

BRG Rebuttal Prep — February 26, 2026

DWC Claim #25218944 | Carrier Claim #25F30M590202

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YOUR CORE ARGUMENT

Aggravation of a pre-existing condition. The L5 fracture existed before the fall (20% height loss in Dec 2024). The January 30, 2025 fall WORSENERD it — causing measurable structural damage and acute trauma markers that were absent on the baseline scan.

Texas "Eggshell Skull" rule: The carrier is responsible for the worsening caused by the work incident, regardless of pre-existing conditions.

REBUTTAL 1: "It's Pre-Existing"

Their attack: The L5 fracture was already there in December. This is just an old problem.

Your answer: "I had a stable, pre-existing L5 fracture in December at 20% height loss. The January 30 fall caused measurable acute worsening: height loss progressed to 30%, NEW bone marrow edema appeared, and NEW retrolisthesis at L3-L4 developed. None of these findings were present on the December baseline. A stable condition does not spontaneously produce acute edema and structural shifts in 38 days without a traumatic event."

Evidence: MRI Comparison Table (Section 03), Rodriguez Causation Letter (Section 08)

REBUTTAL 2: "The ER Records Don't Mention the Fall"

Their attack: The March ER intake doesn't connect your visit to a workplace injury.

Your answer: "Page 1 of the Memorial Hermann After Visit Summary states: 'Patient endorses falling at his school.' The fall IS documented in the hospital record."

Evidence: Memorial_Hermann_AfterVisitSummary.PDF, Page 1

REBUTTAL 3A: "Why Did You Wait 5 Weeks?"

Their attack: If the fall was serious, you would have sought treatment immediately.

Your answer: "HISD never filed a DWC-1 injury report, never informed me of my workers' compensation rights, and never documented the incident — despite the school nurse examining me that day. I didn't know I had a compensable injury. I kept teaching because nobody told me to stop. The 5-week delay caused the fracture to progress from 20% to 30% height loss because I was weight-bearing on an untreated acute injury."

Evidence: Missing Evidence Log (Section 05), DWC-154 complaints PRI# 418963/418964, Dewart witness statement (Section 06), Five Week Gap Evidence Summary (Section 02)

REBUTTAL 3B: "Why No Follow-Up for 10 Months?"

Their attack: You were hospitalized in March 2025 but didn't pursue further treatment or the WC claim until January 2026.

Your answer: "Three things stopped me:"

1. **Misinformation:** "I was told verbally at Memorial Hermann that I couldn't file workers' comp."
2. **Economic duress / AMA discharge:** "The surgeon recommended surgery but I left AMA — not because I wasn't hurt, but because I'm a teacher who lives alone with no savings. The hospital records document this."
3. **I thought the case was dead:** "After the first BRC, I believed I had lost. I did NOT know the claim was still active until notified roughly 10 months later."
4. **Closed-door loop:** "My back doctor said 'use WC doctors,' the ombudsman said 'use private insurance.' Nobody would see me."

The DWC-154 complaints prove I was actively trying to get the claim recognized while HISD did nothing.

Evidence: Memorial Hermann After Visit Summary p.2, DWC-154 complaints, Five Week Gap Evidence Summary (Section 02)

REBUTTAL 4: "You Were Already Wearing a Back Brace"

Their attack: You had a back brace during the fire drill — proves you were already injured.

Your answer: "The brace was for a known, STABLE degenerative condition. The December 2024 MRI confirms that baseline. Wearing a brace for a chronic condition does not prevent a new acute injury from a fall. The edema and retrolisthesis appeared AFTER the fall — the brace is irrelevant to those findings."

Evidence: Dec 2024 MRI (stable baseline), March 2025 MRI (acute changes)

REBUTTAL 5: "The October Car Wreck Caused This"

Their attack: Your October 2025 car accident is the real cause of your back problems.

Your answer: "The March 2025 MRI documenting the acute injury was taken SEVEN MONTHS before the October car wreck. The damage was already documented. These are separate events."

Evidence: MRI date (March 3, 2025) vs. car wreck date (October 27, 2025)

REBUTTAL 6: "You're Not Credible — Memory Issues"

Their attack: You have amnesia, multiple conditions, and date confusion. Your testimony can't be trusted.

Your answer: Don't argue — let the documents speak. "I have documented memory issues from a subsequent head injury. That's why I'm relying on the medical imaging, hospital records, and witness statements rather than my own recollection. MRIs don't have amnesia."

Strategy: Point to documents, not memory. Every claim should reference a specific exhibit.

REBUTTAL 7: "The Infection Caused the ER Visit"

Their attack: You have chronic osteomyelitis. The March ER visit was just an infection flare-up.

Your answer: "I have a documented history of osteomyelitis that was stable and being managed. The acute bone marrow edema, fracture progression, and new retrolisthesis are STRUCTURAL injuries from the fall — separate from

the infection. The phlegmon is from the osteomyelitis; the edema and collapse are from the trauma."

DO NOT try to link the phlegmon to the fall. The carrier's medical experts will know the difference.

QUICK REFERENCE: Before & After

Finding	Dec 2024 (Baseline)	March 2025 (Post-Fall)	Your Argument
L5 Fracture	20% height loss	30% height loss	Aggravation: measurable collapse
Bone Marrow Edema	ABSENT	PRESENT (ACUTE)	Timing: proves recent trauma
Retrolisthesis L3-L4	ABSENT	PRESENT	New structural shift
ICD-10 Code	—	M48.56XA	Hospital coded as NEW injury
Symptoms	Stable, managing	Paralysis / ER admission	Acute decline from fall
Phlegmon	—	Present	DO NOT link to fall (infection)

CARRIER FAILURES TO RAISE

- No DWC-1 filed by HISD (required within 8 days)
- No written denial letter sent to claimant
- No incident report filed
- No response from Mader to Dewart's witness report
- DWC sent HISD "education letter" 3/26/25 (PRI# 418963/418964)

RODRIGUEZ LETTER GAP (NICE TO HAVE)

The signed causation letter focuses on edema as proof of acute injury. It does NOT explicitly mention the height loss progression (20% to 30%). If you can reach Rodriguez before the hearing, ask him to add one sentence about the progression being consistent with acute compression from the reported fall mechanism. This is a nice-to-have, not a dealbreaker.

REBUTTAL 8: "Why Two MRIs if Nothing Was Wrong?"

Their attack: You had MRIs in late 2024 — that proves there was already a problem.

Your answer: "There was ONE MRI in late 2024 — December 23, ordered by Dr. Khoury, my Infectious Disease specialist, to monitor a known osteomyelitis condition. It was a routine infection follow-up, not a back injury evaluation. That scan showed stable findings. The second MRI was March 3, 2025 — taken during emergency hospitalization AFTER the fall and collapse. One is routine monitoring; the other is post-trauma imaging. The December scan is the baseline that proves the March findings are new."

Evidence: Dec 2024 MRI report, March 2025 MRI report, MRI Comparison Table (Section 03)

REBUTTAL 9: "Retrolisthesis Is Degenerative, Not Traumatic"

Their attack: Retrolisthesis is a wear-and-tear condition — your fall didn't cause it.

Your answer: "Retrolisthesis CAN be degenerative, but the December 2024 MRI says 'lordosis maintained' — no retrolisthesis present. It appeared in a 38-day window bracketing the fall. But more importantly, the retrolisthesis is not the strongest evidence — the acute bone marrow edema at L5 is. Edema is an acute trauma marker. It does not appear from degeneration."

Evidence: MRI Comparison Table (Section 03), Rodriguez Causation Letter (Section 08)

REBUTTAL 10: "Prior Attorney Dropped You"

Their attack: You already had an attorney who reviewed everything and dropped you.

Your answer: "My prior attorney withdrew because she could not locate a doctor willing to write a causation letter on her timeline — not because a doctor refused to support the claim. She also did not frame the argument around the December 2024 baseline. I now have a signed causation letter from Dr. Julio Rodriguez (dated 2/13/2026). The evidence gap that caused the prior attorney to withdraw has been filled."

Evidence: Rodriguez Causation Letter SIGNED (Section 08), Prior Attorney Case File (Section 10)

REBUTTAL 11: "DOI Confusion — You Told the ER 'A Week Ago'"

Their attack: Your own hospital records say you fell "week ago" as of March 3. Your dates don't match.

Your answer: "I was in acute pain during hospitalization — the H&P documents blood pressure of 185/96. I was confused about timing. The official DOI on all filings — the DWC-45, the carrier claim, the EOR — is January 30, 2025. The carrier has never disputed this date. The December 2024 baseline MRI, the March 2025 MRI, and the Dewart witness email from March 6 all corroborate a fall occurring in late January. My confusion about dates while in acute distress actually demonstrates how impaired I was."

Evidence: DWC-45 (DOI: 01/30/2025), Carrier EOR, Memorial Hermann H&P, Dewart email (3/6/2025)

Prepared: February 16, 2026. Print this. Have it next to you on Feb 26.