

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H201405

DEFRENCHI B. HARRIS, EMPLOYEE

CLAIMANT

HALL TANK CO., LLC, EMPLOYER

RESPONDENT

**ACCIDENT FUND GENERAL
INSURANCE COMPANY,
INSURANCE CARRIER, TPA**

RESPONDENT

OPINION FILED JANUARY 8, 2025

Hearing before Administrative Law Judge, James D. Kennedy, on the 22ND day of October 2024, in Little Rock, Arkansas.

Claimant is represented by Gary Davis, Attorney at Law, Little Rock, Arkansas.

Respondents are represented by Karen McKinney, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on the 22nd day of October 2024, to determine the issues of compensability for a work-related injury to the claimant's neck and left breast, plus reasonable and necessary medical in regard to these specific injuries, plus attorney fees. The respondents raised the defense of statute of limitations. The claimant contended that he sustained admitted compensable injuries to his left shoulder, but that the respondents are denying compensability and treatment for his left breast and neck area which were also injured at the time of the compensable accident.

The respondents contend that the claimant sustained a left shoulder injury along with a left upper arm and elbow injury on November 18, 2021, and the claimant has received all the benefits to which he is entitled. Respondents have not controverted any benefits related to the left shoulder injury. The respondents contend that the claimant

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reported an injury to his left shoulder from working to tiedown ratchet straps, when he felt a ripple or tear in his left shoulder. An MRI of the shoulder revealed an intact rotator cuff, but a possible tear to the labrum. The claimant then underwent a left shoulder arthroscopy with a subacromial decompression with a biceps tenodesis on February 9, 2022. The claimant was later involved in a post-surgery motor vehicle accident. The treating surgeon did not note any issues with the claimant's shoulder at the claimant's follow up appointment following the motor vehicle accident. The claimant obtained a Change of Physician from Dr. Phillip Smith to Dr. D' Orsay Bryant. Dr. Bryant saw the claimant and opined that the claimant's current problems were related either to the claimant's cervical spine or his brachial plexus. An MRI of the brachial plexus was normal. An IME was then performed by Dr. James Adametz who opined that the claimant's issues were not related to his brachial plexus. Dr. Jesse Abler performed an IME of the claimant's left shoulder and he opined that all the treatment the claimant had received to date was reasonable and the surgery that was performed on the claimant does not typically create the neurologic disorder that was experienced by the claimant.

A copy of the Pre-hearing order was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided that the parties stipulated that the Arkansas Workers' Compensation Commission had jurisdiction of the within claim, that an employer/employee relationship existed on November 18, 2021, and that the injury to the claimant's left shoulder was accepted as compensable and the appropriate benefits were paid.

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 sole witness to testify was 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 CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on November 18, 2021, the date of the work-related injury to the left shoulder which was accepted as compensable.
3. That the claim involving injuries to the neck and left breast are barred by the statute of limitations. Consequently, the question of the medical treatment of these injuries are moot.
4. 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 one exhibit that was admitted without objection which consisted of 166 pages of medical reports. The respondents also submitted an exhibit without objection that consisted of 24 pages of documents.

The claimant, DeFrenchi Harris was the sole witness to testify. He was 49 years old at the time of the hearing and had obtained his GED. He was employed by the respondent

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and sustained work-related injuries on November 18, 2021, while strapping down a tank that was to be transported on the back of a truck. The respondent manufactures large tanks which are placed underground or aboveground at gas stations. The claimant stated he injured himself while working with a ratchet strap where he felt “a ripple effect as I was tightening the - - tightening the strap down.” “It was like from - - from out there to like from in here and back here (Indicating), but it was like a - - it was like a - - I felt it, and that’s when I had to just stop. I had to stop what I was doing at that moment.” The claimant admitted he was pointing to the inside and the back side of the elbow. The claimant’s attorney described the pointing as the claimant pointing all the way up his arm from the – in his elbow area going all the way up into his shoulder over to the base of his neck. The claimant went on to state that it was not painful when it occurred, but he knew he had to stop what he was doing. He admitted receiving medical treatment, initially at Concentra, and later under Dr. Phillip Allan Smith, who performed surgery. (5 – 8)

He also admitted to receiving some temporary disability workers’ compensation benefits and on June 28, 2022, coming under the treatment of Doctor D’ Orsay Bryant. He admitted Dr. Smith performed the surgery and released him back to work, and after a few weeks of working, he started hurting and was sent back to work without the sling but was placed on a weight restriction or light duty. He started off while on light duty picking up debris around the compound. He felt this activity was causing pain and additional complications and told HR about it and they stopped him from picking up the debris. (Tr. 9, 10) He then was placed in the breakroom studying things like storm-water prevention and forklift operations. He stated he eventually was told that the respondent did not have any more light duty available. (Tr. 11) He was then placed in transitional work where he worked

at an animal shelter for a short period of time. He walked dogs, cleaned the dog pit, and washed bowls. (Tr. 13) The claimant then testified as follows:

“If you sit me down at my company job and you sit me down and you say ‘Hey, we don’t want you to do nothing cause we don’t want you to jeopardize or hurt yourself any more than you are,’ I think it was a displacement or double jeopardy for you to send me to another company that don’t have nothing to do with your company that don’t have nothing to do with your company, so it was like a double jeopardy to me that made me like ‘Hold on cause you - - you’re fixing to make - - have me to hurt myself more, and you already don’t want to still do my surgery, right?’

The claimant stated that he returned to HR and told them he could not go back to the animal shelter, and one reason was due to the travel to the shelter, and he thought that he stopped working somewhere around the end of the year. (Tr. 14, 15)

The claimant admitted he had seen Dr. Bryant with the last visit on the 17th day of the month of the hearing. He did not have a return appointment at the time of the hearing. (Tr. 15, 16) The claimant additionally provided that he had not received any temporary disability benefits since the animal shelter, but that he was continuing to get a paycheck from the respondent. (Tr. 17, 18)

Under cross examination, the claimant admitted that if he were injured today, and if he went to the doctor today, his statements to the doctor would be more accurate than if he went to the doctor a year later. He admitted he was injured about three years ago and was sent to Concentra. He was shown page one of the Claimant’s exhibit which provided that the claimant stated that he had pain in his left humerus from strapping down a load. He admitted that he did not mention pain in his chest or neck at the time due to the fact he was not feeling pain in his chest or neck at the time. He further admitted that he felt a pop in the biceps area and that was where he felt the pain. (Tr. 21 – 24) He was aware that he was diagnosed with left shoulder pain at the time of his initial doctor visit. He continued

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suffering pain and then returned for a MRI, which showed a possible labral tear, and was then referred to Dr. Smith at Ortho Arkansas, who ordered a second MRI and then operated on his left rotator cuff. After the surgery, he was released to return to work with no overhead use of his left arm. (Tr. 25, 26) The claimant also admitted that he was placed on a lifting restriction of two pounds but after a while, he complained to HR that bending over hurt his arm. He admitted the doctor did not say that he could not bend over and there was no restriction about picking up something with his right arm. He also admitted he was then paid to sit down and study. However, an issue arose between him and the building manager, which caused issues with more than the claimant and the building manager, and he was then sent to transitional work at an animal shelter in Jacksonville, about two years after the injury. (Tr. 27 - 29) He also admitted that he did not want to go to Jacksonville and his last day at the shelter appeared to be November 7, and even after that date, the respondents attempted to get him back to the shelter, but when they offered to send him back, he did not go, and that this was at the end of 2023. He further admitted that there were no medical reports that provided he was unable to walk dogs, and no restrictions regarding his right arm. (Tr. 30 - 32)

The claimant admitted that he lost control of his vehicle on black freezing ice and returned to Dr. Smith on March 15, 2022, six weeks after his surgery. (Tr. 33) He also admitted that Dr. Smith examined his shoulder after the motor-vehicle accident and stated his shoulder would be okay. (Tr. 37)

In regard to his visit to Dr. Bryant, the claimant admitted nerve conduction studies were ordered. (Tr. 39) He also admitted that a second MRI was ordered by Dr. Smith who then performed surgery to repair a labrum tear. (Tr. 40) The claimant was questioned about the report by Dr. Bryant dated September 13, 2022, which provided for a tear of the superior

labrum. (Tr. 42) He was also questioned about Dr. Bryant ordering a MRI of the cervical spine, in December of 2022. (Tr. 43) The claimant was then questioned about the AR-C filed on March 31, 2022, which provided that the claimant had suffered an injury to his left shoulder and arm. (Tr. 45) The claimant was also questioned about an AR-C filed on July 15, 2024, which referred to an injury date of November 18, 2021, which included the left shoulder, left breast area, and neck. (Tr. 46) He was also questioned about a report from Dr. Smith, dated March 21, 2022, which was after the motor vehicle accident, and which provided that there was nothing wrong with the claimant, and the claimant agreed. (Tr. 47) In regard to his neck injury, the claimant responded to the question, “So you didn’t injure you’re neck at work, did you” with the simple response of “No.” (Tr. 48)

At this point, the claimant rested, and the parties were allowed to make a closing statement. The claimant’s attorney stated the claimant’s issues involved the deltoid muscle. It was argued that the claimant’s complaints have gone all the way back to November 22, 2021, and his complaint involved the shoulder which included the muscles of the shoulder and the nerves that innervate the muscles of the shoulder. (Tr. 49, 50) In regard to the argument involving the statute of limitations, the respondents contended there were no objective medical finding of “an injury to the deltoid to the chest. There’s no mention of any medical findings that would take this outside of the internal shoulder injury mechanism that we have accepted. “We have accepted a labral tear, we’ve operated on a labral tear, we’re continuing to provide treatment for the shoulder, whether it’s a labral tear or there’s something else.” The respondents went on to contend that the motor vehicle accident that occurred later was a clear independent intervening cause. The AR-C was filed under representation by an attorney claiming an arm injury and a shoulder injury.

“There’s no AR-C filed until after the statute of limitations has run on a claim for a new injury.” (Tr. 53 – 55)

In regard to medical records, the claimant submitted 166 pages of medical records. The initial report dated November 18, 2021, occurred when the claimant presented to Concentra with pain in his left humerus, due to strapping down a load, as he self-reported. The report provided for pain involving the AC joint, the deltoid, the anterior glenohumeral joint, the supraspinatus, and the anterior, lateral, and posterior shoulder. There was a positive empty can test, drop arm test, and Apley’s scratch arm test. The assessment provided for an injury to the tendon of the long head of the left biceps and left shoulder pain. The left shoulder x-rays provided no evidence of a left shoulder fracture or dislocation. (Cl. Ex. 1, P. 1 – 8) The claimant returned for a follow up on November 22, 2021, and the report provided the pain was located in the left anterior shoulder and left biceps area. The claimant was allowed to return to work with no lifting of the left arm. (Cl. Ex. 1, P. 9 – 14) On November 23, 2021, the claimant received his first MRI at Chenal MRI. The report provided for a larger posterior labrum tear with an intact supraspinatus, infraspinatus, and teres minor muscles with edema of the supraspinatus and to a lesser extent the subscapularis muscles. The report also provided for moderate glenohumeral joint effusion and mild accumulation of fluid in the subacromial subdeltoid bursa and with edema of the posterior lateral aspect of the deltoid muscle. A moderate strain of the biceps muscle was noted as well as a low- grade strain of the deletion muscle. (Cl. Ex. 1, P. 15 – 17)

The claimant returned to Concentra on November 29, 2021; December 2, 2021; and December 7, 2021. The reports provided that the claimant reported pain in his right upper back area and shoulder pain after pushing a broom at work. The pain was in the left anterior shoulder and left biceps area with constant symptoms. The claimant was then

referred to a physical therapist to improve his range of motion. The reports provided that the therapy proceeded as expected. (Cl. Ex. 1, P. 18 – 31)

The claimant was referred to Dr. Phillip A. Smith on December 10, 2021. The assessment provided for a left posterior labral tear and went on to provide that the original MRI was of poor quality and a repeat MRI was recommended. (Cl. Ex. 1, P. 32 – 38) A second MRI was obtained on January 14, 2022. Under impression, the report provided that no rotator cuff tear was identified but that there was a tear of the posterior labrum. There was mild edema in the subscapularis and supraspinatus muscles most consistent with a mild grade 1 strain which have improved since the previous study. (Cl. Ex. 1, P. 39, 4) The claimant then returned to Dr. Smith on January 20, 2022, and a left shoulder arthroscopy with labral debridement versus labral repair was discussed. (Cl. Ex. 1, P. 41 – 47)

On January 26, 2022, Dr. Smith issued a return to work note which provided the claimant should not return to work until evaluated post-operatively. (Cl. Ex. 1, P. 48, 49) The claimant then returned to Dr. Smith on February 9, 2022, for a left shoulder arthroscopy with a labral debridement and a biceps tenodesis for a left shoulder posterior tear. (Cl. Ex. 1, P. 50 – 52) He again returned to Dr. Smith for a follow up on February 17, 2022. The report provided that the left shoulder showed healed portals with no signs of infection. Therapy was started and a prescription for pain medication was provided. A return-to-work note was provided which stated the claimant could return to work on February 18, 2022, with the left arm in a sling and with no use of the left arm. (Cl. Ex. 1, P. 53 – 59) The claimant returned to Dr. Smith on March 15, 2022. The report provided for healed incisions but with atrophy of his left extremity due to non-use. (Cl. Ex. 1, 60 – 64)

The claimant also submitted medical records dated March 22, 2022, which provided he presented to the emergency medicine department of Baptist Health with left shoulder pain, along with pain and swelling of the left arm. The claimant was discharged home with self-care. Claimant was instructed to follow up with his primary care physician. A form provided the claimant should be excused from work. (Cl. Ex. 1, P. 65 – 87)

Medical records from Baptist Health Therapy Center dated March 25, 2022, provided that the claimant presented for physical therapy due to shoulder pain from a work-related injury with a chief complaint of pain. The claimant was educated in regard to a home exercise program with manual therapy techniques as needed. (Cl. Ex. 1, P. 88 – 105)

The claimant returned to Dr. Smith on April 1, 2022. The report described pain in the left elbow. A return to work note provided that the claimant could return to work on April 2, 2022, with a restriction of lifting no more than two pounds with no overhead activity until April 26, 2022. (Cl. Ex. 1, P. 106 – 112) The claimant then returned to Baptist Health Rehabilitation institute on April 4, 2022, for a left shoulder biceps tendinosis protocol. The treatment emphasis was focused on pain relief and range of motion improvements. (Cl. Ex. 1, P. 113 – 116) The following day, the claimant then returned to the Baptist Health Therapy Center. The treatment focus continued to be pain relief with an increased range of motion. (Cl. Ex. 1, 117 – 123) The claimant then returned to Dr. Smith on April 6, 2022. This report mentioned atrophy of the left deltoid and bicep and went on to provide that there was a possibility of a disc herniation causing the increased pain and weakness involving the left arm. Dr. Smith also stated that he would like to order an MRI of the cervical spine. The claimant was then sent back to work with a release which provided for a two-pound lifting limit with no overhead activity, until after a MRI. (Cl. Ex. 1, P. 124 – 128) The claimant then

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returned to the Baptist Health Rehabilitation Institute on May 2, 2022, and Baptist Health Therapy Centers on May 17, 2022, and May 20, 2022. (Cl. Ex. 1, P. 129 – 139)

On June 28, 2022, the claimant presented to Dr. D'Orsay D. Bryant. The report provided that there was tenderness in the anterior shoulder, the subacromial region, and the rotator cuff, with a positive impingement sign, along with decreased strength with resisted abduction. An EMG/NCS study was recommended along with a left shoulder MRI. (Cl. Ex. 1, P. 140 – 142.) The claimant then received a left shoulder arthrogram on September 13, 2022. There were no findings of a left rotator cuff tear, but degenerative changes were noted in the AC subacromial subdeltoid bursa. (Cl. Ex. 1, P. 143) The MRI of the shoulder which was read by Dr. Al S. Alexander on the same date provided that there was a tear of the superior labrum but no muscular atrophy along with moderate osteoarthritis of the AC and the glenohumeral joint. (Cl. Ex. 1, P. 144)

The claimant then presented to Baptist Health on November 8, 2022, to the neuro diagnostics laboratory. The report provided that there was left brachial plexopathy with severe involvement of the upper trunk vs. polyradiculopathy. "There is minimal residual innervation of the deltoid and infraspinatus muscles. MRI imaging of the cervical spine and brachial plexus are recommended." (Cl. Ex. 1, P. 146 – 148)

The claimant returned to Dr. Bryant on November 23, 2022. The report provided that a MRI that was performed in Little Rock provided for prior biceps tendon tenodesis with moderate osteoarthritis of the AC joint and the glenohumeral joint and a superior labral tear. Dr. Bryant opined under impression that the left superior labral tear was confirmed by the MRI with left brachial plexopathy along with severe involvement of the upper nerve trunk. An MRI of the cervical spine and a MRI of the brachial plexus was strongly

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recommended as further diagnostic workup of the patients severe left brachial plexopathy is a result of the work related injury on 11/18/2021. (Cl. Ex. 1, P. 149 – 150)

On December 9, 2022, the claimant obtained another MRI, this time at Chenal MRI. The MRI was of the cervical spine. Under impression, the report provided for an “abnormal ventral cord signal bilaterally at C3 – 4 suspected to reflect myelomalacia, within the lateral left hemicord suspected to reflect myelomalacia, and in the bilateral ventral C5-6 cord favored to reflect myelomalacia but a component of active impingement related myelopathic changes of the cord at C5–6 not excluded.” The report further provided that there was moderate canal and severe neural foraminal stenosis with cord impingement related from disc bulging and spondylosis. At C4-5 and C3-4 there was found central canal and severe neural foraminal stenosis and negative findings of a mass or lymphadenopathy or neuritis. (Cl. Ex. 1, P. 151 - 153) The claimant then returned to Dr. Bryant on December 9, 2022, who opined the pathology of the cervical spine correlated to the severe brachial shoulder plexopathy found on the EMG/NCS and that the claimant was a suitable candidate for referral to a neurosurgeon. “This workup definitively explains the patients claims of persistent left shoulder pain and weakness following his work-related injury of November 18, 2021. (Cl. Ex. 1, P. 154, 155)

The claimant presented to Dr. James Adametz of Neurological Surgery Associates on March 14, 2023, who stated that he was aware of the work-place injury and the later motor vehicle accident. On exam, he observed atrophy of the deltoid and biceps of the left arm. He opined that he thought the claimant was suffering more of a cervical spine and spinal cord issue than a brachial plexus issue. Naturally, some of it could have been from the shoulder injury and surgery but I believe it is more extensive than you could explain from that. At this point I am not sure anything can be done to really reverse his neurologic

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symptoms but to prevent further damage he would likely benefit from surgery on the cervical spine. (Cl. Ex. 1, P. 156 – 157)

The claimant presented to Dr. Jesse Abeler of Bowen and Hefley Orthopedics on August 8, 2023, for pain of the right and left shoulder. The report provided that the symptoms began in October of 2021, after an injury. The claimant presented for an IME. Considerable atrophy of the left upper trapezius, left deltoid, left biceps, and triceps was noted. The report by Dr. Abeler went on to provide that in his expert opinion, he felt the claimant would benefit from a neurosurgery evaluation addressing the multilevel cervical canal and foraminal stenosis which was felt to be leading to his left shoulder and upper arm atrophy and objective weakness. Shoulder x-rays of the left shoulder provided for left shoulder atrophy with multiple level spondylosis and radiculopathy of the cervical spine. Dr. Abler opined as follows: “It is my opinion his cervical findings of foraminal stenosis and canal stenosis are creating these complaints and he would benefit from an evaluation and possible treatment with a neurosurgeon. It is my opinion that [n his initial injury the “ripple” that he felt along his upper extremity was neurological in nature at his initial reported injury and related to his initial injury on 11/18/2021. I feel the shoulder treatment has been reasonable and a review of the operative note demonstrates an appropriate technique for labrum debridement, biceps tenodesis, and subacromial decompression. This procedure typically does not create the neurological disorder seen with the patient today. I expect he has reached maximal medical improvement regarding the shoulder biceps tenodesis, and he demonstrates a separate issue regarding the neck related to his initial injury. (Cl. Ex. 1, P 158 – 164)

The respondents submitted 24 pages of documentary evidence without objection. The original Arkansas Form C was filed on March 31, 2022, where the claimant contends that he injured his shoulder and arm on November 18, 2021. The second Form C was filed on July 15, 2024, and here the claimant contends that he sustained multiple injuries including his left shoulder, left breast area, and neck, on November 18, 2021. (Resp. Ex. 1, P. 1, 2)

The respondents also submitted documents that provided claimant was offered modified alternative work. (Resp. Ex. 1, P. 3 – 5) There was also an email from respondent's attorney that provided the claimant had failed to report to his "transitional duty job" and this was dated November 17, 2023. (Resp. Ex. 1, P. 6) The documents further provided that the claimant was offered alternative work at the Jacksonville Animal Shelter and the claimant failed to appear. (Resp. Ex. 1, P. & - 16) The respondent then made an offer of an additional transitional to work assignment on December 21, 2023. (Resp. Ex. 1, P. 18 -23)

DISCUSSION AND ADJUDICATION OF ISSUES

In the present matter, the threshold issue before us involves the statute of limitation defense raised by the respondents. The issue is whether the claimant timely filed a claim for a work-related neck and left breast injury along with the related medical benefits in regard to his work-related compensable injury. The law is clear that it is the claimant's burden to prove that he or she acted within the time allowed for filing of a claim for additional compensation benefits. Stewart v. Ark. Glass Container, 2009 Ark. App. 300, 307 S.W.3d 614 (2009). Arkansas Code Annotated section 11-9-702 sets forth the following limitations:

- (a) Time for filing additional compensation.

(b) In cases in which compensation, including disability or medical, has been paid on account of an injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years from the date of the injury whichever is greater.

(c) A claim for additional compensation must specifically state that it is a claim for additional compensation. Documents which do not specifically request additional benefits shall not be considered a claim for additional benefits. See Arkansas Code Ann. 11-9-702 (b) (1), (c)

Here, the parties agree that the claimant injured his left shoulder on November 18, 2021, the claimant was sent to Concentra on the day of the injury, and his left shoulder was accepted as compensable. He was appropriately treated at the time for his shoulder injury, receiving MRIs, and eventually surgery by Dr. Smith on February 9, 2022. The claimant continued to see Dr. Smith but was apparently not satisfied with the results, and on June 8, 2022, presented to Dr. Bryant, who found no evidence of a rotator cuff tear but did find a tear of the superior labrum and muscle atrophy after reviewing an MRI dated December 9, 2022. The claimant was again seen by Dr. Bryant on December 15, 2022, for problems that he was suffering in regard to his left shoulder. Dr. Bryant opined that the claimant was a suitable candidate for a referral to a neurosurgeon, and the claimant was later seen by Dr. Adametz of Neurological Surgery Associates on March 14, 2023, and then later by Brown and Hefley Orthopedics and Dr. Jesse Abeler on August 8, 2023.

The original AR-C Form filed on March 31, 2022, in regard to the November 18, 2021, injury did not mention a left breast or neck injury. A claim for these injuries was not made until the filing of the second AR – C Form on July 15, 2024. The filing of the AR – C Form on March 31, 2022, did not toll the running of the statute of limitations for injuries to the left breast and neck. See Wynne v. Liberty Trailer, 2022 Ark. 65, 641 S.W.3d 621 (2022). Consequently, the claim regarding the left breast and neck are barred by the statute of limitations. It is also noted that there was no proof regarding a left breast injury and the

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claimant responded “No” when asked if he injured his neck at work during cross examination.

After weighing the evidence impartially, without giving the benefit of the doubt to either party, it is found that the claimant’s claim for a work-related neck injury and left breast injury are barred by the statute of limitations, as well as a failure to satisfy the required burden of proof by a preponderance of the credible evidence in regard to the claimed neck and breast injury. If not already paid, the respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

JAMES D. KENNEDY
Administrative Law Judge