BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H407475

ERIN GRAY, EMPLOYEE **CLAIMANT**

VS.

RIVERSIDE TRANSPORT, INC.
AND TRANSCO LINES, EMPLOYER **RESPONDENT**

NATIONAL INTERSTATE INSURANCE CARRIER/TPA **RESPONDENT**

OPINION FILED JUNE 4, 2026

Hearing before Administrative Law Judge, James D. Kennedy, on the 19TH day of March 2026, in Russellville, Arkansas.

Claimant is represented by Daniel E. Wren, Attorney at Law, Little Rock, Arkansas.

Respondent is represented by Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on the 19th day of March 2026, to determine whether the Claimant sustained a compensable work-related injury to her cervical spine on October 18, 2024, and if found to be compensable, related medical treatment. Additionally, the claimant also contended that she should receive temporary total disability from the date of October 18, 2024, to April 10, 2025, permanent and partial disability benefits, wage loss, and attorney fees. The parties stipulated that the Arkansas Workers' Compensation Commission has jurisdiction of the claim and that an employer/employee/carrier relationship existed on October 18, 2024. At the time of the hearing, the parties agreed that they would stipulate to the average weekly wage within 10 days of the hearing and the email stipulating to this fact is blue backed and attached to this decision. The parties

stipulated that the claimant earned an average weekly wage of $1024.50, sufficient for a TTD rate of $683.00 and a PPD rate of $512.00.

The claimant's and respondent's contentions are all set out in their respective responses to the Pre-hearing Questionnaire and made a part of the record without objection. The claimant contended she sustained an injury to her neck, with pain in her arm on October 18, 2024, and this injury occurred while lowering the so-called landing gear on a trailer when she heard a pop in her neck. The claimant further contended that the first doctor she saw on October 22, 2024, told her that they did not handle workers' compensation cases, so she then went to her PCP, Dr. Bret Benal, who directed her to a workers' compensation doctor and she then saw Dr. Bidiwala on October 28, 2024, who ordered an x-ray and an MRI, stated she had a broken neck, needed surgery immediately, resulting in her immediately going to the hospital by ambulance, and undergoing a cervical fusion at C4-7. Later on April 10, 2025, the workers' compensation adjuster scheduled the claimant to see Dr. Barry Baskin to see if he agreed that the claim was the result of a work-related injury. Dr. Baskin opined that this injury would be called an aggravation of a pre-existing condition since she shortly thereafter went to surgery for a fusion and opined that she was entitled to a 12% whole person impairment. The claimant has reached maximum medical improvement but has been unable to find a job and the respondents have continued to deny this claim.

The respondents contend that the claimant does not have a compensable injury and that several doctors have opined that the condition of the claimant's cervical spine was due to a pre-existing disease, there is no evidence of an acute injury happening on

October 18, 2024, and further that Dr. Baskin agrees with this diagnosis. He called any aggravation a “temporary” aggravation causing no permanent damage.

The sole witness to testify was Erin Gray, the claimant. From a review of the record as a whole, to include medical reports and other matters properly before the Commission and having had an opportunity to observe the testimony and demeanor of the witness, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. 11-9-704.

FINDINGS OF FACT AND CONCLUSSIONS OF LAW

1. The Arkansas Workers’ Compensation Commission has jurisdiction over this claim.
2. That an employer/employee/carrier relationship existed on October 18, 2024.
3. That the evidence proffered by the respondents is found to be admissible.
4. That the claimant earned an average weekly wage of $1024.50, sufficient for a TTD rate of $683.00 and a PPD rate of $512.00.
5. That the claimant has proven by a preponderance of the evidence that she suffered a compensable work-related injury to her cervical spine and is entitled to reasonable and necessary medical for the treatment of the injury which includes the surgery and related treatment.
6. That the claimant has failed to satisfy the required burden of proof that she is entitled to TTD.
7. That the claimant has failed to satisfy the required burden of proof that she is entitled to a permanent partial disability rating of 12% related to the injury to her cervical spine.

8. That the claimant has failed to satisfy the required burden of proof that she is entitled to wage loss.
9. The claimant is entitled to attorney fees pursuant to A.C.A. §11-9-715.
10. This award shall bear interest at the legal rate pursuant to A.C.A. §11-9-809. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

REVIEW OF TESTIMONY AND EVIDENCE

The Pre-hearing Order along with the Pre-hearing questionnaires of the parties were admitted into the record without objection. The claimant submitted an exhibit of medical records, as well as two W-2's, which were admitted with no objections. The Respondents also submitted an exhibit containing medical records and specifically a report by Dr. John Walsh, which was objected to. The respondents were allowed to proffer the report, and the admissibility of this report was taken under advisement. The objection made by the claimant was that the records were not submitted to the claimant until after the seven-day limitation. The respondents responded that they thought they had a comprehensive exhibit that was going to be submitted by the claimant, the claimant was aware of the information contained in the records and it was not new or foreign, and that it was admittedly submitted within seven days of the date of the hearing.

The claimant was the only witness to testify. She testified that she was working for Transco lines in October of 2024, and had been working as a team driver with her husband for around four years. She admitted having a history of back pain, receiving pain management since 2008, but still having her DOT and working. She denied previously having neck issues. At the time of the accident on October 18th, the claimant stated that

she was in Columbus Mississippi, where they were dropping a trailer and picking another trailer up. While raising the so-called landing gear of the trailer, she felt a pop "just like a shrieking pain in the back of my neck." They decided to go on to finish their route due to not wanting to go to the hospital in Mississippi and returning home to Texas. (Tr. 8 – 11) Her husband had to come out and assist her with the landing gear. She admitted to performing "just a little" of the driving on their way back to Denton Texas.

The following day was a weekend, and she notified her employer about her injury the following Monday and let them know that she "couldn't stand the pain." (Tr. 12) She was told to pick a doctor that would take workers' compensation and that they would help her. She then went to the emergency room at Rockwall, Texas, for her neck. They did not even perform an x-ray and she received no care. She then attempted to make an appointment with her PCP who told her that he did not take workers' compensation. During this time, she talked to her employer and ended up going to Hunt County Regional Urgent Care on October 28th, because they would accept workers' compensation. She provided a history of how she hurt herself and she received an x-ray. The treating doctor provided a neck brace. (Tr. 13 - 16)

She left the Hunt County care facility and was taken by an ambulance to the emergency room at Baylor, which was a thirty-to-forty-minute ride. At Baylor, she testified she received a further testing. She was told that she would see Dr. Bidiwala and there was talk of surgery and the words "life threatening" were used. Dr. Bidiwala performed the surgery on her neck and her C3 through C6 or 7 were damaged. She went on to state that the only things holding her neck together were her ligaments. (Tr. 17 - 20) She was unable to obtain physical therapy due to being told that her case was being denied. She

was kept in the ICU prior to surgery and was there for about 10 days before being released. She also testified that she notified Christine King in an attempt to keep her abreast of the situation. (Tr. 22, 23)

At some point, they talked to her about coming up to Arkansas to see a doctor. Mrs. King set up an appointment with Dr. Baskin and the claimant was told that he would evaluate her neck and her symptoms. She provided her entire history to Dr. Baskin. She went on to testify that she had a limited range of motion in her neck and had difficulty driving a car. She provided she could not turn her head to her shoulders and could turn it approximately 45 degrees to the right or to the left. She also testified that she was not returning to work as a trucker due to it not being recommended and her thinking that she could not do it. She would have trouble looking at her mirrors and navigating her truck through an intersection. (Tr. 24 – 27)

She described her pain level as an eight. She was having pain as she finished her route. She hoped to work in retail. The jobs that she had looked at paid around $18.00 an hour and she hoped she would be able to perform them. (Tr. 29) She admitted to moving around her house, sitting in a recliner for about thirty minutes, but with pain requiring her to get up. To resolve her pain, she would place a pain patch on her neck or rub her neck. She also testified that she had to lay down during the day. She admitted to being able to pick up a gallon of milk. (Tr. 30, 31)

Under cross examination, the claimant testified she was sixty-five years old and had finished the twelfth grade. She had performed other jobs such as working at the post office and retail, besides truck driving, but had no additional licenses. She also admitted that she was unable to actually crank on the trailer until her husband came to help, due

to the fact that she was unable to move it. She agreed that all of her allegations were caused by the accident and admitted that she was on chronic pain medication before the occurrence of the accident. (Tr. 32 – 34) She admitted to having lower back problems due to no cushioning in her discs and admitted that she had received an MRI of her lower spine. She denied that her lower back problems were caused by the accident. She admitted being prescribed six hydrocodone a day, but that she did not take them while working. She also denied ever taking six hydrocodone in a day, only taking three. Later, she admitted she might take the prescribed amount on her days off. She also admitted that she was prescribed Dilaudid and Norco for her pain and that she had been on chronic pain medication for twenty-six years. She also admitted receiving x-rays from the first doctor that agreed to treat her. (Tr. 35 – 37) She admitted to having "muscle tension" in regard to her neck prior to October 18, 2024. She denied ever seeing a doctor for chronic neck pain prior to the accident date in question but agreed she was taking pain medication for her lower back which also helped her neck pain. (Tr. 38) She denied being on social security disability or Medicare but agreed that she was on Medicare for her health insurance and who had paid her bills. She also testified she felt that she was capable of working somewhere. (Tr. 40)

On redirect, she admitted seeing Dr. Baskin in April of 2025. She read page 3 of the report from Dr. Baskin which stated "Yes, there was sufficient medical documentation to she the new work injury occurred, see below." (Tr. 42) "I think it is a reasonable and medical probable she sustained a grade 1 cervical sprain/strain from the MOI at work." (Tr. 43)

Under recross, the claimant was asked to read a portion of the report from Dr. Walsh provides “What is the injury?” where he said, “It’s a cervical strain” and she admitted to seeing his report.

The claimant’s medical exhibit’s first report consisted of a report from Hunt Urgent Care, dated October 28, 2024. The report provided that the claimant had been suffering from neck pain for ten days after a blunt trauma. X-rays were taken and they provided that the claimant had a loss of 50% of the vertebral body of C5 with 3 mm of anterolistheis of C4-C5 and with uncovertebral degenerative changes at C4-C5, C5-C6, and C6-C7 with disc space narrowing. Under impression, the report provided for acute to subacute C5 compression with retropulsion and recommended an MRI. Midline spine tenderness was noted. The claimant was referred to the emergency department at BSW to be re-evaluated. (Cl. Ex. 1, P. 1 -7)

The claimant then presented to the Baylor University Medical Center, again on October 28, 2024. The report showed that the CT provided no evidence of an acute traumatic injury of the cervical spine. It further provided that the claimant suffered from chronic back pain and was being seen by pain management. The surgical team recommended an MRI of the cervical spine which provided that there was extensive endplate irregularity and vertebral body height loss and that the interspinous ligament at C5- C6 was compatible with an acute ligamentous sprain. Bilateral C5-C6 facet malalignment was also seen, which favored chronic/degenerative changes in the absence of apparent facet edema. The CT provided no evidence of acute traumatic injury of the cervical spine. (Cl. Ex. 1, P. 8 – 13)

A further report from Baylor Medical Center dated October 28, 2024, provided that the claimant presented for evaluation and treatment regarding an injury from working on her semi-trailer 10 days ago. About three days after the injury date, she started noting knots/tightening along her back with pain sometimes radiating to her shoulders bilaterally. Degenerative disc disease at L4-L5 was noted in her history. No CT evidence for an acute traumatic injury was noted. “Possible additional injury of the ligamentum flavum at C5-C6 is compatible acute ligamentous strain. Possible additional injury of the ligamentum flavum at C5-C6. Bilateral C5-C6 facet malalignment is also seen, favored chronic/degenerative.” (Cl. Ex 1, P. 14 – 21)

The MRI of the cervical spine dated October 29, 2024, provided for bilateral C5-C6 facet joint subluxation with facet joint widening inferiorly but with no facet edema which the report provided favored chronic degenerative changes. (Cl. Ex. 1, P. 22, 23) The final report from Baylor University Medical Center also dated October 29, 2024, provided that the CT of the cervical spine demonstrated degenerative changes to C4-5, C5-6, C6-7 and C7-T1 with foraminal stenosis. An MRI of the cervical spine was obtained and demonstrated acute ligamentous injury to the interspinous ligament of C5–C6 and the ligamentum flavum of C5-C6. The principal diagnosis was of a cervical strain, acute, initial encounter. A spinal consult was obtained and the report provided for a cervical spine unstable ligamentous injury. The report further provided as follows: This patient has the following critical conditions which necessitate the performance of intensive care interventions and management, which I am directly managing, which the patient would not survive. “Cervical spine ligamentous injury requiring frequent neurologic checks.” (Cl. Ex. 1, P. 24 – 29)

The report from Dr. Bidiwala and Baylor University Medical Center also dated October 29, 2024, provided that the CT provided no evidence for an acute traumatic injury of the cervical spine. However, under assessment and plan, the report provided for an acute cervical strain with an injury of the cervical spine and a finding of grossly unstable spine with the above injuries and a plan to take the claimant to the OR today or tomorrow for a C5 and C6 corpectomy and an anterior posterior fusion of C4- C7. (Cl. Ex. 1, P. 33 – 34) The post operative report dated November 2, 2026, provided that the claimant began having severe neck pain about 10 days ago while she was attempting to hitch a trailer onto a truck at work. She had a CAT scan of her cervical spine which showed fractures at C5-C6 as well as splaying of the spinous processes. The MRI scan showed an acute injury of the interspinous ligament and a disruption of the posterior ligamentum flavum. To correct the problem, surgery was performed which the patient tolerated well, and she was transferred to the ICU in a guarded condition. The post operative diagnosis was for fractures at C5-C6 and an acute ligamentous disruption at C5-C6 posteriorly with mechanical neck pain and precarious instability at the C5-C6 due to three-column injury with instability confirmed intraoperatively. (Cl. Ex. 1, P. 35 -37) The claimant was discharged on November 7, 2024, in a cervical collar. (Cl. Ex. 1. P. 38 – 40)

The claimant presented to Dr. Baskin on April 10, 2025, for an independent medical evaluation. A physical examination provided the claimant's cervical range of motion was diminished in all planes, but her shoulder range of motion was good, and she had good motor strength in the upper and lower extremities bilaterally. His report provided as follows in response to the question of did the claimant sustain an impairment as a result of the accident date and if so what is the rating: Using the AMA Guides to the

Evaluation of Permanent Impairment that a single level spinal fusion with or without a decompression with residual signs and symptoms of the cervical spine would yield a 10% whole person impairment. The claimant underwent a three-level spinal decompression and fusion of the cervical spine and there would be a 1% additional impairment per level for a total of a 12% whole person impairment based upon her cervical spine injury and subsequent fusions. “She would have thus have a permanent partial impairment rating of 12% to the whole person based on these surgical procedures with residual signs or symptoms.” He then opined that he felt that this was an exacerbation of a preexisting condition.

Additionally, the report provided in response to the question, based upon your exam, what are the objective findings, if any, caused by the accident and Dr. Baskin responded as follows: “I think the patients primary problems were pre-existing. I think she had severe degenerative changes in her neck. When she was cranking on the trailer jack with her husband and felt a pop in her neck, I think it was an exacerbation of pre-existing cervical spinal problems. The objective findings are disproportionate to the patient’s report of her injury. I am asked whether the objective findings are caused by the accident of date, and I do not think they were.” He also opined “I believe that greater than 51% of the patient’s cervical spine problems were pre-existing based upon my review of the imaging studies. I do not think that the findings that I have reviewed on her cervical spine are clearly the result of the work injury on 10/18/2024.” He went on to state that he waited on the imaging studies made just prior to her surgery before making any opinions. (Cl. Ex. 1, P. 41 – 49)

The respondent was allowed to proffer a report from Dr. John Walsh dated November 5, 2024. This report referred to the Texas Labor Code section 401.011(26) and provided there was sufficient medical documentation to show that a new work injury occurred but "that neither the mechanism nor the imaging findings fit the causation of the instability at the C5-6 levels. Dr. Walsh went on to state that this was a complex case, that the CT was performed just 10 days after the event, and there was "No CT evidence for acute traumatic injury of the cervical spine." "Neither the mechanism nor the imaging findings fit the causation of the instability found in her cervical spine that she had surgery for." In referring to the CT and the MRI findings, he went on to provide that the so-called instability, malalignment, and fractures were all chronic and unrelated to the work event. "We know this is chronic because it was quite obviously chronic based on the initial CT and the MRI." "In layman's terms, the CT scan done just 10 days after the event showed a 'remote' damage or injury of the cervical spine, with both instability or chronic Malalignment and degenerative changes at this level. What this confirms is that this 'instability' was not new, it was chronic and was called 'remote' meaning years ago, and there was already advancing degenerative changes in the same area. Why is this important? Because this is what she had surgery on. None of this is work-related.

In referring to the MRI report that stated that the superimposed STIR signal might be work related due to a cervical sprain/strain, Dr. Walsh opined that he would like to add "that this is just as likely to be chronic inflammation in this area from severe remote trauma or degenerative changes at this level, that have chronically altered the alignment at this area, that is obviously going to cause some inflammation in the adjacent tissues on a chronic basis, regardless of the injury." "Keeping in mind her so-called instability,

malalignment, and fractures or remote traumatic deformities are all chronic and unrelated to the event at work."

DISCUSSION AND ADJUDICATION OF ISSUES

In regard to the primary issue of compensability, the claimant has the burden of proving by a preponderance of the evidence that she is entitled to compensation benefits for the alleged injury to her cervical spine under the Arkansas Workers' Compensation Law. In determining whether the claimant has sustained her burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. Ark. Code Ann §11-9-704. *Wade v. Mr. Cavanaugh's,* 298 Ark. 364, 768 S.W. 2d 521 (1989). Further, the Commission has the duty to translate evidence on all issues before it into findings of fact. *Weldon v. Pierce Brothers Construction Co.,* 54 Ark. App. 344, 925 S.W.2d 179 (1996).

The initial issue to be determined is the admissibility of the respondent's exhibit. The Workers' Compensation Commission has broad discretion with reference to the admission of evidence, and its decision will not be reversed absent a showing of discretion. *Brown v. Alabama Elec. Co*., 60 Ark. App. 138, 959 S.W.2d 753 (1998). The Commission is given a great deal of latitude in evidentiary matters. Specifically, Ark. Code Ann. §11-9-705(a) states that the Commission "shall not be bound by technical or statutory rules of evidence or by technical or formal rules of procedure." Additionally, the Commission is directed to "conduct the hearing in a manner as will best ascertain the rights of the parties." Ark. Code Ann. §11-9-705(a); *Clark v. Peabody Testing Service*, 265 Ark. 489, 579 S.W.2d 360 (1979). In the present matter, the evidence proffered by the respondent appears to have been available and known by both parties and would not

have resulted in a surprise to the claimant. Additionally, it must be noted that the medical records and opinions admitted into the record and issued by the treating and opining doctors are somewhat confusing at times. The opinion issued by the physician in Texas helps to clarify some of these issues. The doctor from Texas that reviewed the records opined that this was a complex matter. Additionally, although it is noted that the Texas doctor clearly referred to the Texas Code in regard to a work- related injury, human anatomy does not vary by state. The evidence in question that was submitted by the respondent is found to be admissible since it can assist the Commission in the understanding of the facts and various doctor's opinions.

From the medical records and testimony, it is evident that the claimant suffered from various arthritic and degenerative conditions prior to the incident in question. A pre-existing disease or infirmity does not disqualify a claim if the employment aggravated, accelerated, or combined with the disease or infirmity to produce the disability for which compensation is sought. See *Nashville Livestock Commission v. Cox*, 302 Ark. 69, 787 S.W.2d 864 (1990); *Conway Convalescent Center v. Murphee*, 266 Ark. 985, 585 S.W.2d 462 (Ark. App. 1979); *St. Vincent Medical Center v. Brown*, 53 Ark. App. 30, 917 S.W2d 550 (1996). The employer takes the employee as it finds him. See *Murphee*, supra.

In the present matter, the opinions in the various reports seem at times to conflict with themselves and this could simply be due to the difference in the use of certain terms by the medical and legal communities. It is clear however, that it is within the Commission's province to reconcile conflicting evidence, including the medical evidence. *Williams v. Ark. Dept. of Cmty. Corr.*, 2016 Ark. App. 427, 501 S.W.3d 839. The Commission has the duty of weighing medical evidence, and the resolution of conflicting

evidence is a question of fact for the Commission. It is well settled that the Commission has the authority to accept or reject medical opinion and the authority to determine its medical soundness and probative force.

The claimant, a sixty-four-year-old female working as a co-truck driver with her husband at the time of the incident, attempted to adjust the so-called landing gear under a trailer and was unable to turn the crank to move the apparatus. She testified that she felt a pop “just like a shrieking pain in the back of my neck.” Per her testimony, this event occurred in Mississippi on the date of October 18, 2024, and she wanted to go to a doctor in her home state of Texas. She admitted to having lower back problems prior to the accident, due to no cushioning in her lower discs, and having previously received an MRI of her lower spine. She also admitted being prescribed six hydrocodone a day prior to the accident due to her lower back pain but stated she did not take the six hydrocodone every day and that she had no problems with her neck. She also admitted to performing some of the driving on the route back home to Texas after the incident but stated that it was limited. Additionally, she admitted driving from Texas to the hearing in Russellville, Arkansas. In any case, upon returning to her home state, she encountered difficulty in finding a health care provider that would accept workers’ compensation payments. Eventually, she ended up at Baylor University Medical Center where she received surgery to her cervical spine on October 31, 2024.

The claimant’s medical reports could be considered somewhat confusing in what one of the reviewing doctors described as a complex case. The reports from Baylor University Medical Center, where the claimant received her treatment, provided in the CT on October 28, 2024, for no evidence of an acute injury to her cervical spine. After a

physical exam, an MRI was then ordered prior to surgery and it demonstrated degenerative changes at C4-C5, C5-C6, C6-C7, and C7-T1, with foraminal stenosis, and also demonstrated an acute ligamentous injury to the interspinous ligament at C5-C6, compatible with an acute ligamentous sprain, and also an injury to the ligamentum flavum at C5-C6 with a diagnosis of cervical strain, acute, initial encounter, per the report. Bilateral C5-C6 facet malalignment was also seen, which was noted to favor chronic/degenerative changes in the absence of apparent facet edema. A spinal consult was obtained and the report provided for a cervical spine with unstable ligamentous injury.

Dr. Bidiwala, the treating surgeon at Baylor Medical Center, appeared to initially agree that the CT provided no evidence of a traumatic injury of the cervical spine, but in his post operative report dated November 2, 2024, opined that the MRI showed an acute injury of the interspinous ligament and a disruption of the posterior ligamentum flavum and these injuries required surgery to correct the problem.

Dr. Barry Baskins, a physician in Arkansas, was requested to perform an IME and issued his report dated April 10, 2025. The report provided for a 12% whole person impairment based upon claimant's cervical spine injury and subsequent fusions. However, after stating the above, he went on to opine that he believed that 51% of the patient's cervical spine problems were pre-existing and further stated that he did not think the objective findings were caused by the accident of date. When the claimant was cranking the trailer and heard the pop, it was an exacerbation of her pre-existing cervical spinal problems. He concluded that the findings and facts he reviewed alleging an injury on October 18, 2024, did not result in a compensable work-related injury.

Finally, Dr. John Walsh of Texas also reviewed the records of the claimant and opined in his report that there was sufficient medical documentation to show that a new injury occurred but "neither the mechanism nor the imaging findings fit the causation of the instability found in her cervical spine that she had surgery for." He also referred to the CT and the MRI findings and went on to provide that the so-called instability, malalignment, and fractures were all chronic and unrelated to the work event. "We know this is chronic because it was quite obviously chronic based on the initial CT and the MRI that were done. Note that she had a CT scan done just 10 days after her event at work." "In layman's terms, the CT scan done just 10 days after the event showed a 'remote' damage or injury of the cervical spine, with both instability or chronic malalignment and degenerative changes at this level. What this confirms is that this 'instability' was not new, it was chronic and was called 'remote' meaning years ago, and there was already advancing degenerative changes in the same area. Why is this important? Because this is what she had surgery on. None of this is work-related. Keeping in mind her so-called instability, malalignment, and fractures or remote traumatic deformities are all chronic and unrelated to the event at work."

Dr. Welsh then went into detailed comments about the MRI. He opined that there was extensive endplate irregularity and vertebral body height loss most notably at the C5-C6 levels and stated that it might be work related due to a cervical sprain/strain, but that it is just as likely to be chronic inflammation in the area.

Arkansas workers' compensation law does not require that an injury be witnessed by a second individual. However, a compensable injury must be established by medical evidence supported by objective findings and medical opinions addressing

compensability and must be stated within a degree of medical certainty. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002). Speculation and conjecture cannot substitute for credible evidence. *Liaromatis v. Baxter County Regional Hospital*, 95 Ark. App. 296, 236 S.W.3d 524 (2006). More specifically, to prove a compensable injury, the claimant must establish by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings, as defined in A.C.A. §11-9-102 (16) establishing the injury and (4) that the injury was caused by a specific incident and identifiable by time and place of occurrence. If the claimant fails to establish any of the requirements for establishing the compensability of the claim, compensation must be denied. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

Further, it is noted that a claimant is not required in every case to establish a casual connection between a work-related incident and an injury with an expert medical opinion. See *Wal-mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). Arkansas courts have long recognized that a causal relationship may be established between an employment-related incident and a subsequent physical injury based on evidence that the injury manifested itself within a reasonable period-of-time following the incident so that the injury is logically attributable to the incident, where there is no other reasonable explanation for the injury. *Hail v. Pitman Construction Co*. 235 Ark. 104, 357 S.W.2d 263 (1962) Here, after evaluating all of the medical evidence, the opinion issued by the treating physician, Dr. Bidiwala, is found to be credible and entitled to great weight in-regard-to the issue of the compensability of the injury that occurred while cranking the

so-called landing gear. Consequently, the claimant has satisfied the requirements of a compensable injury with the treating physician's opinion controlling. The claimant has proved by a preponderance of the evidence that she suffered a cervical work-related injury while cranking the landing gear on a trailer.

In regard to medical treatment, the employer shall promptly provide for an injured employee such medical treatment as may be reasonable in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 455 (2005). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Co. v. Randall,* 12 Ark. App. 358, 676 A.W.2d 750 (1984). Here the claimant has proven by a preponderance of the evidence that she suffered a compensable work-related injury to her cervical spine and consequently she is entitled to reasonable and necessary treatment regarding her injury which included the treatment of her cervical spine from the date of the injury, including her surgery, and any reasonable and necessary treatment following her surgery.

The claimant is also claiming TTD from October 18, 2024, to April 10, 2025. It is noted that there is no medical of record from the treating physician instructing the claimant to remain off work, instructing the claimant when to return to work, or instructing the claimant to only perform light duty, or of the claimant being unable to work. The injury to claimant's cervical spine is an unscheduled injury for which the claimant would have the burden of proving that she remained within her healing period and that she suffered a total incapacity to earn pre-injury wages. *Arkansas State Highway & Transportation Dept.*

v. Breshears, 272 Ark. 244, 613 S.W. 2d 392 (1981). *Paalazolo v. Nelms*, 46 Ark. App. 130, 877 S.W.2d 938 (1994). The healing period ends when the underlying condition causing the disability has become stable and nothing further in the way of treatment will improve the condition. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982).

Here, there are no medical reports of record and no other real proof providing that the claimant should have remained off work due to her neck injury and no proof of record that the claimant remained in her healing period. The claimant testified that she felt it would be difficult to drive a truck in the future but also testified that she drove at least some of the distance back to Texas after the incident and also admitted driving from Texas to her hearing. She had previously worked at the post office and testified she had hopes of working in retail in the future. There is no alternative but to find that the claimant has failed to satisfy the required burden of proof that she is entitled to TTD from October 18, 2024, through April 10, 2025, for her injury. TTD cannot be based on speculation or conjecture.

Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. If any compensable injury combines with a preexisting disease or condition or the natural process of aging to cause or prolong disability or treatment, permanent benefits shall be payable for the resultant condition only if the compensable injury is the major cause of the permanent disability or need for treatment. “Major cause” means more than fifty percent (50%) of the cause and a finding of major cause shall be established according to the preponderance of evidence. See Ark. Code Ann. §11-9-102 (4)(F)(ii). In the present

matter, the initial medical evidence of record addressing the issue of permanent partial disability is the Independent Medical Examination performed by Dr. Baskin where he evaluated the medical records and performed a physical examination of the claimant. The report provided for a 12% whole person impairment based upon claimant's cervical spine injury and subsequent fusions. However, after stating the above, Dr. Baskin opined that he believed that 51% of the patient's cervical spine problems were pre-existing and he did not think that the objective findings regarding the cervical spine were caused by the accident of date. Due to the report by Dr. Baskin taken as a whole, and other evidence of record or the lack thereof, there is no alternative but to find that the claimant has failed to satisfy the required burden of proof that the claimant is entitled to permanent partial disability.

The claimant also asked for wage loss. Wage loss is the degree to which a compensable injury has affected the claimant's earning capacity. Pursuant to Ark. Code Ann. §11-9-522(b)(1), when a claimant has an impairment rating to the body-as-a-whole, the Arkansas Workers' Compensation Commission has the authority to increase the disability rating based on wage-loss factors. See *Ark. Highway Dept. v. Work*, 2018 Ark. App. 600, 565 S.W.3d 138. In order to receive wage-loss-disability benefits in-excess-of her permanent impairment, the claimant has to prove by a preponderance of the evidence, that she sustained a permanent physical impairment as-a-result of a compensable injury. Here, the claimant has failed to satisfy the required burden of proof that she is entitled to a permanent partial disability impairment rating as stated supra and consequently, she has failed to satisfy the required burden of proof that she is entitled to wage loss.

The claimant and her attorney are entitled to the appropriate legal fees as spelled out in A.C.A. §11-9-715.

After weighing the evidence impartially, without giving the benefit of the doubt to either party, it is found that the claimant has satisfied the required burden of proof that her claim for the cervical neck injury is a compensable work-related claim and the treatment for the injury, including the surgery at Baylor is both reasonable and necessary. The claimant has failed to satisfy the required burden of proof that she is entitled to TTD, permanent partial disability, and wage loss. The claimant is also entitled to attorney fees as spelled by the Arkansas Workers' Compensation Act. This award shall bear interest at the legal rate pursuant to A.C.A. §11-9-809. If not already paid, the respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

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JAMES D. KENNEDY
Administrative Law Judge