5, and L5-S1, herniated disc C4-5, disc bulges with impingement of anterior subarachnoid space at L3-4, L4-5, and L5-S1, major depression, pain disorder associated with physical and psychological conditions, and aggravation of preexisting anxiety disorder; and Claim No. 01-335948 is allowed for sprain subscapularis right shoulder.

2. Respondent Industrial Commission of Ohio ("Industrial Commission") is an administrative agency in the state of Ohio, which is responsible for the adjudication of workers' compensation claims.

3. Respondent New Boston was Relator's employer at the time of the industrial accidents upon which these industrial claims are based.

4. Upon information and belief, New Boston is a dead corporation, which is no longer conducting business in Ohio.

5. On or about April 11, 2006, Relator filed an application for permanent and total disability compensation. ("Exhibit A"). Relator's application was supported by his physicians, Dr. Jack Borders and Dr. S. Douglas Deitch.

6. On September 5, 2006, a hearing was held before a Staff Hearing Officer who issued an order denying Relator's request for permanent and total disability compensation. ("Exhibit B").

7. Relator's application for permanent and total disability compensation was supported by evidence submitted by Relator including the reports of Dr. Jack Borders and Dr. S. Douglas Deitch.

8. There is no proper or competent evidence which supports the Industrial Commission's decision to render a denial of Relator's request for permanent and total disability compensation.

9. The Industrial Commission's order is an abuse of discretion, is arbitrary and capricious, is contrary to law, and is in violation of the Workers' Compensation Act and the Ohio Administrative Code.

10. Relator has exhausted all of his administrative remedies and has no adequate remedy at law.

11. Relator has a legal right to relief from the Industrial Commission's order and the Industrial Commission has a legal duty to provide such relief.

**WHEREFORE**, Relator prays that a Writ of Mandamus be issued against the Industrial Commission requiring it to vacate its order denying Relator's application for permanent and total disability compensation and to issue an order granting Relator's application for permanent and

total disability compensation. Relator further prays for all costs incurred in this action, for reasonable attorney's fees, and for such other relief as the Court deems just and equitable.

Respectfully submitted,

  
Angela D. Marinakis (0061588)  
673 Mohawk Street, 4<sup>th</sup> Floor  
Columbus, Ohio 43206  
Tel: (614) 445-9247  
Fax: (614) 445-9248  
Attorney for Relator,  
James O. Caldwell

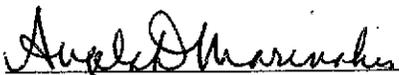
**REQUEST FOR SERVICE**

Please serve upon the below named Respondents copies of the Complaint in Mandamus by certified mail, returned receipt:

**INDUSTRIAL COMMISSION OF OHIO**  
30 West Spring Street  
Columbus, Ohio 43215

**and**

**NEW BOSTON COKE CORPORATION**  
Address Unknown

  
Angela D. Marinakis (0061588)  
Attorney for Relator, James O. Caldwell



The Industrial Commission of Ohio

APPLICATION FOR COMPENSATION FOR PERMANENT TOTAL DISABILITY

\*Please type or print clearly and answer all questions to the best of your ability.

Your cooperation in completing this form will aid in processing this application on a timely basis.

\*To assure prompt processing, this application should be filed directly with:

The Industrial Commission of Ohio
Claims Management
30 W. Spring St. 5th floor
Columbus, Ohio 43215-2233

Form with fields for Claimant's Name (James Caldwell), Social Security Number, Date of Birth (05-09-44), Address (300 Bel-Air Drive), Telephone Number ((740) 259-5302), City (Lucasville), State (Ohio), and Zip Code (45648).

List all of your Workers Compensation claims that you want to have considered in the processing of this application.

[X] All Claims (If you check this box, list only your most recent claim number below)

Claim Number 99-448741 Date of Injury 07-07-99 Employer New Boston Coke Plant

Claim Number 01-335948 Date of Injury 02-22-01 Employer New Boston Coke Plant

Claim Number 94-16613 Date of Injury 08-07-94 Employer New Boston Coke Plant

Claim Number 92-57172 Date of Injury 07-05-92 Employer New Boston Coke Plant
85-7164 03-27-85 New Boston Coke Plant

Medical examinations will only be conducted for conditions allowed in the above listed claims.

I am permanently and totally disabled as the result of the injuries sustained in the forgoing claim(s) and request that the Industrial Commission grant compensation for such disability. I further state that Dr. Deitch and Dr. Borders has certified that I will never be able to return to my former position of employment and attached to this form is a copy of the Doctor's report. When was the last date you worked anywhere? September 2002

OTHER DISABILITY BENEFITS

Have you ever filed for Social Security Disability benefits? [X] yes [ ] no

If you are now, or ever have, received Social Security Disability payments, complete the following section.

\*This does not apply to Social Security Retirement\*

Table with columns: STARTING DATE (2004), TERMINATION DATE AND REASON FOR TERMINATION, RATE PER MONTH (\$1,668.00)

Do you receive disability benefits other than Social Security? (i.e., VA, Fireman & Police Officer Disability, etc.) [ ] yes [X] no

EDUCATION

What is the highest grade of school you completed? 12th When? 1962

Where? Wheelersburg High School

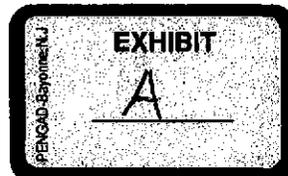
Did you graduate from high school? [X] yes [ ] no

If no, did you receive a certificate for passing the General Educational Development test (GED)? [ ] yes [ ] no

Why did you end your schooling?

Have you gone to trade or vocational school or had any type of special training? [ ] yes [X] no

Notice to USE ONLY
Upon receipt of this application, forward immediately to
The Industrial Commission of Ohio, Claims Management
at the address indicated above.



If yes, what type of trade school or special training have you received and when? \_\_\_\_\_

How has this schooling or training been used in any of the work you have done? \_\_\_\_\_

Can you read?  yes  not well  no

Can you write?  yes  not well  no

Can you do basic math?  yes  not well  no

### MEDICAL HISTORY

Doctor's Name Dr. Jack Borders Address Ashland, KY

Date first seen 2005 Date last seen Present time.

Reason My industrial injury.

Doctor's Name Deitch Address Ashland, KY

Date first seen 2004 Date last seen Present time.

Reason My industrial injury.

Doctor's Name George Harlow Address Portsmouth, Ohio

Date first seen 1999 Date last seen Present time.

Reason My industrial injury.

### List all operations and surgical procedures you have undergone, beginning with the most recent.

Date 7-27-92 Name of surgical procedure Hernia repair

Date 1994 Name of surgical procedure Repair of right index finger

Date \_\_\_\_\_ Name of surgical procedure \_\_\_\_\_

Date \_\_\_\_\_ Name of surgical procedure \_\_\_\_\_

Date \_\_\_\_\_ Name of surgical procedure \_\_\_\_\_

Do you use a cane, brace, TENS unit, traction device, oxygen machine, or any other appliance or device on a regular basis?  yes  no

If yes, please specify. Back brace

What other medical conditions prevent you from working? No.

### REHABILITATION HISTORY

Have you ever participated in rehabilitation services?  yes  no Please explain \_\_\_\_\_

Doctor felt I am not a candidate for rehabilitation.

If you have not sought or participated in rehabilitation services, are you interested in rehabilitation services offered by the employer or the Bureau of Workers' Compensation and do you desire to undergo rehabilitation evaluation?  yes  no

Describe other limitations or changes in your lifestyle. I suffer from severe pain and discomfort continuously. I am severely depressed and nervous. I am withdrawn from family and friends. My back pain and medication has affected my sexual activities.

**DATE ACTIVITIES**

Has your treating physician told you to cut back or limit your activities in any way?  Yes \_\_\_ No  
 If yes, give the name of the doctor and tell below what he told you about cutting back or limiting your activities.

Can you drive a car?  Yes \_\_\_ No

I can only drive short distances as my back kills me and my left leg goes numb. I suffer from severe pain and discomfort on a daily basis. My lifting, bending, kneeling, stooping, twisting, climbing and reaching is limited. My sitting, standing and walking is limited. I am severe depressed and nervous. I suffer from severe anxiety. I have loss of concentration and loss of memory. I have problems getting dressed. I have problems sleeping. I am up and down all during the night.

Describe your daily activities in the following areas and how much you do of each and how often.

Housekeeping Chores: (meal preparation, laundry, home repairs, etc.) I try to do small loads of laundry. I try to do light house work with breaks in between.

Recreational Activities and Hobbies: ( bowling, hunting, etc.) None. Prior to my industrial injury I enjoyed golfing and since my injury I am unable to do so.

Describe other limitations or changes in your life style, if any, resulting from the allowed conditions in your claim.

I am unable to golf, hike, dance, ride bikes, and sporting activities since my injury. I feel that everything has been taken away from me which causes my depression and anxiety. I was very outgoing and now I am withdrawn. I have crying spells for no reason. I have had suicide idealation.

**WORKHISTORY**

**Part 1 INFORMATION ABOUT YOUR WORK HISTORY**

List all the jobs you have had. Start with your most recent job first and then work backwards to the first job you ever held.

List SELF-EMPLOYMENT as you would any other job.

Job Title (Be sure to begin with your most recent job)	Type of Business or Industry (Example: auto, insurance, construction, etc.)	Dates Worked (Month and Year)		Days Per Week	Specify Rate of Pay (per hour, day, week, month or year)
		From	To		
1 self employed	Laborer	03/02	09/02	2-3	15.00 per hour
2 Leader	Industry	09/64	03/02	5-6	844.85 per week.
3 Assemblyline worker	Foundry	09/63	09/64	5	
4 Assistant Foreman	Industry	1962	1963	5	
5					
6					
7					
8					

Do you have military experience?

yes  no

If yes, provide dates of service,

positions held and description of duties

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Job Title No. 1 (from Part 1)** Self Employed



Describe your basic duties - what you did and how you did it. Please provide as much detail as possible.

1. Your basic duties: My job consisted of building decks, mowing grass, yard  
remove dirt.  
work, digging ditches, removed wood stumps from yards by hand, carry building  
material, and general labor. Extremely hard work. Heavy lifting, constant  
bending, stooping, twisting and climbing. I was unable to continue to work  
due to the pain.

2. Machines, tools, equipment you used: Madax, axe, shovel, pry bars and  
wheel barrels.

3. Exact operations you performed: See above.

4. Technical knowledge and skills you used: None. Heavy labor.

5. Reading / Writing you did: None.

6. Number of people you supervised: None.

**Walking** (circle the number of hours a day spent walking)      0 1 2 3 **4** 5 6 7 8  
**Standing** (circle the number of hours a day spent standing)      0 1 2 3 **4** 5 6 7 8  
**Sitting** (circle the number of hours a day spent sitting)      0 **1** 2 3 4 5 6 7 8  
**Bending** (circle how often a day you had to bend)      Never - Occasionally - Frequently - **Constantly**

Check below the heaviest weight lifted, weight frequently lifted and / or carried.

Heaviest weight lifted:		Weight frequently lifted / carried:	
<input type="checkbox"/> 10 lbs.	<input type="checkbox"/> 100 lbs.	<input type="checkbox"/> Up to 10 lbs.	<input checked="" type="checkbox"/> Up to 50 lbs.
<input type="checkbox"/> 20 lbs.	<input type="checkbox"/> Over 100 lbs.	<input type="checkbox"/> Up to 25 lbs.	<input type="checkbox"/> Over 50 lbs.
<input checked="" type="checkbox"/> 50 lbs.			

**Job Title No. 2 (from Part 1)** Leader/Top Man



Describe your basic duties - what you did and how you did it. Please provide as much detail as possible.

1. Your basic duties: My job consisted of lining up the crew, making out reports, shovelling coal, telling others how to perform their jobs, extremely heavy lifting of hammer mill, grading from hammer mill, breaker plates for hammer mill weighing approximately 130 pounds, lubricating equipment, constant climbing of steps at the mill. I had to climb 111 steps every morning to start my shift. I had to climb on and over railroad cars. Pull winch cable and hook. Hard labor. Extremely heavy lifting, constant bending, kneeling, stooping, crawling, climbing, and twisting. I was also cleaned buckets with a sledge hammer, beating the dirt off the buckets.

2. Machines, tools, equipment you used: shovel, sledge hammer, steel bars,

11

3. Exact operations you performed: After my 1999 industrial injury, my co-workers pulled together and helped me perform my duties required of me. They would do all the heavy labor for me as I was unable to do it any longer.

4. Technical knowledge and skills you used: None.

5. Reading / Writing you did: When I said I done reports, it was graft chart for the performance of the days work.

6. Number of people you supervised: None. We were union.

**B**

Describe the kind and amount of physical activity this job involved during a typical day in terms of:

Walking (circle the number of hours a day spent walking) 0 1 2 3 4 5 6 7 8  
 Standing (circle the number of hours a day spent standing) 0 1 2 3 4 5 6 7 8  
 Sitting (circle the number of hours a day spent sitting) 0 1 2 3 4 5 6 7 8  
 Bending (circle how often a day you had to bend) Never - Occasionally - Frequently - Constantly

Check below the heaviest weight lifted, weight frequently lifted and / or carried.

Heaviest weight lifted:

Weight frequently lifted / carried:

- 10 lbs.       100 lbs.       Up to 10 lbs.       Up to 50 lbs.  
 20 lbs.       Over 100 lbs.       Up to 25 lbs.       Over 50 lbs.  
 50 lbs.

**Job Title No. 3 (from Part 1)** Assembly line worker**A**

Describe your basic duties - what you did and how you did it. Please provide as much detail as possible.

1. Your basic duties: My job consisted of prolonged standing at an assembly line bolting in the motor on the refrigerator eight hours per day. I was required to bend constantly. The refrigerator was on the line, I would bend down, lift the motor, bolt it on and lift the refrigerator off the line and do this 8 hours per day. Heavy lifting, constant bending, twisting and stooping.  
 2. Machines, tools, equipment you used: Air gun tool.

3. Exact operations you performed: See above.4. Technical knowledge and skills you used: None.5. Reading / Writing you did: None.6. Number of people you supervised: None.**B**

Describe the kind and amount of physical activity this job involved during a typical day in terms of:

Walking (circle the number of hours a day spent walking) 0 1 2 3 4 5 6 7 8  
 Standing (circle the number of hours a day spent standing) 0 1 2 3 4 5 6 7 8  
 Sitting (circle the number of hours a day spent sitting) 0 1 2 3 4 5 6 7 8  
 Bending (circle how often a day you had to bend) Never - Occasionally - Frequently - Constantly

Check below the heaviest weight lifted, weight frequently lifted and / or carried.

Heaviest weight lifted:

Weight frequently lifted / carried:

10 lbs.

100 lbs.

Up to 10 lbs.

Up to 50 lbs.

20 lbs.

Over 100 lbs.

Up to 25 lbs.

Over 50 lbs.

50 lbs.

Job Title No. 4 (from Part 1) Assistant Foreman



Describe your basic duties - what you did and how you did it. Please provide as much detail as possible.

1. Your basic duties: My job consisted of lifting large boxes of string in order to produce tape, place the spool of string on the spoolers, lift and pour heavy buckets of glue inside the glue pots, and grease equipment. Extremely heavy lifting. Hard Labor. Constant standing and walking.

2. Machines, tools, equipment you used: grease gun and a ruler

3. Exact operations you performed: See above.

4. Technical knowledge and skills you used: None.

5. Reading / Writing you did: None.

6. Number of people you supervised: None.



Describe the kind and amount of physical activity this job involved during a typical day in terms of:

Walking (circle the number of hours a day spent walking) 0 1 2 3 4 5 6 7 8

Standing (circle the number of hours a day spent standing) 0 1 2 3 4 5 6 7 8

Sitting (circle the number of hours a day spent sitting) 0 1 2 3 4 5 6 7 8

Bending (circle how often a day you had to bend) Never - Occasionally - Frequently - Constantly

Check below the heaviest weight lifted, weight frequently lifted and / or carried.

Heaviest weight lifted:

Weight frequently lifted / carried:

10 lbs.

100 lbs.

Up to 10 lbs.

Up to 50 lbs.

20 lbs.

Over 100 lbs.

Up to 25 lbs.

Over 50 lbs.

50 lbs.

**SPECIAL FACTORS**

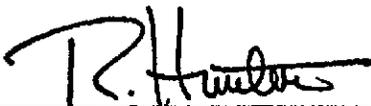
Please use this space for comments, explanations or special factors you wish to add to support your application. (social, economic, psychological)

I suffer from severe pain and discomfort constantly. My walking, sitting  
and standing is limited. I have loss of concentration and loss of memory.  
I am severely nervous, depressed and have severe anxiety.

I certify that the information on this page and the preceding pages are true to the best of my knowledge.

By signing this application, I expressly waive all provisions of law which forbid any person, persons or medical facility who has medically attended, treated, or examined me, or who may have medical information of any kind which may be used to render a decision in my claim, from disclosing such knowledge or information to the Industrial Commission or employer(s) in my claim(s).

Attached to this application is medical evidence in support of the application.

  
Person Completing This Form

  
Claimant's Signature

X 4-6-06  
Date

**DO NOT submit this application without the following:**

- \* Supporting medical evidence signed by the physician.
- \* Your signature on this application. (above)

**ATTENTION**  
This application will be dismissed if medical evidence supporting the request for Permanent Total Disability is not attached.

To assure prompt processing, this application should be filed directly with:

The Industrial Commission of Ohio  
Claims Management  
30 W. Spring St. 5th floor  
Columbus, Ohio 43215-2233

Help Us Help You!  
Please take a minute to give us your correct address in the space provided on the first page of this application.

# REGIONAL PSYCHOTHERAPY SERVICES, INC.

Jack Borders, M.D.  
Sarah A. Williams, Psy.D.

Scott J. Lance, M.D.  
David K. Sipple, PA-C

December 19, 2005

Mr. Richard Hunter  
Attorney at Law  
P.O. Box 1222  
Portsmouth, OH 45662

RE: James O. Caldwell  
Claim # 99-448741  
DOI: 07-07-1999

Dear Mr. Hunter:

I have been seeing Mr. Caldwell now for over nine months. Since my initial evaluation, we have seen some improvement with him from an emotional viewpoint. As his emotions have improved, his ability to tolerate his physical limitations seems to have also slightly improved.

I was able to review the correspondence from S. Douglas Deitch, M.D. dated September 27, 2005 where he believes that Mr. Caldwell is permanently and totally disabled solely related to the physiologic portion of his claim.

When you add the emotional difficulty that he will always have secondary to his chronic pain, his physical limitations, and the change in his lifestyle, this only complicates his prognosis and future. I am in agreement with Dr. Deitch that Mr. Caldwell will never be able to return back to any type of gainful employment and represents a case of Permanent and Total Disability directly related to his 7-7-99 industrial accident.

Sincerely,



Jack Borders, M.D.

JB:cf



**S. Douglas Deitch, M.D., P.S.C.**

**Adult & Pediatric Neurology**

*EMG/NCV, EEG, EP, ENG*

2301 Lexington Ave., Suite 310

Ashland, Kentucky 41101

(606) 325-3299

(606) 327-4393

Fax No. (606) 325-1386

September 22, 2005

Richard S. Hunter  
Attorney at Law  
P.O. Box 1222  
Portsmouth, Ohio 45662

RE: James Caldwell  
Claim # 99-448741

Dear Attorney Hunter:

This letter is regarding James Caldwell, in response to a letter received from you dated 08-16-05.

As you may be aware, Mr. Caldwell was initially evaluated on 11-08-04, at the request of on of his treating physicians at that time. On that date, he indicated he was injured while working on 07-07-99. The patient was having chronic low back pain, left hip pain, left leg pain, as well as neck pain. The patient was last evaluated by this examiner on 07-13-05 and has a pending appointment on 10-25-05.

It is my opinion that Mr. Caldwell will not be able to return to any type of gainful employment.

I consider him permanently and totally disabled, solely based on the allowed conditions of his worker's comp claim outlined in your above reference letter.

I hope the above information is helpful.

Sincerely

S. Douglas Deitch, MD

SDD/tlc



## RECORD OF PROCEEDINGS

Claim Number: 94-16613

psychological conditions do not prevent the injured worker from engaging in work within the simple, moderate, and complex task ranges.

The Staff Hearing Officer agrees. The residual functional capacities as set forth in the above persuasive medical reports clearly would not physically and psychologically prevent the injured worker from engaging in sustained remunerative employment consistent with various job titles.

The Staff Hearing Officer notes that the Dictionary of Occupational Titles lists several types of job titles that fit within the unskilled, entry-level sedentary employment restrictions faced by individuals such as the injured worker in this claim. These are jobs that do not require any transferable skills, or even a high school education. Rather, these jobs can be learned and performed by individuals while on-the-job, and within a matter of days. The following list of jobs is not meant to be exhaustive. Rather, it is a partial listing of the kinds of jobs that the Staff Hearing Officer considers to be current employment options for the injured worker, since they are unskilled, entry-level types of employment that fall within the allowed physical restrictions of the injured worker. In addition, these jobs do not require transferable skills or rehabilitation programming.

These job titles include, but are not limited to: addresser, mailing house; ampoule sealer; atomizer assembler; assembly press operator; bench assembler; bench hand; circuit board inspector; crate liner; cutter and paster; dowel inspector; election clerk; electrical accessories assembler; electronics worker; engraver; escort vehicle driver; final assembler; optical goods; food checker; gluer; greeter; hand packager; hand mounter; hand splitter; heat sealer; information clerk; inspector; eyeglass frames; lens inspector; machine engraver I; microfilm document preparer; notch grinder; nut sorter; odd piece checker; order clerk, food and beverage; paint spray inspector; patcher; preparer; photo mounter; production inspector; semiconductor bonder; semiconductor inspector; small products assembler; small products inspector; soldering-machine tender; sorter; sticker; stuffer; surveillance system monitor; table worker; telephone solicitor; ticket seller; toggle-press folder and feeder; toy assembler; wire worker; zipper joiner; and zipper measurer.

The injured worker indicated at hearing that the injured worker is currently approximately 62 years of age. The Staff Hearing Officer finds that the injured worker's age is overall viewed as a neutral vocational asset. The injured worker's age in and of itself clearly would not prevent the injured worker from obtaining and performing sustained remunerative employment consistent with the jobs identified above as being current employment options for the injured worker. The Staff Hearing Officer notes that there are numerous individuals in the workforce aged 62 years of age and older that obtain and successfully perform the same kinds of employment.

The injured worker indicated at hearing that the injured worker has completed the High School level of education. The Staff Hearing Officer finds that the injured worker's level of education is overall viewed as a positive vocational factor. The injured worker is able to read, to perform some writing and to perform basic math. The injured worker's educational level, in combination with the ability to read, to perform some writing and to perform basic math, would assist the injured worker in obtaining and performing the entry-level, unskilled types of employment identified above as being current employment options for the injured worker. As previously discussed these are jobs that do not require any transferable skills, or even a high school education. Rather, these jobs can be learned and performed by individuals while on-the-job, and within a matter of days.

The injured worker's prior work history was identified as including the following: a 38 year employment history in various types of factory employment, including as a factory leader. He testified at today's hearing that he was required to know and to perform all of the different factory labor positions, as well as to teach new employees how the various jobs were performed. The Staff Hearing Officer finds that the injured worker's

# RECORD OF PROCEEDINGS

Claim Number: 94-16613

prior work history is overall viewed as being a positive vocational asset. The injured worker has through the prior work history demonstrated the ability to perform work that involves various types of factory jobs which included instructing other employees on how to perform those jobs. This demonstrated work ability was performed in factory settings similar to some of the job titles previously identified as being current employment options for the injured worker.

Based on a careful consideration of the above, as well as all of the evidence in file and at hearing, the Staff Hearing Officer concludes that the injured worker is capable of performing sustained remunerative employment consistent with the job titles already identified as being current employment options. Therefore, the injured worker is not permanently and totally disabled.

Typed By: hr

Date Typed: 09/05/2006

Date Received: 04/24/2006

Findings Mailed: 09/07/2006

Matthew Finnegan  
Staff Hearing Officer

Electronically signed by  
Matthew Finnegan

The parties and representatives listed below have been sent this record of proceedings. If you are not an authorized representative of either the injured worker or employer, please notify the Industrial Commission.

94-16613  
James O. Caldwell  
300 Bel Air Dr  
Lucasville OH 45648-8699

ID No: 10074-90  
Richard S Hunter  
PO Box 1222  
Portsmouth OH 45662

ID No: 30128-92  
USWA Local #2116  
PO Box 3675  
New Boston OH 45662

Risk No: 789574-0  
New Boston Coke Corporation  
Address Unknown

ID No: 4000-05  
\*\*\*BWC - DWRP Section\*\*\*  
30 West Spring Street  
Level 10  
Columbus OH 43266-0581

BWC, LAW DIRECTOR

**IN THE SUPREME COURT OF OHIO**

**STATE OF OHIO, ex rel.** :  
**JAMES O. CALDWELL** :

**RELATOR,** :

**v.** :

**NEW BOSTON COKE CORP., et al.** :

**RESPONDENTS.** :

**AFFIDAVIT OF JAMES CALDWELL**

**STATE OF OHIO** )  
 ) ss:  
**COUNTY OF SCIOTO** )

Having first been duly cautioned and sworn, the undersigned states as follows:

1. I am more than eighteen years of age and under no legal disability. I have personal knowledge of the following facts.
2. I was injured several times while I was employed at New Boston Coke Corporation ("New Boston"). Specifically, on March 27, 1985 I was trying to close a sprung railroad car door and my back gave out; on July 5, 1992 I sustained a hernia from lifting a scrap box; on August 7, 1994 I caught my right index finger in a conveyer belt; on July 7, 1999 I was working under a railroad car and I struck my head on the underside of the railroad car; and on February 22, 2001 I injured my right shoulder when I was lifting a heavy gate.
3. My injuries arose out of, and were a direct result of my employment with New Boston.
4. After each injury, I filed workers' compensation claims. My claims are allowed for the following conditions: Claim No. 85-7164 is allowed for strain back (left hip area); Claim

No. 92-57172 is allowed for inguinal hernia; Claim No. 94-16613 is allowed for fracture mid shaft of proximal phalang of right index finger; Claim No. 99-448741 is allowed for sprain of neck, sprain thoracic region, sprain lumbar region, aggravation of preexisting spondylosis at C2-3, C3-4, C4-5, C6-7, T11-12, and L5-S1, aggravation of preexisting arthrosis at C5-6, C6-7, L4-5, and L5-S1, herniated disc C4-5, disc bulges with impingement of anterior subarachnoid space at L3-4, L4-5, and L5-S1, major depression, pain disorder associated with physical and psychological conditions, and aggravation of preexisting anxiety disorder; and Claim No. 01-335948 is allowed for sprain subscapularis right shoulder.

5. My treating physician is Dr. Jack Borders. Dr. Borders has opined that I am permanently and totally disabled as a direct result of the injuries I sustained while employed at New Boston.
6. I was also evaluated by Dr. S. Douglas Deitch who opined that I was permanently and totally disabled as a direct result of the injuries I sustained while employed at New Boston.
7. I filed an application for permanent total disability compensation on April 11, 2006 with the Industrial Commission of Ohio.
8. On September 5, 2006, a hearing was held before a Staff Hearing Officer on my application for permanent and total disability compensation. The Staff Hearing Officer issued an order denying my application.

**AFFIANT FURTHER SAYETH NAUGHT.**

James O. Caldwell  
James O. Caldwell

SWORN TO and SUBSCRIBED before me and in my presence on this 17 day of  
December, 2007.

Brenda K. Caldwell  
NOTARY PUBLIC

Brenda Caldwell  
Notary Public, State of Ohio  
My Commission Expires 5-17-2012