

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BEVERLY BAKER

Plaintiff

vs.

ABC METROPOLITAN  
INSURANCE COMPANY

Defendant

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CIVIL ACTION NO. H.00.0000

**AFFIDAVIT**

STATE OF TEXAS

COUNTY OF MONTGOMERY

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Before me, the undersigned authority, personally appeared Lymer Judd, P.T., who being by me duly sworn, deposed as follows:

My name is Lymer Judd. I am over 18 years of age, of sound mind, competent to make this affidavit, and personally acquainted with the facts herein stated.

1. I am the Director of Physical Therapy at the Humble Work Testing Center in the Humble, Harris County, Texas.
2. One of my duties as the director is to give a Functional Capacity Assessment (Evaluation) (FCE) to an individual.
3. On September 3, 2002 I gave a FCE to a Ms. Beverly Baker. Afterward I wrote a report (Exhibit 1) that described the test procedure and stated my conclusions from the test. One of those conclusions was as follows: "WORKDAY TOLERANCE RECOMMENDATIONS: 2 to 3 hours." This phrase means that Ms. Baker can only work 2 to 3 hours per day.
4. I also wrote in my FCE report the following:

"Sit 2 to 3 hours      20 minute Durations"  
"Stand 0 to 1 hour    10 minute Durations"  
"Walk 1 to 2 hours    Occasional, Short Distances"

These terms mean that each referenced action and corresponding time limit will occur within a 2 to 3 hour workday only.

5. Additionally on September 3, 2002, I wrote a letter (See Exhibit 2) to Dr. Dominic Prada that accompanied the enclosure of my FCE report. In the letter I wrote: "Based on the assessment results, Ms. Baker is able to work in the light work category following the safe lifting guidelines established in this assessment." This statement means that Ms. Baker can work in the light work category (i.e. lifting no more than 20 lbs.) but, for only 2-3 hours per day.
6. My purpose in this affidavit is to interpret and explain the above terms that I used in my FCE report and letter to Dr. Prada.

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Lymer Judd, P.T.

Sworn to this \_\_\_\_ day of \_\_\_\_\_, 2005 by Lymer Judd.

\_\_\_\_\_  
Notary Public in and for  
the State of Texas

My Commission Expires:  
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