

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

Docket No. 2020-0185

APPEAL OF THE ESTATE OF PETER DODIER

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APPEAL FROM WORKERS' COMPENSATION APPEALS BOARD  
PURSUANT TO RSA 541:6

APPELLEE'S BRIEF

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Oral Argument on behalf of Utica  
National Insurance Company and  
OL International Holdings, LLC  
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## QUESTIONS PRESENTED

1. Whether the record supports the CAB decision that Mr. Dodier's employment did not cause or contribute (medical causation) to his depression and anxiety when it rejected the Estate's experts (neither of whom were treating doctors) and articulated why it adopted the medical opinion of Dr. Bourne.
2. Whether the record supports the CAB's ruling that the work environment did not contribute to Mr. Dodier's mental health condition when it rejected second-hand facts presented by the Estate in favor of first-hand facts put forward by the employer witnesses to include Mr. Dodier's direct boss.
3. Whether both the definition of injury in RSA 281-A:2, XI and the plain language of RSA 281-A:26 bar recovery of death benefits following Mr. Dodier's intentional suicide to include the fact that he did not sustain any loss of wages/compensation between the two noticed dates of injury of February 18, 2017 and March 12, 2017.

## PROVISIONS OF THE STATUTE

### **281-A:2 Definitions. –**

XI. "Injury" or "personal injury" as used in and covered by this chapter means accidental injury or death arising out of and in the course of employment, or any occupational disease or resulting death arising out of and in the course of employment, including disability due to radioactive properties or substances or exposure to ionizing radiation. "Injury" or "personal injury" shall not include diseases or death resulting from stress without physical manifestation, except that, if an employee meets the definition of an "emergency response/public safety worker" under RSA 281-A:2, V-c, the terms "injury" or "personal injury" shall also include acute stress disorder and post-traumatic stress disorder. "Injury" or "personal injury" shall not include a mental injury if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or any similar action, taken in good faith by an employer. No compensation shall be allowed to an employee for injury proximately caused by the employee's willful intention to injure himself or injure another. Conditions of the aging process, including but not limited to heart and cardiovascular conditions, shall be compensable only if contributed to or aggravated or accelerated by the injury. Notwithstanding any law to the contrary, "injury" or "personal injury" shall not mean accidental injury, disease, or death resulting from participation in athletic/recreational activities, on or off premises, unless the employee reasonably expected, based on the employer's instruction or policy, that such participation was a condition of employment or was required for promotion, increased compensation, or continued employment.

XIII. "Occupational disease" means an injury arising out of and in the course of the employee's employment and due to causes and conditions characteristic of and peculiar to the particular trade, occupation or employment. It shall not include other diseases or death therefrom unless they are the direct result of an accidental injury arising out of or in the course of employment, nor shall it include either a disease which existed at commencement of the employment or a disease to which the last injurious exposure to its hazards occurred prior to August 31, 1947.

### **281-A:16 Determining Date of Injury for Occupational Disease and Cumulative Trauma. –**

For the purpose of determining the date of injury for an occupational disease, the date of injury shall be taken to be the last date of injurious exposure to the hazards of such

disease or the date on which the employee first knew or reasonably should have known of the condition and its relationship to the employee's employment, whichever is the later. For an injury caused by cumulative trauma, the date of injury shall be the date of first medical treatment. For an injury or condition aggravated by cumulative trauma, the date of injury shall be the date of first medical treatment for the aggravation.

### **281-A:26 Compensation for Death. –**

If death results from an injury, weekly compensation shall be paid to the dependents of the deceased employee in an amount provided by the compensation schedule in RSA 281-A:28 as follows:

I. In all cases in which compensation is payable to a widow or widower for the benefit of herself or himself and dependent children, the commissioner shall have the power to determine from time to time, in the commissioner's discretion, what portion of the compensation shall be applied for the benefit of any such children and may order the same paid to a guardian.

II. In the case of the remarriage of a widow or widower without dependent children, compensation payments shall cease.

III. In the case of the remarriage of a widow or widower who has dependent children, the unpaid balance of compensation which would otherwise become due shall be payable to the mother, father, or guardian, or such other person as the commissioner may order, for the use and benefit of such children during dependency.

IV. The employer shall pay burial expenses not to exceed \$10,000.

V. Any dependent, except a widow or a widower or children, who, at the time of the injury to the person covered under this chapter, is only partially dependent upon the injured person's earnings shall receive such proportion of the benefits provided for those wholly dependent as the amount of the wage contributed by the deceased to such partial dependent at the time of the injury bore to the total support of the dependent.

VI. Compensation for a dependent child shall continue until the child becomes 18 years of age, or until the child becomes 25 years of age if such child is enrolled as a full-time student in an accredited educational institution. However, if the commissioner determines that the child is self-supporting or if the child marries or is legally adopted, compensation shall cease. A dependent child who is physically or mentally incapacitated shall continue to receive compensation as long as the incapacity continues. This paragraph shall have no effect on accidents or fatalities occurring prior to July 1, 1975, which shall be governed by the provisions of workers' compensation law prior to that date.

VII. Compensation payable to any dependent other than a widow, widower, or children shall cease when such dependent is married, is legally adopted, or is determined by the commissioner to be self-supporting.

## STATEMENT OF THE CASE AND FACTS

On Sunday, March 12, 2017, Peter Dodier drove to the Whittier Bridge in Salisbury, Massachusetts, parked his car on the north bound side of the bridge, got out of his car, removed his coat, climbed over two barriers, and jumped to his death at approximately 10:30 a.m. He did not leave a suicide note. Earlier that Sunday morning, he had run two sets of errands for his wife and also visited with his brother. As Sunday was not a workday for Mr. Dodier, he was not in the course of his employment at the time he jumped from the Whittier Bridge. At that time, he was not under any medical disability and had been performing the regular full-time duties of his job. And despite a hospitalization for depression the month before, he used his private health insurance for that treatment and did not file a workers' compensation claim for that treatment – a duty for which he was responsible as his employer's office manager. It was not until fourteen (14) months later that the Estate of Peter Dodier ("Estate") filed a claim alleging that his suicide was work related. Utica Mutual Insurance Company ("Utica") denied the claim on June 12, 2018.

The Estate appealed the adverse Department of Labor August 30, 2018 decision to the Workers' Compensation Appeals Board, ("CAB"). The CAB held a hearing on November 7, 2019. On January 8, 2020, the CAB found "The Estate has failed to prove by a preponderance of the evidence that Mr. Dodier's anxiety and major depression illness was causally related to his employment. The claim for workers' compensation benefits is denied." See App. Br. at 55. <sup>1</sup>

The Estate filed a timely Motion for Rehearing/Reconsideration. On March 4, 2020 the CAB issued a decision on the Estate's request for rehearing/reconsideration. In its March 4, 2020 decision, the CAB rejected the Estate's assertion that it applied a "but for" legal standard. Specifically, the CAB held "The Board denied the claim on a finding

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<sup>1</sup> References to "App. Br." are to the Appellant's Brief.



that the work did not cause or contribute to Mr. Dodier's depression. The Board did not apply a 'but for' legal standard in making this determination. Further, the Board does not conclude that we improperly weighed the evidence thereby making the decision unjust or unreasonable." See App. Br. at 37. The CAB also addressed the Estate's argument that legal error occurred because it did not identify or consider the two noticed dates of injury (February 18, 2017 and March 12, 2017). Specifically, the CAB wrote "The decision that there is no compensable work injury rendered moot the need to determine whether the claimed date of injury should be February 18, 2017 when he was hospitalized or March 12, 2017 when he committed suicide. However, the decision clearly does apply regardless which of the two dates is legally proper." Id. at 37

This appeal follows.

### SUMMARY OF ARGUMENT

The CAB did not err when it found on January 8, 2020 that the Estate failed to prove that the claimant's anxiety and depression illness was causally related to his employment. In reaching its decision, the CAB articulated why it rejected the opinions of the Estate's medical experts, Dr. Drukteinis and Dr. Price (neither of whom were a treating doctor nor did either of them ever examine or meet with Mr. Dodier) and adopted the opinion of the employer's expert, Dr. Bourne.

Furthermore, on March 4, 2020, the CAB issued a decision on the Estate's request for rehearing/reconsideration. Within that order, the CAB also reiterated that it "denied the claim on a finding that the work did not cause or contribute to Mr. Dodier's depression." See App. Br. at 36. Accordingly, the CAB found that the Estate failed to prove the necessary element of medical causation.

The CAB also accepted the testimony of the decedent's boss, Alan Baer, and co-worker, Katie Painter, as reliable stating that,

“[i]n weighing the lay evidence in its totality, the board found that evidence credible and convincing in describing a generally normal, reasonable, and

functional work environment and that the Estate had not proven that there was a significant increase in work stressors to prior to Mr. Dodier's depression illness."

See App. Br. at 36.

Accordingly, the CAB held that the Estate failed to prove legal causation.

Lastly, the Estate has argued, from day one, through second-hand facts that numerous workplace tasks and responsibilities led to his depression and anxiety. These alleged tasks and responsibilities are summarized best in the "*List of Pressure At Work As Described by Joanna Dodier*" See Apx. at 247. Ms. Dodier never worked for OL International Holdings, LLC. The second-hand facts alleged in this document were contradicted by the employer witnesses and not rebutted by the Estate. Despite the uncontradicted rebuttal to these alleged facts at both the Labor Department and CAB hearings, the Estate continues to advance a **false narrative to this Court.**

The Estate's Brief ignores or significantly downplays the personal stress Mr. Dodier was experiencing in 2016, including his ongoing civil lawsuit and payment of damages he was required to make in July of 2016, just a few weeks before his eldest son went to college. In the CAB's March 4, 2020 decision on the Estate's motion for reconsideration/rehearing it wrote: "In addition to work stressors, Mr. Dodier had been recently expressing concerns about financial stressors and family stressors prior to his depression diagnosis. Dr. Bourne noted the above-described evidence in arriving at his written opinion, which the Board found persuasive, that Mr. Dodier's depression was a biologically caused depression and one cannot attribute his depression to any external cause." See App. Br. at 37.

Unfortunately, the Estate's Brief also ignores the positive financial performance of the Exeter branch in 2016, under Mr. Dodier's management, including the office beating budget, Mr. Dodier getting a raise and Christmas bonus, and Mr. Dodier submitting a proposed budget in the fall of 2016 which did not request any new staff positions nor did it contemplate any staff reductions (downsizing) as the labor costs in the 2017 approved

budget was held constant throughout the year. See Appellee's Appendix at 44-45. See also Compensation Appeals Board hearing transcript at 242, 244, 247-248.

The CAB, in its original January 8, 2020 decision and its subsequent March 4, 2020 decision on the Estate's request for rehearing/reconsideration, considered all the evidence (both medical and non-medical) and identified which expert opinion it adopted and why. The CAB also explicitly identified and highlighted the contradicted facts which gave rise to the Estate's claim. Lastly, the CAB rejected the Estate's contention that it applied a "but for" standard by holding "The Board denied the claim on a finding that the work did not cause or contribute to Mr. Dodier's depression, the Board did not apply a 'but for' standing in making this determination." See App. Br. at 37.

See In re Walsh, 156 N.H. 347 (2007) ("administrative agencies should have a chance to correct their own alleged mistakes before time is spent appealing from them").

Accordingly, the CAB decision is consistent with New Hampshire law and it is not unjust nor unreasonable.

## ARGUMENT

### I. STANDARD OF REVIEW

This Court has consistently held that the party seeking to set aside the CAB's Decision bears the burden "to show that the [order] is clearly unreasonable or unlawful." RSA 541:13 (2007). "[A]ll findings of the [Board] upon all questions of fact properly before it shall be deemed to be *prima facie* lawful and reasonable." Id. Appeal of Dean Foods, 158 N.H. 467, 471 (2009). "[T]he order or decision appealed from shall not be set aside or vacated except for errors of law, unless the court is satisfied, by a clear preponderance of the evidence before it, that such order is unjust or unreasonable." Id.

When reviewing the CAB's findings, this Court has stated that its "...task is not to determine whether we would have found differently than did the [Board], or to reweigh

the evidence, but rather to determine whether the findings are supported by competent evidence in the record." Appeal of Phillips, 165 N.H. 226, 235 (2013) (quotation omitted). Accordingly, this Court defers to the CAB as to its findings of fact. Appeal of Malo, 169 N.H. 661, 666 (2017). "The [Board's] findings of fact will not be disturbed if they are supported by competent evidence in the record, upon which the [Board's] decision reasonably could have been made." Id. (quotation omitted). Appeal of Jackson, 142 N.H. 204, 206 (1997); see also Dean Foods, 158 N.H. at 474.

This Court reviews the CAB's rulings on issues of law *de novo*. See Appeal of Wingate, 149 N.H. 12, 14 (2002); RSA 541:13.

## **II. THE CAB PROPERLY FOUND THAT THE ESTATE FAILED TO PROVE THAT THERE WAS AN INJURY THAT WAS CAUSALLY RELATED TO THE DECEDENT'S EMPLOYMENT**

In New Hampshire, to recover under the workers' compensation law an employee must show that his or her injury arose out of and in the course of employment. Appeal of Kelly, 167 N.H. 489, 492 (2015); see also RSA 281-A:2, XI, XIII. RSA 281-A:2 XIII requires in this case that the occupational disease or injury result from "an accidental injury arising out of and in the course of employment." Thus, the Estate had burden to establish both medical and legal causation. See Appeal of Margeson, 162 N.H. 273 (2011).

### **A. THE CAB PROPERLY RULED THAT THE ESTATE FAILED TO PROVE MEDICAL CAUSATION**

To prove medical causation, the Estate had to prove that Mr. Dodier's injury resulted from a hazard of the employment. Appeal of Margeson 162 N.H. 273 (2011). Moreover, Mr. Dodier's mental health injury "must have resulted from the conditions and obligations of the employment and not merely from the bare existence of the employment." Id. at 283.

In reviewing the medical experts in this case, the CAB articulated why it rejected the opinions of the Estate’s medical experts, Drs. Drukteinis and Price (**neither of whom were a treating doctor nor did either of them ever examine or meet with the claimant**),<sup>2</sup> and adopted the opinion of the Employer’s expert, Dr. Bourne. See App. Br. at 52-53. In rejecting the Estate’s expert, Dr. Drukteinis, the CAB found that

“...based these conclusions in large part from a written report and two-hour interview with Ms. Dodier. He had no information from any person at the work place to confirm or contradict Ms. Dodier's observations about recent stress causing changes to the work environment. As stated by Dr. Bourne (see below), an expert would need such input to determine work's contribution to the anxiety and major depression of Mr. Dodier.”

App. Br. at 52.

Against this, the CAB weighed the direct evidence of the Employer and found that

“...the testimony of Mr. Baer and information from Ms. Painter, who both work at the [Employer], contradict many of Ms. Dodier's statements. Their comments describe a generally normal, reasonable, and functional work environment. Further, they do not support the conclusions of Dr. Drukteinis that there had been a significant recent increase or a substantial change in work pressure on Mr. Dodier in the months prior to his hospitalization that would have substantially contributed to his depression.”

App. Br. at 52.

The CAB reiterated this finding in its unanimous March 4, 2020 order on the Estate’s Request for Rehearing/Reconsideration, See App. Br. at 36. In that order the CAB accepted the testimony of the decedent’s boss, Alan Baer, and co-worker, Katie Painter, as reliable stating that,

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<sup>2</sup> It is important to point out that the Estate did not introduce any medical opinion or solicit testimony from any treating doctor of Mr. Dodier during his February 18, 2017 admission at the Anna Jacques Hospital or Lahey Behavioral Health or his primary care doctor. As stated by Justice Souter, “The New Hampshire Reports are replete with cases sustaining rulings that either party in a case may comment on an opponent's failure to call a witness, when the record indicates that the witness could have given relevant testimony and was apparently in the jurisdiction and available to call. See e.g., Beardsell v. School, 89 N.H. 459, 462-63 (1938); Brito v. Company, 79 N.H. 163, 164 (1919)”. The rule is no different when the case raises medical issues and the putative witness is a physician. See Lee v. Hustis, 79 N.H. 434, 436 (1920).

“[i]n weighing the lay evidence in its totality, the board found that evidence credible and convincing in describing a generally normal, reasonable, and functional work environment and that the Estate had not proven that there was a significant increase in work stressors prior to Mr. Dodier’s depression illness.”

App. Br. at 36.

In fact, the CAB’s Order specifically pointed out the contradictions in the Claimant’s Request for Rehearing/Reconsideration when it appended the “*List of Pressure At Work As described by Joanna Dodier*” and the evidence summarized in the Employer’s closing statement. Compare Apx. at 247 with App. Br. at 40-42. As Dr. Bourne points out, “...the work-related stressors listed by Joanna Dodier were significantly contradicted by the testimony of Mr. Dodier’s coworker and by his boss.... I believe that the lack of suicide note renders the connection between any specific stressors – including work stressors – and his death to be speculative. (Emphasis supplied.) Id. at 43.

As the Court can see, after reviewing the testimony and expert reports, the CAB properly concluded the Estate had not proven medical causation;

"In reviewing the evidence in its entirety, we conclude that it does not support a finding that there was a recent significant increase in the non-work pressures that have been identified as ones Mr. Dodier reported as causing him concerns - caring for his mother, finances, his son's schooling, etc. We further conclude that the testimony and affidavits from witnesses fail to support Dr. Drukteinis' opinion that there was a "significant change" in the work pressures Mr. Dodier was experiencing that would have significantly contributed to his anxiety and major depression. Based on the entirety of the medical and non-medical evidence, we adopt as persuasive Dr. Bourne's opinions as stated above including that one cannot attribute his depression to any specific external cause. It is just as likely that the substantial contributor to the depression was the depression itself, rather than any external cause."<sup>3</sup>

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<sup>3</sup> Dr. Bourne’s conclusion is echoed by the Board: “Hence, in the final analysis, one cannot attribute Mr. Dodier’s depression to any specific cause. This means that one should not conclude that work stressors played a substantial contribution to the depression, because the substantial contributor to the depression was the depression itself, rather than any external cause.” Appendix at 195.

See App. Br. at 54.

This conclusion is supported by prior decisions of this Court. In Appeal of Gamas, 138 N.H. 487 (1994), this Court held “that a factfinder is free to accept or reject an expert’s opinion when it is derived from an inaccurate history from the patient/petitioner.” In the present case, the CAB articulated why it rejected the opinions of both Dr. Drukteinis and Dr. Price. In brief, the CAB noted that both of the Estate’s doctors based their conclusions, in large part, on alleged workplace stress provided by Mrs. Dodier which was directly contradicted by both the president of the company, Mr. Baer, and the claimant’s co-worker, Ms. Painter. Compare Apx. at 247 with App. Br. at 40-42. The CAB referenced the contrary testimony between the Estate and the employer and then stated that, “[t]he causes of and degree of work stress Mr. Dodier was experiencing are not well documented and are disputed.” See App. Br. at 53.

In addition, this Court has repeatedly held that the CAB is entitled to ignore medical opinions so long as it identifies the competing evidence or considerations supporting its decision to do so. See Appeal of Kehoe, 141 N.H. 412 (1996); *cf* Appeal of Chickering, 141 N.H. 794 (1997); Appeal of Fay, 150 N.H. 321 (2003). As detailed above, in this case the CAB cited to the competing medical evidence to explain its rejection of the Estate’s experts. Compare App. Br. at 51-52 [Expert reports of Dr. Drukteinis and Dr. Price] with App. Br. at 52-53 [Expert report of Dr. Bourne]. Appeal of Kehoe, 141 N.H. at 418, 419. Accordingly, as a matter of law, the CAB’s decision is not unreasonable. Id. at 419.

Lastly, the CAB rejected the Estate's assertion that it applied a "but for" legal standard. Specifically, the CAB held:

"Based on the entirety of the medical and non-medical evidence, the Board adopted as persuasive Dr. Bourne's opinions in determining that the Estate failed to prove by a preponderance of the evidence that Mr. Dodier's anxiety and major depression illness was causally related to his employment and denied the claim for workers' compensation benefits. Thus, the CAB denied the claim on a finding that the work did not cause or

contribute to Mr. Dodier's depression, the Board did not apply a 'but for' legal standard in making this determination." (see page 37 of Brief.) <sup>4</sup>

See In re Walsh, 156 N.H. at 351.

Accordingly, the CAB's decision to deny the Estate's claim is consistent with New Hampshire law.

**B. THE CAB PROPERLY RULED THAT THE ESTATE FAILED TO PROVE LEGAL CAUSATION**

The CAB also properly ruled that the Estate failed to prove legal causation. To prove causation, the Estate not only had to prove medical causation – which the CAB ruled it failed to do, it was also required to prove legal causation. Appeal of Margeson, 162 N.H. 273 (2011); Steinberg, supra., 119 N.H. at 223. The “legal causation test defines the degree of exertion that is necessary to make the injury work-connected. The test to be used depends upon the previous health of the employee.” Appeal of Kehoe, 141 N.H. 412. “Where there is no preexisting condition, any work-related activity connected with the injury as a matter of medical fact would be sufficient to show legal causation.” Id.

In reviewing legal causation, the CAB was presented with the Employer’s first-hand evidence and the hearsay evidence offered by the Estate. In weighing that evidence, the CAB accepted the Employer’s evidence and rejected the Estate’s evidence. In its Decision, the CAB properly found that the Estate failed to present any credible testimony of a work-related activity connected to the injury as a matter of medical fact. The CAB wrote that “[i]n weighing the lay evidence in its totality, the board found that evidence

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<sup>4</sup> The Estate’s assertion that the CAB articulated a “new test” in its Order on the Motion for Rehearing must also fail. The Estate never preserved the issue of any “new test” being articulated by the CAB. Furthermore, the characterization of there being any “new test” stated by the CAB is misleading: the CAB actually restated the proper, applicable test. And, finally, the Estate’s argument wrongfully attempts to apply the analysis for physical injuries where the present claims involve only an alleged psychological harm.



credible and convincing in describing a generally normal, reasonable, and functional work environment and that the Estate had not proven that there was a significant increase in work stressors prior to Mr. Dodier's depression illness." See App. Br. at 36.

The CAB then evaluated the three medical experts' opinions against that evidence and concluded that the Estate failed to prove that the decedent's anxiety and major depression illness was causally related to his employment. The CAB properly relied upon the first-hand lay evidence and medical evidence presented to the Employer's expert, Dr. Bourne, and accepted Dr. Bourne's opinion based upon that evidence. See App. Br. at 36-42.

Indeed, contrary to the "*List of Pressure At Work As Described By Joanna Dodier*," the CAB accepted the Employer's evidence including the following contradictions:

- a. Mrs. Dodier asserted that the claimant worked 12-hour days.

The claimant's own brother, George Dodier, contradicted this statement by his own testimony. The CAB heard that George Dodier testified that he routinely saw the claimant's car in his driveway at 5:30 p.m. He also testified that the claimant was usually gone in the morning by 7:00 a.m. It is also approximately a one-half hour drive between the claimant's home and work. Accordingly, the claimant did not work 12 hour days as verified by his own brother.

See Compensation Appeals Board hearing transcript at 224-225.

In Appeal of Lockheed Martin Corporation, 147 N.H. 332, 326 (2001), this Court found that the respondent's testimony that she worked nine hour days was not an abnormal workday.

Katie Painter, in her deposition, testified that there were some nights that the claimant worked later but that was because his daughter was playing hockey across the street and he was her ride home. She also testified that there were times when the claimant would leave early or come in late as needed as he did attend his children's sporting events, etc.

See Apx. at 270.

- b. Mrs. Dodier asserted the decedent sometimes worked from home on the weekends using the company laptop.

The CAB had evidence of the emails the decedent sent for the weekends between August 20, 2016 and March 5, 2017. That evidence included that the decedent only sent 14 emails during that seven-month period of time, half of which were actually sent to himself.

See Appellee's Appendix at 35. See also, Compensation Appeals Board hearing transcript at 263.

- c. Mrs. Dodier asserts that the decedent was asked to give a presentation on a new computer system.

Both Mr. Baer and Ms. Painter directly contradicted this statement and was not rebutted by the Estate. This was simply a false allegation made by Mrs. Dodier as supported by the contradictory deposition testimony of Katie Painter, who testified there was no requirement that the decedent do a presentation of new software and the live testimony of Mr. Baer at both the Department of Labor and Compensation Appeals Board hearings.

See Apx. at 271. See also, Compensation Appeals Board hearing transcript at 259.

- d. Mrs. Dodier also claimed that the claimant felt pressure to increase revenue despite downsizing.

The CAB accepted the Employer's testimony and rejected this assertion by Mrs. Dodier. The Employer testified that there was no downsizing in the office in which the decedent worked. The testimony was that the office employed two individuals in 2014 and 2015. The office was increased to three individuals in 2016. Mr. Baer, the president of OL International Holdings, LLC, had direct supervision of the Exeter office. He testified uncontradicted that there was no downsizing which had occurred nor was there any planned. In further support of Mr. Baer's testimony, was evidence of the actual, approved budget from the OL International Holdings Budget Book which confirmed that the labor costs in 2017 was held constant throughout the year. In other words, the evidence was that there was no downsizing planned or anticipated.

See Appellee's Appendix at 33-34.

- e. Mrs. Dodier falsely asserted that management “ordered” the decedent to fire Dave Parker.

The evidence before the CAB was to the contrary. Mr. Baer, who is in charge of the Exeter office, testified, uncontradicted, that there was no “order” given to the decedent to fire Dave Parker. Rather, Mr. Parker was supposed to be placed on a 60 day probationary period in February/March of 2017. The decedent never placed Mr. Parker on the probation. Mr. Parker’s employment continued until the end of May/beginning of June 2017. Also, Mr. Parker testified that when he returned to work in the fall of 2016, his physician told him he was cancer free.

See Compensation Appeals Board hearing transcript at 250 and 212.<sup>5</sup>

- f. Mrs. Dodier falsely asserted that management declined to let the decedent hire another employee.

Again, the best evidence before the CAB of the falsehood of this statement lies in the proposed budget from the decedent himself which he sent to Mr. Baer on November 11, 2016 in which the decedent did not list any additional employment positions he was requesting for calendar year 2017.

See Appellee's Appendix at 36. See also, Compensation Appeals Board hearing transcript at 246-247.

- g. Mrs. Dodier also asserted that the decedent had a scheduled vacation for December of 2016 which he could not take to his co-worker being sick.

The evidence before the CAB was that all employees including the president of the company were required to enter requests for vacation into a software program. The CAB had evidence that the decedent did not enter any request to take any vacation time in December 2016.

See Compensation Appeals Board hearing transcript at 125, 126, 128, and 143.

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<sup>5</sup> Dave Parker was hired in March 2016 as an outside salesman. He left work in April 2016 on a medical leave to treat his cancer. He initially returned to work, part-time, in the fall of 2016. See Compensation Appeals Board hearing transcript at 212-213.

The CAB also heard additional evidence which directly contradicted the Estate's claim that there was a work-related activity connected to the injury as a matter of medical fact.

a. First, one of the Estate's witnesses, Dave Parker, testified that the decedent's mother was ill and stubborn. He testified that the decedent felt that he had to bear the brunt of the responsibilities related to his mother. See Compensation Appeals Board hearing transcript at 219.

b. Second, the CAB heard evidence that the decedent was involved in a civil lawsuit in the State of Connecticut in 2016. See Apx. at 359, 184. The evidence before the CAB included that there was a Motion for Default against Mr. Dodier in February of 2016, See Appellee's Appendix at 30; that Mr. Dodier engaged counsel on July 27, 2016; and that the Mr. Dodier had to pay \$12,500.00 to satisfy his portion of the suit which he did not have and had to draw on his home equity line to pay. See Appellee's Appendix at 32. Contrary to Ms. Dodier's testimony at the first hearing, the Connecticut legal matter was still pending at the time Mr. Dodier jumped from the Whittier Bridge on March 12, 2017. See Apx. at 248. The payment of the \$12,500.00 was made to his attorney a few weeks prior to the Dodier's son's first college tuition payment being due. See Apx. at 248.

In addition, Mr. Dodier's co-worker, Katie Painter, was deposed prior to the hearing before the CAB. In her deposition, she testified:

*Questions by Estate's counsel, Maureen Raiche Manning, Esquire:*

Q. So We're here to talk about Pete and what things stressed and worried him so can you tell us what those were?

A. Well, he had a lot of stuff personally, and, you know, that he was worried about around the time that he passed away.

Q. And what was that?

A. He was very stressed out about his mother and her health and how she wasn't listening to any of the doctors and he was constantly having to be on the phone with her and her doctors. He was worried about Cameron's college, the money that he wanted to have saved, he didn't get around to doing that and he was going through a lawsuit at the time.

Q. When you say at the time with the lawsuit, when was that?

A. It was in 2016 and I don't know if it was done by 2017.

Q. Did he ever tell you that the lawsuit had gotten resolved?

A. Yes.

Q. So you were aware that that had been resolved?

A. Yes, but it still stressed him out, the paying for it.

Q. You were giving me a list of things that you indicated Peter talked with you about stressing him out personally.

A. Yes.

Q. Did you give me a complete list?

A. So he was worried about the college and, obviously, with the college he was also worried about the fact that he had another child going into college and he didn't feel as though they were prepared as he would like to be. See App. at 257.

*Questions by Paul R. Kfoury, Jr., Esquire:*

Q. And based just on your own – I'm going to ask you your own opinion on this, given your relationship and years you knew and worked with Peter, at the time that he took his own life, would you say that his outside or personal stress was greater than his work stress or would you say that his work stress was greater than his outside personal stress? . . .

A. In my opinion, when he would talk to me, it sounded more personal.

See Apx. at 272.

c. Third, the Estate referenced a text message between Katie Painter and Joanna Dodier taken completely out of context. See App. Br. at 29. Remarkably, the Estate provided no context to the text message which contained many of the alleged stressors referenced in the “*List of Pressure At Work As Described By Joanna Dodier.*” Ms. Painter, at her deposition, was asked about the text message by the attorneys and the following passage took place:

*Maureen Raiche Manning, Esquire:*

Q. Well, when you wrote this in the month after these events happened, were they honest reflections of how you felt at that time?

A. Yes, but again, I mean, this was more so **I had spoken to Joanna and her brother and his brother and they had told me all this stuff.** It’s not that - - I don’t know what Pete was like when he was at home and talking about work. I can’t say that when he was on vacation he was feeling stressed because I wasn’t with him. . . .

[Emphasis supplied] See Apx. at 263.

*Paul R. Kfoury, Jr., Esquire*

Q. Okay. And then, I guess after you met with Alan she [Joanna Dodier] wanted to know from you how the meeting went?

A. Yes. When I had met with Alan I believe it was the first time I had seen him after Pete’s passing and, you know, I was trying to figure out what he thought it was. It was a time of just not knowing what happened to somebody that I loved so I was just trying to figure out what everybody’s, you know, thoughts were.

See Apx. at 271.

d. Fourth, the Estate's Petition references an email from Angel Espinoza, controller for OL-USA, LLC to the Mr. Dodier dated February 7, 2017. See Apx. at 239. The email outlined the revenue goals for 2017. The Estate failed to inform the Court that the email essentially represented the proposed budget Mr. Dodier himself submitted to the controller and the President of the company, Alan Baer, on November 11, 2016. See Appellee's Appendix at 32. The final revenue number approved by the company slightly decreased from the Mr. Dodier's proposal of \$2,581,955.00 to \$2.5 million, and, in fact, the Exeter, New Hampshire branch of the employer beat budget in 2016 which led to Mr. Dodier's proposed increase in the budget he submitted to the controller and President on November 11, 2016. See Appellee's Appendix at 33-34.

e. Fifth, the Estate's appeal references an additional email between the decedent and the Chief Commercial Officer, Carrie Murphy, on February 10, 2017. See Apx. at 235. Once again, the Estate fails to provide the Court with the full email string that was before the CAB including Ms. Murphy's response to Mr. Dodier's email of February 10, 2017 at 8:36 a.m. Shortly after, at 9:51 a.m., Ms. Murphy responded with a much different opinion regarding the goal for Dave Parker:

*Carrie Murphy to Peter Dodier*

We can discuss on Monday then give it to him on Tuesday.

Even a movement towards 5-6 per month would keep him past march.

The 100 over cost is to get the booking in the door with a goal to lure them in & get more volume coming in then we shop to push our costs down. See Apx. at 235.

As the Court can see, Ms. Murphy was advocating that a much lower figure for Mr. Parker would be amenable to her. It is important that the Court see Ms. Murphy's response dated February 10, 2017 because it undermines the Estate's allegation that the employer's goal for Mr. Parker led to Mr. Dodier seeking medical treatment on February 18, 2017. Rather, as the Estate has failed to inform the Court, Mr. Dodier had gone to the

gym and worked out on the morning of February 18, 2017 and left the gym with heart palpitations thinking he was having a heart attack. That was the reason he went to the emergency room. See Compensation Appeals Board hearing transcript at 51.

Based on the above contradictions in the evidence, the CAB rejected – as it was free to do, the Estate’s evidence of work place stress and properly determined that the Estate’s failure to produce any evidence that the decedent’s mental health diagnosis was an occupational disease as defined in the New Hampshire workers’ compensation statute because it was not characteristic of and peculiar to his particular trade, occupation, or employment.

The Estate focuses on the fact that the claimant did not have a history of previously treating for anxiety and depression. Thus, the Estate asserts the legal causation test is satisfied if “any work-related activity is connected with the injury. Margeson, 162 N.H. at 277. However, based upon the above first-hand testimony of the Employer and the contradictory evidence presented by the Estate, the CAB was free to reject the Estate’s evidence, accept the Employer’s evidence, and adopt Dr. Bourne’s entire opinion.

The CAB properly found that the Estate failed to sustain its legal causation burden because there was no work-related activity connected with the injury as a matter of medical fact. Appeal of Margeson, 162 N.H. 273 (2011); Steinberg, supra., 119 N.H. at 223. Appeal of Kehoe, 141 N.H. 412 (1996).

### **III. THE CLAIMANT'S INTENTIONAL ACT OF SUICIDE ON MARCH 12, 2017 BARS ANY DEATH BENEFIT PURSUANT TO RSA 281-A:26**

Mr. Dodier was a salaried employee at OL International Holdings, LLC. He did not lose any wages between the date of injury asserted by the Estate, February 18, 2017, and the day he committed suicide, on Sunday, March 12, 2017. In fact, the claimant was working full-time, full duty in the weeks leading up to his suicide. As a result, the Estate concedes in its brief that "Appellee would argue that the suicide was an intentional act but that raises a separate issue - whether this act breaks the chain of causation and



precludes death benefits after the suicide." See App. Br. at 13. Furthermore, in the Estate's Conclusion, the Estate again acknowledges that the issue of death benefits pursuant to RSA 281-A:26 is not properly before the Court stating "In the alternative, the Appellant asks that the Court remand this case with an order that a compensable work injury occurred and direct the Compensation Appeals Board to determine whether Peter Dodier's suicide was the result of his work stress injury and resulting anxiety and depression." See App. Br. at 31.

RSA 281-A:26, Compensation for Death, provides, in pertinent part:

"If death results from an injury, weekly compensation shall be paid to the dependents of the deceased employee in an amount provided by the compensation schedule in RSA 281-A:28."

First, the definition of "injury" in RSA 281-A:2, XI provides, in pertinent part:

**"accidental injury or death arising out of and in the course of employment, or any occupational disease or resulting death arising out of and in the course of employment, including disability due to radioactive properties or substances or exposure to ionizing radiation. . . . No compensation shall be allowed to an employee for injury proximately caused by the employee's willful intention to injure himself or injure another."**

[Emphasis added.]

The claimant's death was not accidental. The claimant willfully intended to injure or kill himself on March 12, 2017. This Court has previously defined the term "willful." In Newell v. Moreau, 94 N.H. 439, 444 (1947) the Court defined willful as "imports that the misconduct was deliberate, not merely a thoughtless act on the spur of the moment." Further, the Court in Thompson v. Forest, 136 N.H. 215, 219-20 (1992), defined the term "intentional tort" as it applied in the New Hampshire Workers' Compensation scheme with respect to the conduct of a co-employee. The Court held that, "[I]f an actor knows that an injury is substantially certain to result from his act and he nevertheless contemplates the act, he is treated by the law as if he in fact desired to produce the injury." Accordingly, the claimant's death was not accidental.

Second, the Estate has vehemently argued that February 18, 2017 is the proper date of injury. It does so because the definition of injury would bar the claim as it related to the noticed March 12, 2017 date of injury. Even if the CAB had found a compensable injury occurred on February 18, 2017, Mr. Dodier did not experience any lost wages/compensation prior to his intentional act of suicide on March 12, 2017. Accordingly, there would be no legal entitlement to death benefits pursuant to RSA 281-A:26 prior to the suicide. Furthermore, no compensation could be awarded after the suicide due to his willful intention to harm himself.

More recently, this Court in Appeal of Estate of William Quinn, Case No. 2018-0310, upheld a CAB decision and concluded that "the CAB did not err when it found that the intentional actions and misconduct of Quinn were an independent, intervening cause breaking the chain of causation between his compensable work injury and his death." In this case, Dr. Bourne issued two reports. The first was on August 2, 2018. The second report is dated September 18, 2019. In the latter report, Dr. Bourne opined:

"I am of the opinion that Mr. Dodier's death was the result of a deliberate decision to jump off the bridge on March 12, 2017 and was hence not an accident. I have carefully considered the reports issued by Dr. Drukteinis and by Dr. Price, as well as the 911 tapes and the medical and legal evidence that has been provided. Dr. Drukteinis and Dr. Price assert essentially that Mr. Dodier had diminished capacity, and hence his suicide was not a willful act. I do not dispute that Mr. Dodier's decision to jump off the bridge was affected by the severe depression from which he was suffering. Nevertheless, I believe Mr. Dodier's decision was deliberate and that he knew what he was doing when he jumped off the bridge. There is no evidence that he was acting from a delusion, or that he was intoxicated or psychotic at or near the time of his death. He acted rationally earlier in the day, obtained wood chips and spent time with family. No one was so alarmed as to try to prevent him from leaving home on the day of his death. There is no evidence that any family member called the police before his suicide. Mr. Dodier drove his vehicle on to the bridge, parked it at the edge of the bridge, left his cell phone, removed his jacket and climbed over a barrier that was approximately chest high. He then jumped in the water, killing himself. Mr. Dodier made a tragic decision that has inevitably had a considerable impact on loved ones and others. Although he was in psychological pain from depression, his decision was deliberate and there is

no doubt that he knew that his actions would cause him to die and hence, this was a deliberate decision." See Apx. at 191.

Surprisingly, the Estate's experts were not asked the question by Estate's counsel of "whether or not the claimant's death was accidental." They also did not address "whether his decision to jump off the bridge was deliberate."

As stated above, the claimant was discharged from Anna Jacques Hospital on February 27, 2017 and allowed to return to work full time, full duty.<sup>6</sup> The doctors did not provide him with any restrictions or need for work accommodations nor did they deem him suicidal. See Apx. at 49-50 and 55-56. The treating physicians did not provide any opinion that he was suffering from any "diminished capacity" as alleged by the Estate's experts. The claimant returned to work in his full time, full duty position earning his customary salary as a branch manager until his suicide on March 12, 2017.

## **CONCLUSION**

For the foregoing reasons, OL International Holdings, LLC and Utica Mutual Insurance Group respectfully request that this Honorable Court affirm the January 8, 2020 and March 4, 2020 decisions of the Workers' Compensation Appeals Board.

## **REQUEST FOR ORAL ARGUMENT**

The Appellee, OL International Holdings, LLC and Utica National Insurance Company, requests fifteen (15) minutes of oral argument in this case. Attorney Paul R. Kfoury, Jr. will present oral argument on behalf of the Appellee.

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<sup>6</sup> Mr. Dodier never informed his employer he was hospitalized for a few days in February of 2017. See Compensation Appeals Board hearing transcript at 254-255.

## CERTIFICATION

I hereby certify that I have, this date, served a copy of the within Brief of the Appellee through the Court's electronic service system to Anna Goulet Zimmerman, Esquire and Maureen Raiche Manning, Esquire, both of Manning & Zimmerman, PLLC, 87 Middle Street, Manchester, NH 03101, representing the Claimant's Estate. Additionally, two copies of the within Brief have been mailed via First Class Mail to Gordon MacDonald, Attorney General, State of New Hampshire, 33 Capitol Street, Concord, NH 03301 and the New Hampshire Department of Labor, 95 Pleasant Street, Concord, NH 03301.

Respectfully submitted,

OL International Holdings, LLC and  
Utica National Insurance Group  
By Their Attorneys

TROMBLEY & KFOURY, PA

Dated: September 29, 2020

By: /s/ Paul R. Kfoury, Jr., Esquire  
Paul R. Kfoury, Jr., Esquire  
(N.H. Bar No. 12887)  
J Kirk Trombley, Esquire  
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DOCKET NO.: TTD-CV-16-6010128-S

MICHAEL OLSCHAFSKIE

V.

ADVANCED FENCE & DECK, LLC, ET. AL.

SUPERIOR COURT

J.D. OF TOLLAND

AT ROCKVILLE

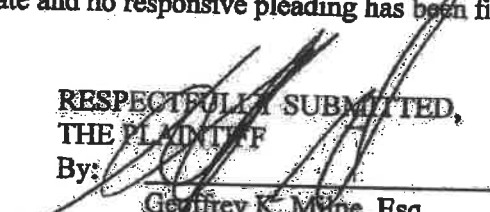
February 29, 2016

**MOTION FOR DEFAULT FOR FAILURE TO PLEAD**

The Plaintiff, Michael Olschafskie, pursuant to Connecticut Practice Book §10-18, hereby moves the Court to enter a default against the Defendants, Paul Cutler and Peter Dodier for their failure to plead to the Plaintiff's Complaint. More than thirty (30) days have passed since the return date and no responsive pleading has been filed.

RESPECTFULLY SUBMITTED,  
THE PLAINTIFF

By:

  
Geoffrey K. Milne, Esq.  
Hunt Leibert & Jacobson, PC  
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Hartford, CT 06120  
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MARINOSCI  
LAW GROUP, PC

Serving the Real Estate Industry

DAVID E. ROSENBERG, ESQ.  
DRosenberg@marinoscilaw.com

Admitted in CT

July 21, 2016

Geoffrey K. Milne, Esq.  
Hunt Leibert Jacobson, PC  
50 Weston Street  
Hartford, CT 06120

Re Michael Olschafskie v. Advanced Fence & Deck, LLC, et al.

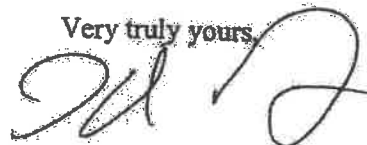
Dear Attorney Milne,

Per our earlier conversation, this correspondence shall confirm the terms of our settlement agreement regarding my clients, Paul Cutler and Peter Dodier. Enclosed herein, please find my clients' checks totaling \$25,000.00 as a full and final settlement of the claims against my clients. Also enclosed is a General Release to be signed by your client, you are not authorized to release the settlement proceeds until I have received the fully executed Release, signed in duplicate and a Withdrawal of Action has been filed. Upon receipt of the signed Release, this will confirm that I will hold the said Releases in escrow for 90 days to ensure that nothing will happen which would cause the proceeds to be disgorged.

Please confirm your acknowledgement of this arrangement. If you have any additional questions or concerns, please do not hesitate to contact me.

Thank you.

Very truly yours,



David E. Rosenberg

Acknowledged and agreed:

By \_\_\_\_\_

CONFIDENTIALITY NOTICE: This message may contain confidential and/or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message

---

**From:** Peter Dodier <[peter.dodier@tts-worldwide.com](mailto:peter.dodier@tts-worldwide.com)>  
**Sent:** Friday, November 11, 2016 4:06 PM  
**To:** Alan Baer <[alan.baer@tts-worldwide.com](mailto:alan.baer@tts-worldwide.com)>; Angel N. Espinoza <[angel.espinoza@tts-worldwide.com](mailto:angel.espinoza@tts-worldwide.com)>  
**Subject:** 2017 Budget Exeter

Hi Alan & Angel,

Please find the attached 2017 Budget for Exeter.

Regards,

Peter Dodier  
TTS Worldwide, LLC  
140 Epping Road  
Exeter, NH 03833  
Phone – 866-927-5637  
Direct – 603-294-4901  
Fax – 603-418-6118  
[peter.dodier@tts-worldwide.com](mailto:peter.dodier@tts-worldwide.com)  
[www.tts-worldwide.com](http://www.tts-worldwide.com)

**SOLAS / VGM filing is mandatory effective for all vessels that sail on/after July 1. If you require assistance in how to file your VGM, please contact your TTS Worldwide Account Representative. For additional information: [http://ocema.org/VGM\\_SOLAS.html](http://ocema.org/VGM_SOLAS.html)**





**INCOME STATEMENT**

TTS WORLDWIDE LOCATION =		EASTERN, NH											
	January	February	March	April	May	June	July	August	September	October	November	December	Total
REVENUE	\$198,433	\$166,958	\$200,985	\$216,248	\$185,675	\$221,971	\$220,706	\$243,101	\$219,670	\$277,708	\$218,752	\$182,458	\$2,581,955
COST	\$170,261	\$174,369	\$172,112	\$180,621	\$160,545	\$194,241	\$194,028	\$212,957	\$192,491	\$245,952	\$198,509	\$160,709	\$2,246,859
NET REVENUE	\$28,172	\$22,545	\$28,883	\$34,627	\$25,130	\$27,730	\$26,677	\$30,144	\$27,239	\$31,756	\$30,243	\$22,749	\$335,096
March	14.20%	12.45%	14.15%	16.09%	13.53%	12.37%	11.99%	12.40%	12.40%	11.49%	13.83%	12.40%	12.98%
Statements	129	117	142	137	124	145	146	150	145	112	113	106	1,565
Travel Domestic	\$ 255	\$ 255	\$ 285	\$ 350	\$ 295	\$ 255	\$ 255	\$ 295	\$ 255	\$ 255	\$ 550	\$ 925	\$ 3,920
Travel International	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel - Lodging	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel - Entertainment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Travel - Meals	\$ 128	\$ 100	\$ 72	\$ 44	\$ 150	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 100	\$ 1,193
Dues & Subscriptions	\$ 800	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 800
Donations	\$ -	\$ 100	\$ -	\$ -	\$ -	\$ 100	\$ -	\$ -	\$ 100	\$ -	\$ -	\$ -	\$ 300
Giveaways	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sales and Marketing	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Training - IMDG	\$ 490	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 490
Conference	\$ -	\$ -	\$ 750	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 750
Customer related Events	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 440	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 440
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

**OL USA  
2017 Budget**

	Updated												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Revenue	199,433	197,938	201,595	210,248	186,676	222,671	221,706	244,101	220,670	278,708	219,752	184,468	2,593,855
Direct Costs	170,261	174,383	172,212	180,621	160,545	194,241	194,028	212,857	192,431	245,952	188,509	160,709	2,246,859
Net Revenue	29,172	23,555	29,383	29,627	26,131	28,430	27,677	31,244	28,239	32,756	31,243	23,759	347,096
	14.63%	11.90%	14.58%	16.46%	14.00%	12.77%	12.48%	12.78%	12.80%	11.75%	14.22%	12.86%	13.38%
Labor/benefits/bonus	17,323	17,323	17,323	17,323	17,323	17,804	17,804	17,804	17,804	17,804	17,804	17,804	211,243
Rent & Facilities	625	625	625	625	625	625	625	625	625	625	625	625	7,500
Telephone and communications	100	100	100	100	100	100	100	100	100	100	100	100	1,200
Professional fee/accounting	0	0	0	0	0	0	0	0	0	0	0	0	0
Information technology service	732	732	732	732	732	732	732	732	732	732	732	732	8,784
Travel & Entertainment	383	355	327	394	405	355	355	355	355	355	650	425	4,713
Utilities expense	0	0	0	0	0	0	0	0	0	0	0	0	0
Insurance expenses	0	0	0	0	0	0	0	0	0	0	0	0	0
Bad Debt	332	330	338	360	311	371	370	407	368	465	365	307	4,323
Commission expense	-	-	-	-	-	-	-	-	-	-	-	-	-
Office supplies	100	100	100	100	100	100	100	100	100	100	100	100	1,200
Other G&A	100	100	100	100	100	100	100	100	100	100	100	100	1,200
Management fee	0	0	0	0	0	0	0	0	0	0	0	0	0
Total SGA	19,696	19,655	19,543	19,734	19,696	20,187	20,185	20,223	20,184	20,280	20,477	20,183	240,164
EBITDA	9,477	3,880	9,740	15,893	6,434	8,243	7,492	10,921	8,065	12,475	10,766	3,556	106,932
Depreciation	0	0	0	0	0	0	0	0	0	0	0	0	0
Amortization	0	0	0	0	0	0	0	0	0	0	0	0	0
Taxes	0	0	0	0	0	0	0	0	0	0	0	0	0
Interest expense	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0	0	0	0	0	0	0	0	0	0	0	0
Net Income	9,477	3,880	9,740	15,893	6,434	8,243	7,492	10,921	8,065	12,475	10,766	3,556	106,932
Sharements	129	117	142	137	124	145	146	150	145	112	113	106	1,566
Net revenue per shipment	226	201	207	260	211	196	190	208	195	292	278	224	222

Saturday 1/7  
Sunday 1/8

0  
0

Saturday 1/14  
Sunday 1/15

0  
0

Saturday 1/21  
Sunday 1/22

1 To himself - prices that he would send to the customer when the office opened on 1/23  
1 A question about the need for a Carnet which was only answered on Monday 1/23  
0

Saturday 1/28  
Sunday 1/29

0  
1 test email to himself  
1 to himself, no content in the email  
1 to himself, no content in the email

Saturday 2/4  
Sunday 2/5

0  
1 Reply to Katie from a late night email to bring in his table due to pending storm

Saturday 2/11  
Sunday 2/12

0  
0

Saturday 2/18  
Sunday 2/19

0  
0

Saturday 2/25  
Sunday 2/26

0  
0

Saturday 3/4  
Sunday 3/5

0  
0

Total emails that Pete sent from August 20 thru March 5

14

How busy were the emails on 12/22 and 12/23

22-Dec Sent 18 emails  
23-Dec Sent 10 emails

Incoming emails August 2016

20-Aug	2
21-Aug	0
27-Aug	4 all the same subject
28-Aug	0
3-Sep	4 all from Alan Baer to all managers with September rates for CMA
4-Sep	1 Holiday schedule from our office in Dubai



Headcount additions

POSITION TITLE	Start date	REASON FOR ADDITION	YEARLY ESTIMATE	SALARY
			\$	

Total headcount additions

\$ -