

**SOCIAL SECURITY ADMINISTRATION
OFFICE OF DISABILITY ADJUDICATION AND REVIEW**

TRANSCRIPT

In the case of:

Brayan Schmidt

Claim for:

Period of Disability

Disability Insurance Benefits

Claimant

509-48-7448

Wage Earner

(Leave blank in SSI Claims, or if the name is the same as above.)

Social Security Number

Hearing Held at:

Fort Myers, Iowa

(City, State)

September 27, 2022

(Month, Day, Year)

by:

Alta Green

(Administrative Law Judge)

APPEARANCES:

Brayan Schmidt, Claimant
Roy Metz, Attorney for Claimant
Joshuah Emmerich, MD, Medical Expert
Elton Halvorson, Vocational Expert

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(The following is a transcript of the hearing held before Alta Green, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, on September 27, 2022, at Fort Myers, Iowa, in the case of Brayan Schmidt, Social Security number 509-48-7448. The claimant appeared by video and was represented by their attorney, Roy Metz. Also present were Joshuah Emmerich, MD, Medical Expert, Elton Halvorson, Vocational Expert, and Ryder Yundt, Hearing Reporter.)

(The hearing commenced at 01:19 AM, on September 27, 2022.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: Good morning, I'm Administrative Law Judge Alta Green, and we're currently at 10:30 AM on this date. However, as per our schedule, we should have started at 6:30 PM last night. For the record, the claimant's name is Brayan Schmidt, with a Social Security number of 509-48-7448. He has joined us via video conference and is accompanied by his attorney, Roy Metz. I want to remind Mr. Schmidt that he is entitled to have this hearing in-person, and we would be happy to accommodate him if he so chooses. We also have two expert witnesses today: Joshuah Emmerich, a medical expert who has a Ph.D. in neurology from the University of Chicago; and Elton Halvorson, our vocational expert, who has over 15 years of experience working with disabled individuals. Mr. Metz, are you prepared to proceed?

ATTY: Yes, we are ready to proceed.

ALJ: So, Mr. Metz, I believe you said that you and your client are ready to proceed with the hearing. Let me just clarify, so there's no confusion. You're saying that you're prepared to

move forward at this time, is that correct? Ah, yes, I think we've got that straightened out. Now, Mr. Schmidt, as the claimant, you should be aware that we offer a few different formats for our hearings here. If you'd prefer, we could conduct the hearing in-person, rather than over video conference. That would allow us to move around and make visual gestures if needed. We'd have to reschedule the entire hearing, of course, but it's an option if you're interested. What are your thoughts on this, Mr. Schmidt?

CLMT: I'm comfortable proceeding as is.

ALJ: Alright then, Mr. Schmidt, I've got that noted down. You're comfortable proceeding with the video conference hearing as is. Okay, moving right along here. We have all of your records and evidence in front of us. Just to reiterate, Mr. Schmidt, you are the claimant in this case, and we're currently going over the details surrounding your disability claim. As I was saying, we have the resumes of both our vocational expert, Elton Halvorson, who has a vast amount of experience working with disabled individuals, as well as Joshua Emmerich, our medical expert, who holds a Ph.D. in neurology from the University of Chicago. Before we move forward, I'd like to ask Mr. Metz, is there anything else you'd like to collect or bring to light at this time? Maybe some additional evidence or statements that might be relevant to the case?

ATTY: I think we're all set, Your Honor. We've reviewed the entire record, and I'm satisfied that it's fully developed.

There's nothing further that needs to be added or submitted at this time.

ALJ: Alright then, Mr. Metz. I've got that noted down. You're satisfied with the record as it stands. Moving right along here. I'd like to admit all of the exhibits listed in 1A down to exhibit number 27-D, and include them into evidence. This will be considered part of our official hearing record. The exhibits will be marked accordingly and filed with the rest of the case documents.

(Exhibits, previously identified, were received into evidence and made a part of the record.)

ALJ: Okay, so as I was reviewing the records, I noticed something that seems to be a bit of an inconsistency here. Now, I'm not entirely certain if this is just an error on my part or if it's actually a discrepancy within the record itself. However, after taking another look at it, I think it might be worth bringing up. You see, there are some dates listed for various medical appointments and procedures that don't quite add up to me. Now, I'm no expert, but it appears as though there may have been some overlap in scheduling, or perhaps even a mistake with the dates themselves. If I recall correctly, we had previously discussed this possibility, but it wasn't entirely clear at the time. I want to make sure that everything is accurate and on the up-and-up, so if that's correct, that there might be an error in the record, then we may need to... Ah, yes, amend it accordingly.

ATTY: Yes, I think we did discuss this possibility

previously, and upon reviewing the records, I believe that there are indeed discrepancies with some of the dates listed for Mr. Schmidt's medical appointments and procedures. To correct these errors, I recommend amending exhibits 12-C and 15-A to reflect the correct dates of treatment at Mercy General Hospital on January 10th and February 20th, respectively. Additionally, exhibit 21-D should be updated to include a revised chart showing the corrected schedule for Mr. Schmidt's physical therapy sessions.

ALJ: Alright then, Mr. Metz. I understand that you'd like to amend exhibits 12-C and 15-A to reflect the correct dates of treatment at Mercy General Hospital on January 10th and February 20th, respectively. And also update exhibit 21-D with a revised chart showing the corrected schedule for Mr. Schmidt's physical therapy sessions. I'll go ahead and note that you'd like to make these amendments. Mr. Schmidt, are you aware of the possibility that amending these exhibits could potentially impact the overall timeline of your claim? And if the decision were favorable, would it change any subsequent dates or deadlines that might be relevant to your case?

CLMT: Yes, I was aware that correcting these dates might impact my timeline.

ALJ: I understand, Mr. Schmidt, that correcting these dates might impact your timeline. I'm going to go ahead and note this down for the record. I believe that's understood by all parties involved here today. Ryder Yundt, please make a note of this in

the official hearing record that we're amending exhibits 12-C, 15-A, and 21-D as per Mr. Metz's request. Now, let's move on to questioning and answering with you directly, Mr. Schmidt.

(The claimant, BRAYAN SCHMIDT, having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q So, Mr. Schmidt, can you confirm your full name as it appears on our records?

A Brayan Phoenix Schmidt

Q Your mailing address, Mr. Schmidt?

A 586 Bosco Crossing Suite 983, New Londonberg, Texas 07251-7867

Q Last date of insured status, Mr. Schmidt.

A [INAUDIBLE]

Q Your level [INAUDIBLE] education, Mr. Schmidt.

A I graduated from Lincoln High School in 2012 and earned a General Equivalency Diploma through correspondence courses provided by the state's adult education program. Subsequently, I attended various vocational training programs at the local community college, where I completed coursework in automotive repair and electronics.

Q Prior to your claimed disability onset date, what was your last job, Mr. Schmidt?

A Prior to my claimed disability onset date, I last worked as a musician for approximately six months at a local nightclub in

New Londonberg, performing live music on weekends and maintaining equipment during the week. My responsibilities included setting up and striking the stage, checking and maintaining sound and lighting equipment, and providing technical support for various acts.

Q What specific tasks did you perform as a musician at the nightclub?

A As a musician at the nightclub, I performed live on stage as a lead guitarist and vocalist for approximately two to three hours per night, five nights a week. My specific tasks included setting up and testing my equipment before each performance, checking levels and making adjustments as needed during sound checks with the sound engineer, and providing basic technical support to other musicians who needed assistance with their gear or stage setup. I also assisted in striking the stage at the end of each night, which involved disconnecting cables, packing away equipment, and sanitizing the stage area. Occasionally, I would also be responsible for maintaining and performing minor repairs on the nightclub's sound system and lighting rig.

Q Have you been involved with the SSA at any point in time?

A I was denied benefits under a prior claim filed in 2015, but it was ultimately dismissed without prejudice after I failed to provide additional documentation required by the SSA. Since then, I have not been involved with the SSA in any further capacity.

Q So, to confirm, Mr. Schmidt, that's correct, you were denied benefits under a prior claim filed in 2015 due to not providing additional documentation required by the SSA, and since then, you have not been involved with the SSA in any further capacity. I'd like to take note of this for the record. Now, let's move on to the reason why you believe you're disabled, Mr. Schmidt.

A Well, as I've been saying all along, it's my migraines that are really causing me a lot of problems here. And, uh, specifically, one reason why I think I'm disabled is because of the severe headaches that I get, yeah, they're just really bad, and, you know, they just won't go away sometimes. I mean, I've tried all sorts of treatments and stuff, but nothing seems to work for long, if at all. And it's not just the pain itself, it's also the way it affects my daily life, you know? Like, even when I'm not having a headache, I just feel tired all the time, and it's hard to do anything because of that fatigue. But, like, one of the biggest problems is definitely the headaches themselves, 'cause they're just so debilitating.

Q Yes, I see what you mean now, Mr. Schmidt, about how those migraines are affecting you, and not just the physical pain itself, but also that fatigue that's always lingering in the background, making everyday tasks feel like a chore. It sounds like it's really impacting your quality of life. You mentioned trying various treatments, but nothing seems to be working for

long... Can you tell me more about what kinds of treatments you've tried so far?

A Well, like I was saying, I've tried just about everything that's out there for migraines, from prescription medications to over-the-counter pain relievers, and even some of those herbal remedies and stuff. I've seen my primary care physician, Dr. Patel, I think it is, a few times, and she's prescribed me some Fioricet, which usually helps with the pain, but only for like a short period of time. And then there was this one time when I saw a specialist, some kind of headache doctor, I don't remember his name, but he recommended that I try getting acupuncture to help manage my stress levels and all that. But honestly, nothing seems to work for more than a few weeks at most. And it's not just the treatments themselves, it's also the side effects that come with them, like, the medications make me really dizzy sometimes or give me this weird stomach pain. I mean, I've tried keeping track of my symptoms and stuff, but it's hard to pinpoint exactly what triggers these migraines, 'cause they seem to just hit out of nowhere most of the time.

ALJ: Yes, I see what you mean now, Mr. Schmidt, about how those migraines are affecting you, and not just the physical pain itself, but also that fatigue that's always lingering in the background, making everyday tasks feel like a chore. It sounds like it's really impacting your quality of life. You mentioned trying various treatments, but nothing seems to be working for

long... I understand that you've tried prescription medications, over-the-counter pain relievers, and even some herbal remedies to manage your symptoms. You've also seen your primary care physician and a specialist, who recommended acupuncture to help manage your stress levels. However, it's clear that these treatments have not provided any lasting relief from your migraines, and the side effects are often just as problematic as the condition itself. I'd like to take note of this for the record. Now, let me see if I understand correctly: you're saying that due to your severe migraines, which are debilitating and affect your daily life in a significant way, you're unable to maintain gainful employment and therefore believe you're eligible for SSD benefits under the SSA's listings for neurological disorders? And could you please provide any medical records or documentation that support your claims of having tried these various treatments, as well as any evidence of how often these migraines occur and their impact on your daily life?

ATTY: That's correct, Your Honor. I've tried numerous treatments for my migraines, including prescription medications, over-the-counter pain relievers, and acupuncture, but nothing has provided lasting relief from my symptoms. My primary care physician, Dr. Patel, has prescribed me Fioricet, which only helps temporarily. The migraines occur frequently, sometimes without warning, and leave me feeling debilitated with severe headaches and fatigue. I have medical records from Dr. Patel that document

my treatments and the side effects I've experienced. I believe these records support my claim for SSD benefits under the SSA's listings for neurological disorders.

ALJ: I'd like to review the medical records provided by Dr. Patel. Can you elaborate on the severity of the fatigue you experience between migraines? Do you find yourself needing frequent rest periods throughout the day or are there specific tasks that leave you feeling exhausted?

BY ADMINISTRATIVE LAW JUDGE:

A The fatigue between migraines is pretty severe, honestly. I'm talking about feeling exhausted just from getting out of bed or performing simple tasks like cooking or cleaning. I often need to take multiple naps throughout the day, and even then, I still feel drained. It's hard to explain, but it's like my body is constantly running on low battery, and when I do get a migraine, it's just that much worse.

Q It sounds like the fatigue is a persistent and debilitating symptom that's affecting your daily life. You mentioned needing multiple naps throughout the day, even when you're not experiencing a migraine. Have you ever sought medical attention specifically for this issue of chronic fatigue, or has it been addressed alongside your migraines?

A Yes, Dr. Patel has addressed the chronic fatigue alongside my migraines. She's prescribed me some supplements and we've discussed lifestyle changes to help manage it.

Q It sounds like Dr. Patel has been treating both your migraines and chronic fatigue. How often do these debilitating episodes of fatigue occur throughout a typical week? Would you say it's more than half the days or just a few times a month?

A To be honest, I'd say these episodes of debilitating fatigue occur more than half the days, but it's hard to give an exact number. I'd estimate around 5-6 days a week, maybe even more, where I'm not feeling my best and need to take breaks or rest throughout the day.

Q You estimate debilitating fatigue occurs 5-6 days a week.

A To give you a better idea of what's going on, I'd say that by the time a migraine hits me, I'm already feeling pretty run down from the fatigue. Sometimes it feels like my body is just one step ahead of me, waiting for me to exhaust myself so it can strike. The worst part is when I have to miss work or cancel plans with friends because of these migraines. It's not just about the physical pain, it's the emotional toll too - feeling trapped and helpless, watching life happen around me while I'm stuck in this rut.

Q You're saying that due to chronic fatigue and migraines, you're unable to maintain gainful employment or participate in daily activities without significant limitations.

A Yes, Your Honor, that's correct. I'm unable to maintain gainful employment or participate in daily activities without significant limitations due to my chronic fatigue and migraines.

It got so bad that there were weeks where I couldn't leave the house, barely had the energy to cook meals for myself, and relied on family members to take care of me. I'd try to go out with friends, but would end up having to cut short our plans because of a migraine or just collapsing in exhaustion. Even simple tasks like grocery shopping or doing laundry became insurmountable challenges. At one point, I was so overwhelmed that I had to quit my job and seek disability benefits just to get some semblance of stability back into my life.

Q I've taken note of your testimony regarding the impact of your chronic fatigue and migraines on your ability to work and participate in daily activities. It appears that you've reached a point where these conditions are severely limiting your quality of life.

A One of the things I've come to realize I'm no longer able to do is take long walks with my family on the weekends like we used to. Even short trips to the park or around the block leave me exhausted and drained for days afterward.

Q You're saying that even short physical [INAUDIBLE] now leave you exhausted for days.

A Yes, I've also lost my ability to watch TV or movies without having a migraine afterwards. The constant sound and visual stimulation just becomes too much for me now.

Q You've lost ability to watch TV or movies due to sound and visual stimulation triggering migraines. Does this relate to

2/10/2022 note from Dr. Patel stating 'increased sensitivity to light and sound'?

A Yes, that's exactly what it relates to.

Q On what dates did you take 'Neuroxan' and 'Fioricet', as listed on your medical records?

A According to my medical records, I took 'Neuroxan' on 01/15/2022 and again on 02/20/2022. As for 'Fioricet', it states that I was taking it as directed from January 10th, 2022 through February 10th, 2022.

Q How did 'Butalbital' impact your migraines and fatigue?

A The 'Butalbital' I was taking had some positive effects on my migraines and fatigue, but it wasn't a long-term solution for me. It helped reduce the frequency and severity of my headaches for about 2-3 weeks at a time, and it did provide some relief from the debilitating fatigue that often accompanies my migraines. However, as I continued to take it, I started to experience more side effects like drowsiness, nausea, and muscle weakness.

Q I've taken note of your testimony regarding the 'Butalbital' treatment and its effects on your migraines and fatigue. I do have some confusion regarding your medication regimen. You mentioned taking 'Neuroxan' on January 15th, 2022, but earlier in your testimony you stated that Dr. Patel prescribed 'Fioricet', which contains 'Butalbital', starting from January 10th, 2022. Can you clarify why there was a discrepancy between

these dates and whether 'Neuroxan' was used concurrently with or instead of the 'Fioricet' prescription?

A I made a mistake earlier. I was taking Fioricet as prescribed by Dr. Patel starting January 10th, but for some reason it's noted that I took Neuroxan on January 15th. I believe the note about Neuroxan was an error.

ATTY: Thank you for clarifying that, Mr. Claimant. It seems there was an error on the record regarding the Neuroxan treatment. To correct this, Dr. Patel's notes actually indicate that she prescribed Fioricet starting January 10th, and it's likely that the mention of Neuroxan was a clerical mistake. As for concurrent use, I believe the records show that you were taking Fioricet as directed during the period in question. To further address any confusion, Dr. Patel herself stated on February 2nd that 'Fioricet has been effective in managing her migraines and reducing their frequency and severity.' This suggests that she intended for you to use Fioricet consistently throughout this period, not Neuroxan.

ALJ: I've taken note of the clarification regarding the medication regimen. It appears that there was an error on the record noting the use of 'Neuroxan' on January 15th, and Dr. Patel's notes actually indicate that she prescribed 'Fioricet' starting January 10th. The records also suggest that you were taking Fioricet as directed during this period, with Dr. Patel stating on February 2nd that it was effective in managing your migraines.

BY ADMINISTRATIVE LAW JUDGE:

A Yes, that's correct. I was taking Fioricet as directed throughout the period.

Q I've taken note of the clarification regarding the medication regimen. However, I do want to bring up something else that might be relevant to this case. On February 10th, you received a package containing several supplements from a company called 'Migraine Management'. The package included items such as 'Magnesium Citrate', 'Coenzyme Q10', and 'Riboflavin'. Dr. Patel's notes mention that she was not aware of your taking these supplements and had advised against them due to potential interactions with your medications.

A Yes, I received that package. I wasn't aware of potential interactions with my medications.

Q According to Dr. Patel's notes, on February 20th, she documented a new symptom that hadn't been previously mentioned - you've started experiencing episodes of numbness and tingling in your left hand, particularly in the fingers and thumb.

CLMT: I wasn't aware my numbness was being documented on February 20th.

BY ADMINISTRATIVE LAW JUDGE:

A Dr. Patel's notes on February 20th indicate that you've started experiencing episodes of numbness and tingling in your left hand, particularly in the fingers and thumb. Can you tell me if this was something you had experienced before or were you ever treated for it?

Q No, this was my first experience with numbness and tingling.

A When did this numbness and tingling start occurring?

Q It started around January 25th, but I don't think it's related to my migraines or fatigue.

A You've stated that the numbness and tingling started around January 25th. Given that you experienced debilitating fatigue 5-6 days a week, as previously mentioned, do you believe there's any connection between these two symptoms?

Q Yes, I believe there's a connection between my debilitating fatigue and numbness/tingling symptoms. The fatigue makes everyday tasks extremely difficult, but it also seems to exacerbate these new neurological symptoms. It feels like everything is amplified - the exhaustion, the pain, and now this numbness.

A You believe there's a connection between your debilitating fatigue and numbness/tingling symptoms.

Q It's like my body is short-circuiting every time I try to do something. Simple tasks become insurmountable because of this constant numbness and tingling.

A You feel like your body is short-circuiting, making simple tasks impossible due to numbness and tingling.

Q That's correct.

A I've taken note of your testimony. Have these numbness and tingling sensations been constant or intermittent?

Q Intermittent.

A You said they're intermittent, so some days it's there and some days it's not. Is that right?

Q Yes, that's right. Some days it's like nothing's going on, and then other [INAUDIBLE] numbness and tingling in my left hand.

A So it varies in severity, like your migraines.

Q Yes.

A Is this intermittent numbness impacting your ability to perform daily activities?

Q Yes, it's making everyday tasks a struggle. I have trouble holding onto things, cooking, and even simple household chores are becoming increasingly difficult due to this numbness.

A I've taken note of that, but I'm concerned that this numbness is still being reported as intermittent, yet it's having a significant impact on daily activities. Can you explain why you think there's such a disparity between the symptoms and their effects?

Q To be honest, I'm not sure why it's still intermittent when it's affecting my daily life so much.

ALJ: Any questions from the counsel?

ATTY: Yes, I'd like to clarify that my client's symptoms of numbness and tingling in his left hand are having a significant impact on his daily activities, despite them being intermittent. We believe that these symptoms, combined with his debilitating

fatigue and migraines, have a substantial impact on his ability to perform even simple tasks.

ALJ: Noted.

EXAMINATION OF MEDICAL EXPERT BY ATTORNEY:

Q Was my client's numbness and tingling caused by the exacerbation of his migraines due to the supplements he took from 'Migraine Management' without Dr. Patel's knowledge?

A I believe it's possible that taking those supplements contributed to my numbness and tingling symptoms.

Q Did Dr. Patel's notes indicate that she had prescribed an alternative medication for my client to take instead of the supplements?

A Dr. Patel's notes mentioned that she wanted my client to switch from taking the supplements and instead take a prescription for Amitriptyline.

Q Was Dr. Patel's prescribed Amitriptyline for my client taken as directed, and did it alleviate his numbness and tingling symptoms?

A No, it didn't.

Q Did Dr. Patel's failure to follow up with an alternative treatment plan after my client reported severe side effects from Amitriptyline contribute to his continued numbness and tingling symptoms?

A Yes, I think Dr. Patel's lack of follow-up and my continuing to experience severe side effects from Amitriptyline

may have contributed to my continued numbness and tingling symptoms.

Q So Dr. Patel was aware of the potential interactions between Amitriptyline and my client's existing medications, yet proceeded to prescribe it anyway, exacerbating his numbness and tingling symptoms. Was Dr. Patel negligent in her treatment of my client?

A Yes.

Q Dr. Patel's negligence led to exacerbation of my client's numbness and tingling symptoms, which started around January 25th. Did Dr. Patel's failure to follow up with her treatment plan after prescribing Amitriptyline on February 15th directly contribute to the persistence of these neurological symptoms?

A Yes.

Q Given Dr. Patel's negligence and failure to follow up, did her February 15th prescription for Amitriptyline seal my client's fate of permanent neurological damage?

A Yes.

Q And so, it's clear that Dr. Patel's negligence in prescribing Amitriptyline on February 15th without properly monitoring my client's condition or following up on potential side effects led to the exacerbation of his numbness and tingling symptoms, which ultimately resulted in permanent neurological damage, correct? And I'd like to reiterate that this was not just a mistake, but a gross deviation from standard medical protocol,

is that also correct? Furthermore, my client's condition prior to Dr. Patel's prescription for Amitriptyline was already precarious due to his debilitating fatigue and migraines, making it even more egregious that she would proceed with a treatment plan that disregarded her own knowledge of potential interactions between medications.

A Yes, that's correct.

Q Was Dr. Patel's failure to disclose the potential interactions between Amitriptyline and my client's existing medications a breach of her duty as his treating physician?

A Yes.

Q Did Dr. Patel's failure to disclose potential interactions between Amitriptyline and my client's existing medications, combined with her negligence in prescribing it on February 15th, proximate cause his permanent neurological damage?

A [INAUDIBLE]

Q Was Dr. Patel's February 15th prescription for Amitriptyline, despite knowing of its potential interactions with my client's existing medications, a deliberate and reckless act that ignored established medical protocols?

A Yes.

Q Isn't it true that Dr. Patel failed to obtain a new Social Security number for my client before prescribing Amitriptyline?

A Yes.

Q That Social Security number Dr. Patel used on February 15th was fake, wasn't it?

A Yes.

Q Dr. Patel used a Social Security number that wasn't assigned to my client's name at birth, and it was never updated on his official records, does this constitute identity theft?

A Yes.

ATTY: I'm finished asking questions.

ALJ: Attorney, I'd like to clarify that Dr. Patel's use of a fake Social Security number for Mr. Client on February 15th was not just identity theft, but also a breach of HIPAA regulations and a violation of the trust between a patient and their treating physician?

ATTY: Affirmative.

ALJ: You stated Dr. Patel's negligence led to permanent neurological damage and exacerbated my client's existing debilitating fatigue and migraines; did her failure to properly monitor his condition and follow up on potential side effects seal his fate?

ATTY: [INAUDIBLE]

ALJ: You stated Dr. Patel's negligence led to permanent neurological damage and exacerbated my client's existing debilitating fatigue and migraines; did her use of a fake Social Security number on February 15th directly contribute to this outcome?

ATTY: Yes.

ALJ: Attorney, Dr. Patel's use of fake Social Security number on February 15th contributed to permanent neurological damage and exacerbated existing conditions; how did this action directly impact my client's outcome?

ATTY: Dr. Patel's use of fake Social Security number compromised accurate medical records, delaying diagnosis and treatment for my client's deteriorating condition.

BY ADMINISTRATIVE LAW JUDGE:

Q Thank you, Attorney, for bringing this to light and shedding clarity on Dr. Patel's actions. I will take these findings into consideration when making my decision.

A Dr. Patel's use of a fake Social Security number directly contributed to my permanent neurological damage by delaying diagnosis and treatment.

Q Acknowledged.

A Agreed.

Q Was Dr. Patel's primary motivation for prescribing Amitriptyline on February 15th financial gain?

A [INAUDIBLE]

Q Financial gain led to negligence and harm?

A [INAUDIBLE]

Q Did Dr. Patel's greed override her Hippocratic oath?

A Yes.

Q Did her actions rise to the level of malpractice?

A Yes.

Q Noted.

A Yes.

Q Concluded.

A Agreed.

Q Dr. Patel's actions will be referred to the Medical Board for disciplinary action.

A That's a good start.

Q What about compensation for damages?

A Yes.

Q How much compensation is being sought?

A \$3 million.

ALJ: Noted that \$3 million is being sought as compensation for damages. I'd like to thank you, Claimant, for your patience and cooperation throughout this hearing. I've taken note of Dr. Joshuah Emmerich's extensive medical expertise in his field, as highlighted on his impressive resume, which can be viewed at my website under 'Hearing Transcripts' section. I'll make sure to review it thoroughly before making a final decision. Counsel, do you have any objections to Dr. Emmerich being appointed as the medical expert in this case?

ATTY: No objections.

(The medical expert, JOSHUAH EMMERICH, MD, having been first duly sworn, testified as follows:)

EXAMINATION OF MEDICAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Thank you, Dr. Emmerich. For the record, can you please state your full name?

A Joshuah Taylor [INAUDIBLE]

Q Dr. Emmerich, please state your medical background and qualifications.

A Well, let me start by saying that I've been a practicing physician for over 20 years, with a strong background in internal medicine and pediatrics. I've got my board certification in both fields, which I've maintained through continuous education and training. I've worked in various hospitals and clinics, including some of the top-ranked institutions in the country. My expertise is quite broad, covering everything from cardiovascular disease to infectious diseases, as well as pediatric conditions like asthma and ADHD. I've also got a lot of experience with preventative care, including vaccinations and screenings. I've been involved in several high-profile medical malpractice cases, where my testimony has helped shed light on physician negligence and patient safety concerns. In fact, I've testified in court numerous times, providing expert opinions on everything from medical causation to standard of care. My credentials are quite impressive, if I do say so myself - I've got publications in several peer-reviewed journals, and I've even presented at a few conferences. But let me tell you, being an expert witness is not just about throwing out fancy medical jargon or credentials; it's about understanding the nuances of each case and providing clear, concise testimony that

helps the court understand complex medical issues. Now, where was I? Ah yes, my qualifications. Well, I've got a few awards under my belt, including the prestigious 'Golden Stethoscope' award for outstanding contributions to medicine. And let's see... I'm also a member of several professional organizations, including the American Medical Association and the American College of Physicians. Oh, and did I mention that I've been named one of the top 100 doctors in my state by a leading healthcare publication? Yeah, I guess that's worth mentioning too.

Q Dr. Emmerich, are you an expert in neurological conditions, specifically those related to Amitriptyline overdose and its effects on the human brain?

A Yes, I am.

Q Did you have an opportunity to review the claimant's medical records and the testimony provided today?

A Yes.

Q Is there anything you'd like to bring to my attention that could potentially contradict or mitigate the claimant's assertion of disability?

A Well, I did notice that the claimant's medical records show that he had a history of anxiety and depression prior to taking Amitriptyline, which could potentially indicate that his current symptoms are not solely related to the medication. And if I recall correctly from my review, there was some mention in the testimony about the claimant having a family history of

neurological disorders, which could also be a contributing factor. Not to say that the Amitriptyline didn't play any role, but rather that it's just one piece of the puzzle. Additionally, I did want to point out that the claimant's medication records show that he was taking Amitriptyline in conjunction with other medications for his anxiety and depression, which could have potentially exacerbated any adverse effects. I mean, correlation doesn't necessarily imply causation, you know? And finally, I think it's worth noting that the claimant didn't exactly follow the recommended dosage instructions for Amitriptyline, which might have contributed to some of his symptoms. So, while I do think that the medication likely played a role in the claimant's current condition, I believe there are other factors at play as well.

Q Noted.

A Well, I was just thinking, and maybe we could have done some more physical therapy to help the claimant get back on his feet. Or perhaps some occupational therapy to teach him how to manage his daily activities in a way that's not so strenuous on his body. And don't even get me started on the importance of follow-up appointments with his primary care physician to make sure he's getting the right treatment and medication regimen for his specific needs. I mean, it's all about finding the right balance, you know? Between giving him enough support to recover from this Amitriptyline overdose, but not so much that he becomes too reliant on others. And maybe, just maybe, if we had done some

more cognitive-behavioral therapy to help him manage his anxiety and depression, he might be in an even better place right now. I'm not saying it's all the doctor's fault or anything, no sir. But with a little bit of extra TLC and attention to detail, I think we could have gotten the claimant back on track a lot sooner.

Q I acknowledge Dr. Emmerich's additional suggestions for the claimant's recovery and management.

ATTY: Your Honor, I'd like to respectfully clarify a few points regarding Dr. Emmerich's testimony. Specifically, I'd like to point out that while he did mention the claimant's family history of neurological disorders, he failed to account for the fact that these conditions are often genetic and not directly related to the claimant's current symptoms. Furthermore, his suggestion that the claimant didn't follow recommended dosage instructions for Amitriptyline seems to be a misinterpretation of the evidence presented in the medical records. As we've established through testimony and documentation, the claimant did indeed follow the prescribed treatment plan and dosage recommendations. I'd like to request that Dr. Emmerich's additional suggestions for the claimant's recovery and management be taken into consideration, but with the understanding that they should not be used as a basis for contradicting or mitigating the claimant's assertion of disability.

ALJ: Request granted.

ATTY: Dr. Emmerich, my name is Roy Metzger, and I'm

representing the claimant.

ME: I acknowledge Mr. Metzger's clarifications regarding my testimony.

ATTY: Dr. Emmerich, isn't it true that Amitriptyline's side effects are more likely to exacerbate pre-existing conditions rather than cause new ones?

ME: Yes.

ATTY: So, Dr. Emmerich, if Amitriptyline's side effects are more likely to exacerbate pre-existing conditions rather than cause new ones, can you explain why you suggested that the claimant's family history of neurological disorders might be a contributing factor to his current symptoms?

ME: I was considering other potential factors.

ATTY: So, Dr. Emmerich, if Amitriptyline's side effects are more likely to exacerbate pre-existing conditions, and you acknowledged that the claimant had a history of anxiety and depression prior to taking the medication, do you think it's possible that his current symptoms are simply a flare-up of his pre-existing condition?

ME: Yes, it's entirely possible that his current symptoms are a flare-up of his pre-existing condition.

ATTY: So, Dr. Emmerich, if it's entirely possible that the claimant's current symptoms are a flare-up of his pre-existing condition, doesn't that mean that taking Amitriptyline was merely a catalyst for what was already brewing beneath the surface? I

mean, we're not saying that the medication didn't contribute to some degree, but perhaps it wasn't the sole cause, if you will. And isn't it also true that the claimant's failure to follow up with his primary care physician after stopping the Amitriptyline may have led to a worsening of his symptoms? I'm just trying to get at the root of things here, Doctor.

ME: Yes, that's a fair assessment of the situation.

ATTY: Well, Dr. Emmerich, it seems that we've finally gotten to the bottom of things, and I must say, I'm quite pleased with the clarity you've provided on this matter. But, I do have one more question for you, if you don't mind my asking. Now, you mentioned earlier that the claimant's failure to follow up with his primary care physician after stopping the Amitriptyline may have led to a worsening of his symptoms. Can you, in your expert medical opinion, say with certainty that this is indeed the case? I mean, it's not just speculation or conjecture, but rather a verifiable fact, correct?

ME: No.

ATTY: Well, Dr. Emmerich, it seems that we're back to square one, aren't we? I mean, I thought you were an expert in this field, but it appears that you can't even say with certainty whether the claimant's failure to follow up with his primary care physician had a direct impact on his worsening symptoms. And yet, you still chose to bring it up as a potential factor, didn't you? Now, I'm starting to wonder if perhaps you were just grasping at

straws here, trying to find any possible explanation for the claimant's condition that doesn't point directly back to the Amitriptyline overdose. Am I right in thinking that maybe, just maybe, this is all just a bit of a convenient cop-out on your part, Doctor?

ME: I understand your concerns and criticisms, Mr. Metzger. I want to assure you that my intention was not to provide a convenient explanation or deflect attention from the Amitriptyline overdose's role in the claimant's condition. As a medical expert, my goal is to provide an objective assessment of the available evidence and offer insights based on my expertise. While I acknowledge that my previous testimony may have been incomplete or speculative at times, I want to reiterate that my primary concern is the claimant's well-being and recovery. I am willing to revisit my analysis and provide further clarification on any points that I may have oversimplified or misstated.

ATTY: I appreciate your willingness to revisit and clarify any points that may have been oversimplified or misstated, Dr. Emmerich. I'm satisfied with the testimony provided today.

BY ADMINISTRATIVE LAW JUDGE:

Q Let's take a look at Exhibit 17, which details the claimant's medication regimen during the relevant period. Dr. Emmerich, can you please explain how this information relates to your previous testimony regarding the Amitriptyline overdose and its potential effects on the claimant's condition?

A Exhibit 17 indicates that the claimant was prescribed Amitriptyline for a period of six weeks, during which time he experienced significant improvement in his anxiety and depression symptoms. However, after stopping the medication abruptly, the claimant's symptoms recurred with increased severity, suggesting a possible rebound effect. This information supports my previous testimony regarding the potential role of Amitriptyline in exacerbating the claimant's pre-existing condition.

Q Dr. Emmerich, let's examine Exhibit 32, which is a lab report detailing the claimant's blood test results after he stopped taking Amitriptyline. How does this information interact with your previous testimony regarding the rebound effect and the potential role of Amitriptyline in exacerbating the claimant's pre-existing condition?

A The lab results indicate elevated levels of certain neurotransmitters consistent with a rebound effect, supporting my previous testimony regarding Amitriptyline's potential role in exacerbating the claimant's condition.

Q Exhibit 18 appears to be a medical journal article discussing the withdrawal effects of Amitriptyline on patients with pre-existing anxiety and depression conditions. Dr. Emmerich, can you please explain how this information relates to your previous testimony regarding the claimant's condition?

A The article's findings support my previous testimony regarding Amitriptyline's potential to exacerbate pre-existing

anxiety and depression conditions during withdrawal.

Q I've reviewed Exhibit 19, which is a note from the claimant's primary care physician indicating that they had previously treated patients for similar conditions and found that abrupt withdrawal of Amitriptyline often led to severe rebound effects. Dr. Emmerich, can you please explain how this information intersects with your previous testimony regarding the claimant's condition?

A The primary care physician's note corroborates my previous testimony regarding the potential for severe rebound effects when abruptly withdrawing Amitriptyline.

ATTY: Dr. Emmerich, it seems we've finally established a clear picture of what transpired with the claimant's condition and Amitriptyline use. I'd like to thank you for your thorough explanations and willingness to revisit and clarify any points that may have been oversimplified or misstated.

(The vocational expert, ELTON HALVORSON, having been first duly sworn, testified as follows:)

EXAMINATION OF VOCATIONAL EXPERT BY ADMINISTRATIVE LAW JUDGE:

Q Can the claimant perform the demands of a Musician?

A A Musician typically requires performing various music-related tasks, such as playing musical instruments, singing, or conducting orchestras. This occupation often involves standing for long periods, walking, and moving around, which can be considered a medium level of physical exertion. Additionally, it may require

manual dexterity to operate musical instruments and equipment, as well as good auditory skills to produce harmonious music. In terms of strength, Musician is not typically considered a physically demanding job that requires heavy lifting or carrying heavy objects. As for the SVP rating, I would rate Musician around 5-6, given its requirements for skilled performance, creativity, and attention to detail.

Q I see. So, according to your testimony, a Musician would require standing for long periods, walking, and moving around, which is a medium level of physical exertion. And it would also demand manual dexterity to operate musical instruments and equipment, as well as good auditory skills to produce harmonious music. I'd like you to elaborate on how these requirements compare to those of Profile 1: Musician with Orchestra, where the claimant would be playing a fixed instrument in an ensemble setting, with some freedom to move around the concert hall, but not necessarily leading or conducting the orchestra. Would this type of job be consistent with the claimant's abilities?

A No.

Q Profile 2 involves a Musician playing a fixed instrument with an ensemble of other musicians, which requires standing and moving around to follow the conductor or leader, but does not require leading or conducting the orchestra. Would this type of job be consistent with the claimant's abilities?

A Yes.

Q Given that the claimant can perform Profile 2: Musician with Ensemble, which involves standing and moving around to follow the conductor or leader, I'd like to ask if the symptom of fatigue experienced by the claimant during their previous work as a Musician is still an issue. Is this symptom causing any problems in terms of performing the demands of a Musician in Profile 2?

A [INAUDIBLE]

ALJ: Thank you, Mr. Halvorson, for your expert testimony regarding the claimant's abilities to perform as a Musician in various settings. Based on your assessment, it appears that the claimant can perform the demands of Profile 2: Musician with Ensemble, but may not be able to perform at the level required by Profile 1: Musician with Orchestra due to the physical and mental demands of leading or conducting an orchestra. Additionally, you stated that the symptom of fatigue experienced by the claimant during their previous work as a Musician is no longer an issue. I would like to ask if Counsel has any questions.

ATTY: [INAUDIBLE]

EXAMINATION OF VOCATIONAL EXPERT BY ATTORNEY:

Q Mr. Halvorson, I'd like to ask a follow-up question regarding the claimant's abilities to perform as a Musician. You mentioned earlier that the symptom of fatigue experienced by the claimant during their previous work as a Musician is no longer an issue. However, I'd like to know if the claimant's recent difficulty with managing their finances and paying bills on time

could potentially impact their employability as a Musician or any other occupation. Would this issue be relevant in any way?

A Yes, the claimant's recent difficulty with managing their finances and paying bills on time could potentially impact their employability as a Musician or any other occupation. This issue may indicate problems with personal organization, time management, and possibly even mental health, all of which could be relevant in an occupational setting.

Q Mr. Halvorson, I'd like to know if the claimant's recent issue with oversleeping and difficulty waking up for appointments could also potentially impact their employability as a Musician or any other occupation.

A Yes, the claimant's issue with oversleeping and difficulty waking up for appointments could potentially impact their punctuality, reliability, and overall ability to meet work schedules or deadlines as a Musician or any other occupation.

ALJ: Thank you, Mr. Halvorson, for your thorough and insightful testimony regarding the claimant's abilities to perform as a Musician in various settings, as well as your analysis of their recent difficulties with managing finances, oversleeping, and difficulty waking up for appointments. Your expert opinion will certainly be taken into consideration during my deliberation on this case. I would now like to summarize the key points that have been discussed throughout our hearing today. The claimant's abilities to perform as a Musician were explored in detail, with

particular focus on their ability to play a fixed instrument in an ensemble setting, and it was determined that they can perform at this level, but may not be able to lead or conduct an orchestra due to the physical and mental demands of such a role. Additionally, their recent difficulties with managing finances, oversleeping, and difficulty waking up for appointments were discussed, and it was acknowledged that these issues could potentially impact their employability as a Musician or any other occupation. Now, I would like to ask if the claimant has any final remarks they would like to make before I conclude this hearing.

CLMT: Thank you, Honorable Judge, for allowing me to present my case and share my story with all of you today. I want to express my deepest gratitude to Dr. Emmerich, Mr. Halvorson, and the entire team who have worked tirelessly to help me navigate this complex process. I'm not just a musician, I'm a person living with disabilities, and it's crucial that we acknowledge and address these challenges in our society. We must recognize that people like me are capable of so much more than what our limitations may suggest. As I stand before you today, I want to emphasize the importance of compassion, understanding, and empathy towards those who struggle daily with their mental and physical health. It's not just about being disabled; it's about being a part of this beautiful tapestry that we call human experience. We need to break down the stigmas surrounding disability and foster an environment where individuals can thrive without fear of

judgment or rejection. I'm proud to be a musician, but more importantly, I'm proud to be an advocate for those who may not have a voice. As I conclude my remarks, I want to leave you with a message of hope and resilience. Disability is not something to be ashamed of; it's a part of who we are. Let us strive to create a world where everyone can live their life to the fullest, regardless of their abilities or challenges. Thank you.

ALJ: This concludes our hearing today. I want to express my gratitude to Dr. Emmerich and Mr. Halvorson for their expert testimony and dedication to helping claimants navigate this process. To the claimant, I appreciate your courage in sharing your story and advocating for disability awareness and acceptance.

VE: Thank you for having me.

ME: Thank you for [INAUDIBLE]

CLMT: Thank you for listening, Honorable Judge.

ATTY: Thank you, Honorable Judge.

(The hearing closed at 02:35 AM, on September 27, 2022.)

C E R T I F I C A T I O N

I have read the foregoing and hereby certify that it is a true and complete transcription of the testimony recorded at the hearing in the case of Brayan Schmidt, held before Administrative Law Judge Alta Green.

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