

In *your* CORNER

The Disability Law Adviser

CASE CLOSED:

William Gets His FAIR Share

Computers are a boon to our workdays, but sometimes...not so much. Here's a case where my client William Henderson was denied his rightful disability benefits because his doctor didn't update his computerized medical records. Luckily, another attorney sent William to my office for help.

William devoted 33-years of his life working in a job he loved which had a big impact on his community. You see, William was a Process Technician with E-One, a manufacturer of firefighting equipment and ambulances, among other vehicles that rolled out of the manufacturing plant.

In his job, William coordinated communications between production, engineering and management, and physically performed plumbing trouble shooting requiring constant climbing, exposure to moving parts and vehicles, electrical currents, scaling high scaffolding and exposure to loud noise.

William took his job seriously and took great pride in performing his physical tasks. While William was devoted to his job, he also looked forward to the next phase of his life: retirement – “possibly starting a small business along with continuing to boat, fish and travel with my wife,” said William.

But ongoing and worsening health conditions made it impossible for William to keep working and severely impacted his retirement plans. It all started when William began experiencing vertigo affecting his balance, initially blamed on sinus problems. But a specialist at the Mayo Clinic discovered a different cause.

The Mayo Clinic's Ear Nose & Throat (ENT) physician found that William's cochlear bone had rubbed a hole through the dura mater, causing bone against skull, which was surgically corrected in 2014. The surgery alleviated William's vertigo for a while, but with time, he again started experiencing more frequent vertigo and light-headedness. To add injury to insult, William suffered a stroke in 2021, causing memory loss and injury to his nerves responsible for balance and light-headedness.

“I was feeling like I was drunk 24/7,” said William.

Eventually, William had no choice but to stop working and file a long-term disability claim with his employer's disability insurance carrier, Lincoln National Life. Naturally, he was denied, but for the wrong reasons.

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On appeal, we proved through William's accurate medical records that his progressive medical conditions no longer allowed him to perform his job.



In Your CORNER

by Claudeth Henry, Esq.

Can you believe America turns 246 years old this year on July 4th! This is traditionally a time for backyard BBQs and long days at the beach. To honor that birthday, I share a recently discovered recipe with a Caribbean vibe that I plan to take to my own family's get together in 'Claudeth's World.'

Our 'Spotlight' gives a nod to Kerry Eck, whose marketing talents help share wisdom from local doctors

and their medical practices with others through the Medical Business Leaders Network.

An overlooked hiccup in medical records that led to denial of my client's disability claim is examined in 'Case Closed.' And we share how a lapse in medical treatment caused a major issue in a recent lawsuit in 'Danger Zone.'

If you, your patients, or clients are applying for or have been denied disability benefits from an employer-sponsored disability insurance program contact me for a free evaluation. Why? Because I am 'In Your Corner.' ■



Claudeth Henry, Esq.



The Secret to Securing Disability Bennies

If you have an employer-sponsored disability insurance policy, the burden of ‘proof’ rests with you to qualify for those policy benefits and one key to securing those benefits is documented PROOF of being ‘continuously treated by a physician.’

A lapse in medical treatment dooms your chances of receiving those benefits even if the Social Security Administration approves your disability, which Terry Nunnely unfortunately discovered.

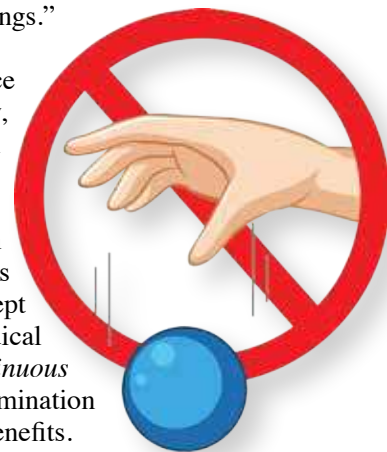
In Nunnely v. Life Ins. Co. of N. Am., No. 21-12537 (11th Cir. May 24, 2022), Terry Nunnely was forced to stop working as a mechanic due to migraines. Eventually, the migraines increased in frequency and Terry filed for long-term disability benefits with his employer-sponsored carrier, Life Insurance Company of North America (LINA). LINA required proof that Terry was *continuously* unable to perform his job throughout the 26-week elimination period, including medical documentation of treatment for his disabling condition throughout this period.

Terry’s claim form noted that he was being treated for “manic depression, bipolar [disorder], anxiety, forgetfulness, lack of coordination,” and the inability to hold things in his hands, lack of concentration, pain in his neck, back, arms, and legs, along with chronic migraine headaches.

Among the medical evidence Terry provided to LINA was a questionnaire his treating psychiatrist completed on February 19, 2018, stating that “based on his June 5, 2017 (the last date treated during the elimination period) examination of Terry, he remained

unable to work due to high levels of panic, anxiety, auditory and visual hallucinations, and mood swings.”

Since it had been 8-months since his psychiatrist last treated Terry, this was a red flag to LINA. LINA questioned how Terry’s physician concluded that he remained unable to work since Terry had not been *continuously* treated and denied his claim. Terry appealed, but LINA kept their earlier decision that the medical evidence didn’t support a *continuous* inability to work during the elimination period denying Terry’s disability benefits.



Terry filed a lawsuit against LINA and the U.S. Court for the Northern District of Alabama agreed with the insurance company’s decision that Terry did not fulfill the disability insurance policy requirement of being ‘continuously disabled throughout the elimination period.’ Even with the Social Security Administration’s later approval of Terry’s disability benefits, the court stood firm with LINA’s original decision to deny benefits to Terry.

Here’s the bottom line: Terry – as all claimants – **must** continue to receive medical treatment after the onset of disability to **prove** qualification for disability benefits. Being approved for Social Security Disability benefits doesn’t necessarily prove disability under the terms of an employer-sponsored disability insurance plan. Unfortunately, Terry’s lack of continuous medical treatment proof placed him in the **Danger Zone**. ■

CASE CLOSED:

Disability Denial = Fighting for Justice

(continued from cover)

Lincoln National denied William’s disability benefits when they pried through his primary care physician’s computerized medical records and discovered this outdated physician’s note:

“Patient states that despite his illness, he is able to perform activities of daily living and is able to work.”

In direct contradiction of William’s more current medical record history and assessment documentation, Lincoln National seized upon this outdated

statement and on December 18, 2021, gave William an *unwelcome* Christmas gift: a phone call advising that his claim had been denied.

On appeal, we proved through William’s accurate medical records that his progressive medical conditions no longer allowed him to perform his job. Lincoln National agreed, approved his claim and paid his back benefits.

William says, “Claudeth and her team did a great job on my appeal. We were very impressed and will refer Claudeth to anyone we know who find themselves in a similar situation. The day she called us to let us know that my claim had been approved was a *welcome* call and a happy day in our house!”



Claudeth with William and Laurie Henderson

If you, your patients, or clients have an injury or medical condition preventing continued work and have been denied disability benefits from an employer-sponsored disability insurance program, contact me for a free evaluation. Why? Because it’s what I do to protect the rights of hard-working folks like William.

CASE CLOSED. ■

SPOTLIGHT Practice Makes Perfect

Kerry Eck knew back in Kansas at Emporia State University that he wanted a people-focused career. With a Major in Communications and a Minor in Business, the Medical Business Leaders Network (MBLN) here in Ocala made a perfect choice 5 years ago when it made Kerry its Marketing Director.

Kerry said, "I've been in medical marketing since we moved to Florida back in August of 2013. My wife Heidi, a Nurse Practitioner, worked for one of the member practitioners. I started going to meetings with her, learned there was a vacancy on the Board, and asked about the position. I've been the Marketing Director ever since."

Kerry's marketing tools? He gets the word out to its current and prospective members by email blasts through Constant Contact and by word of mouth, doctor to doctor, its Facebook page and the network's website, www.medicalbusinessleadersnetwork.com.

The Medical Business Leaders Network is the brainchild of Drs. Adam Geril and Kenneth Lee, who during a workout session at the gym thought it would be "cool" to have a network of medical providers to share ideas to make their practices more efficient and learn from the experiences of others. Incorporated in 2012, the group meets the first Thursday evening of the month bimonthly at the Ocala Country Club.

Once accredited by HCA, a presenter has an hour to make a formal presentation to the group at the meetings, earning attending members continuing medical education credits. "We've had presenters such as Sheriff Billy Woods and Police Chief Mike Balken get credentialed for public safety. Kevin

Sheely, president of the Chamber & Economic Partnership, has also been a presenter."

The meeting agenda also includes discussion of human resources, billing and collections, contract negotiations, banking, and most topics associated with running a medical practice – a must for all medical office managers, primary care physicians and specialists who own their own business. "I think the most beneficial aspect of being a member is the networking, learning from others, as well as patient referrals," Kerry shared.

When not working, this busy husband and father of 10-year-old Connor and 7-year-old Madeline LOVES to work in his yard or go camping with the family in their camper. Of course, the family's Jack Russell Terriers Dot and Valentine tag along! The opening of the World Equestrian Center also provides another venue for the family to spend time together. "You can usually find us there most weekends. In fact, my wife Heidi recently helped with its Blueberry Festival 5K Fun Run."

The Eck family enjoys camping out annually for Halloween at Moonshine Acres near Fort White. Sharing a quirky sense of humor, they once dressed as the "Addams Family," and won the Best Costume award, which is now a favorite family memory.

At the end of a busy workday, Kerry chills out with a "finger or two of Peanut Butter Whiskey, on the rocks, which goes down smoothly and caps off the end of my day." Kerry also enjoys listening to podcasts about the journey popular comedians made to get to where they are now or watching Morgan Freeman in "Shawshank Redemption" whenever it's aired.

If you as a medical professional would like more information about joining the Medical Business Leaders Network, contact Kerry at kerryleck@yahoo.com or 620/757-5897; or check out their website: www.medicalbusinessleadersnetwork.com. ■



(top) Kerry and Heidi on their Date Night.



(bottom) Eck Family having some fun as the Addams Family.

Havin' a LAUGH!!



"I can get the charges dropped for your excessive barking ... but you'll have to roll over."



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Claudeth's WORLD

JULY 4TH BEACHY GRILL

Celebrating July 4th with a new dish, along with everyone's favorite family recipes for this special holiday potluck, is a great way to honor our nation's 246th birthday.

July 4th is special to me because I am a naturalized citizen and what better way to celebrate our nation's birthday than by entertaining family and friends by throwing a big July 4th Potluck Bash at midsummer in the backyard or on a nearby sandy beach?

This year, along with all of the traditional dishes that everyone else gets to bring – corn on the cob, fresh green beans, watermelon, along with desserts too numerous to mention – I am mixing it up with a nod to my Caribbean roots by serving a new dish on the BBQ: Tropical Island Chicken. ■

RECIPE

Tropical Island Chicken

(from www.tasteofhome.com) Serves 8

½ cup reduced sodium soy sauce	4 garlic cloves, minced
⅓ cup canola oil	1 tsp ground ginger
¼ cup water	¾ tsp salt
2 TBS dried minced onion	⅛ tsp cayenne pepper
2 TBS sesame seeds	2 broiler/fryer chickens (3-4 pounds each), quartered
1 TBS sugar	

Directions:

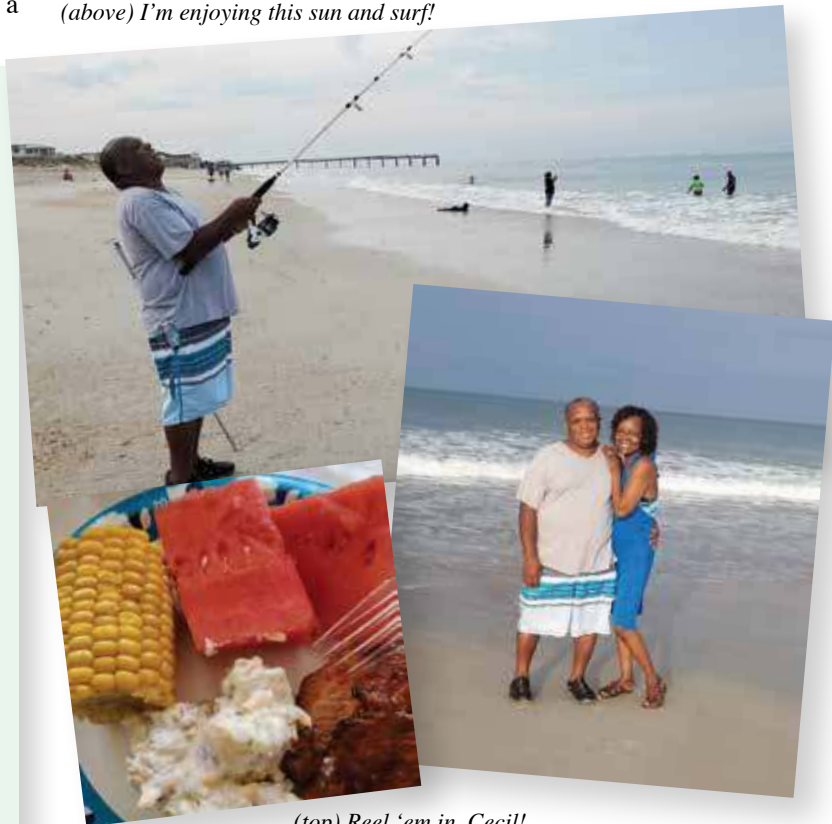
1. In a small bowl, combine first 10 ingredients. Set aside ⅓ cup for basting; cover and refrigerate. Pour remaining marinade into a large resealable plastic bag. Add chicken; seal and turn to coat. Refrigerate 8 hours or overnight.
2. Prepare grill for indirect heat, using a drip pan. Place chicken over drip pan; grill, covered, over indirect medium heat 45-60 minutes or until a thermometer reads 170°-175°, turning and basting frequently with reserved marinade during the last 20 minutes.

Nutrition Facts:

1 serving: 296 calories, 21g fat (4g saturated fat), 66mg sodium, 3g carbohydrate (2g sugars, 0fiber), 23g protein.



(above) I'm enjoying this sun and surf!



(top) Reel 'em in, Cecil!

(above left) July 4th picnic feast!

(right) A little "down time" on the beach with Cecil!

Happy Birthday, America! Now, who brought the chocolate cake?