

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H208333

**JOSEPH TAYLOR,
EMPLOYEE**

CLAIMANT

**DOLGENCORP., LLC d/b/a
DOLLAR GENERAL STORE,
EMPLOYER**

RESPONDENT

**DOLGENCORP., LLC/
SEDGWICK CLAIMS MG'T SERVICES, INC.,
INSURANCE CARRIER/TPA**

RESPONDENT

OPINION FILED MAY 22, 2025

Hearing conducted on February 26, 2025, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, in Little Rock, Pulaski County, Arkansas.

The claimant was represented by the Honorable Laura Beth York, Rainwater, Holt & Sexton, Little Rock, Pulaski County, Arkansas.

The respondents were represented by the Honorable David C. Jones, Newkirk & Jones, Little Rock, Pulaski County, Arkansas.

INTRODUCTION

In the prehearing order filed October 22, 2024, the parties agreed to the following stipulations, which they modified and affirmed on the record at the hearing:

1. The Commission has jurisdiction over this claim.
2. The employer/employee/carrier-TPA relationship existed with the claimant at all relevant times including November 15, 2022, the date he was involved in a work-related assault in which he sustained admittedly compensable injuries to his face and upper back/thoracic spine.

3. The claimant's average weekly wage (AWW) was \$202.09 which entitles him to weekly compensation rates of \$135 for temporary total disability (TTD) and \$135 for permanent partial disability (PPD) benefits.
4. The respondents controvert only the payment of any additional medical and/or indemnity benefits other than those they have paid to date.
5. The parties specifically reserve any and all other issues for future determination and/or litigation.

(Commission Exhibit 1 at 2; Hearing Transcript at 5-7). At the hearing both parties offered and agreed to an additional stipulation as follows: Dr. Wayne Bruffett opined the claimant reached maximum medical improvement (MMI) on February 22, 2023; assigned him a permanent anatomical impairment rating of 19% to the body-as-a-whole (BAW); and released him to return to work with no additional physical limitations or restrictions. (Comms'n Ex. 1 at 2; T. 5-6). Pursuant to the parties' mutual agreement the issues litigated at the hearing were:

1. Whether the claimant is permanently and totally disabled (PTD) and, if not, the extent of the claimant's wage loss disability, if any.
2. Whether and to what extent, if any, the claimant's attorney is entitled to a controverted fee on these facts.

(Comms'n Ex. 1 at 2; T. 5-6).

The claimant contends that on or about November 15, 2022, he sustained admittedly compensable injuries to his face and upper back/thoracic spine as the result of a work-related assault. On February 22, 2022, Dr. Wayne Bruffett ultimately released the claimant with a 19% to the body-as-a-whole (BAW) permanent anatomical impairment rating, which the respondents have accepted and paid. The claimant contends he is PTD as a result of his admittedly compensable work-related injuries or, alternatively, he is entitled to substantial wage loss disability as a result of his compensable injuries. He further contends his attorney is entitled to

the maximum statutory attorney's fee. The claimant reserves any and all other issues for future determination and/or litigation. (Comms'n Ex. 1 at 2-3; T. 5-6; 57-60, 62).

The respondents contend they have accepted the claimant's face and upper back/thoracic spine injuries as compensable and have paid all appropriate benefits to date, including but not limited to Dr. Bruffett's 19% BAW impairment rating. The respondents contend the claimant is not PTD, nor is he entitled to any wage loss disability related to his compensable injuries. The respondents contend that any wage loss disability the claimant may have sustained is not the "major cause" of his overall disability, which the respondents contend is the result of preexisting conditions. The respondents further contend the claimant has applied for and currently is receiving Social Security disability (SSD) benefits and, therefore, pursuant to *Ark. Code Ann.* Section 11-9-411 (Lexis Replacement 2025) they are entitled to a dollar-for-dollar credit/offset in the amount of any and all group health, and/or disability benefits, as well as any and all unemployment benefits paid to or on the claimant's behalf. The respondents reserve the right to amend and supplement their contentions upon the completion of necessary investigation and discovery; and they reserve all other issues for future determination and/or litigation. (Comms'n Ex. 1 at 3; T. 5-6; 60-62).

The record consists of the hearing transcript and any and all exhibits contained therein and attached thereto, as well as the parties' blue-backed post-hearing briefs.

STATEMENT OF THE CASE

The claimant, Mr. Joseph Taylor (the claimant), is 54 years old and has a high school education. After he graduated from high school he worked as a cook at Oaklawn Race Track in Hot Springs, and at various fast food restaurants. Thereafter, he moved to Memphis, Tennessee working as a night stocker at Albertson's, and in retail distribution. He then moved to Oklahoma where he

worked as a cook, warehouse forklift operator with Georgia Pacific (GP), and as a stocker in stores. The claimant obtained a certification at GP as a forklift operator, but that certification has since expired. He also tried construction work but testified it “was not for me.” (T. 11; 10-11). The claimant eventually moved back to Little Rock from Oklahoma to care for his grandmother until she passed away. (T. 11-12). The claimant’s last job before he began working with the respondent-employer, Dollar General, was with the City of Little Rock where he worked in waste management as a sanitation worker until sometime in 2013 or 2014. (T. 15-16). He testified the City of Little Rock job “was the last job I dealt with...but then I got disabled.” (T. 55).

The claimant testified that while working for the City of Little Rock he fell off a sanitation truck in rainy weather and hurt his back. (T. 15-16). Specifically concerning this fall from the Little Rock sanitation truck the claimant testified that after he fell, “...I was layin’ flat on my back. I couldn’t move, I couldn’t talk, I couldn’t do anything. So it’s like I was layin’ there and the rain was just fallin’ down on me. I couldn’t even close my eyes, so it’s just like I was there for, like, 20 minutes.” (T. 15). The claimant testified he sustained multiple injuries in this incident: “My shoulders, wrist, head, pretty much everything.” (T. 18). He testified he did not file a workers’ compensation claim at that time because he did not know anything about it, that he thought it might be his fault since he slipped and he did not want to lose his job, so he kept working until, “I couldn’t fake it anymore.” (T. 18; 15-18).

At some point after this fall the claimant applied for and began drawing SSD benefits of not “over \$1,000.00” per month. (T. 22; 48). The claimant testified he had drawn SSD benefits for “[p]robably like 13 years[.]” before he went to work for Dollar General in late December 2021. (T. 14) (Bracketed material added). Upon further inquiry the claimant agreed he had been drawing SSD benefits “maybe” 11-12 years before he began working for Dollar General. (T. 56). The

claimant testified he was drawing \$1,051 per month in SSD benefits at the time of the hearing. (T. 22). The claimant testified he had been drawing SSD benefits since he was “40-somethin’.” (T. 14).

The claimant admitted he has a long history of both physical and mental issues for which he has undergone medical treatment and some 19 surgeries. The claimant apparently attributes these injuries to the fall that occurred when he was working with the City of Little Rock, and to his playing football and other sports. (T. 17-21; 31-46; Respondents’ Exhibit 1 at 10-234). He also has asthma, so has not mowed a yard in some 18 years. (T. 19; 31).

The claimant testified that Social Security [Social Security Administration rules] allows him to work up to 20 hours per week, and that he likes to be around people and to visit so he applied for a job with Dollar General. (T. 21; 23-24; 46) (Bracketed material added). The claimant testified he told Dollar General (DG) about his preexisting physical limitations and restrictions before they hired him, and he began work as a DG cashier on or about December 27, 2021. The claimant’s job duties at DG included checking customers out and operating the cash register. (T. 23-24).

On November 15, 2022, the date of the admittedly compensable incident, the cash register was not working properly so the store was temporarily unable to accept cash payments. Eventually a customer came into the store who only had cash and did not have a debit or credit card. At some point after the claimant told the customer he was unable to accept cash payments he and the customer became involved in a verbal altercation. The claimant testified the customer started cursing, so he began taking the products the customer had intended to buy back intending to restock them, at which time the verbal altercation evolved into a physical altercation. (T. 24-26). The claimant testified he “got in that stance ‘cause I felt like he was fixin’ to do somethin’ to me, but when I took the stance, my hip popped, so therefore I lost my balance... .” (T. 25). As the altercation escalated the customer picked-up the claimant and threw him to the floor, resulting primarily in

left-sided transverse process fractures of his L2 through L5-1 vertebrae. (T. 25-26; Claimant's Exhibit 1 at 1-31; RX1 at 1-9).

The claimant initially was treated at the CHI St. Vincent emergency room (ER). He was discharged the same day as the work incident and allowed to return home. Thereafter, the claimant came under the care of orthopedic surgeon Dr. Wayne Bruffett, then of OrthoArkansas in Little Rock. (CX1 at 1-9). When Dr. Bruffett saw the claimant on January 23, 2023, he opined the claimant could return to light duty sedentary work at that time; however, the claimant told Dr. Bruffett, as he also testified at the hearing, that DG terminated him (because of his involvement in the "fight situation" at work). (CX1 at 21-25; T. 28-29; 46-48).

Dr. Bruffett treated the claimant conservatively; opined he reached maximum medical improvement (MMI) as of February 22, 2023, and assigned him a combined 19% BAW permanent anatomical impairment rating for the four (4) left-sided transverse vertebrae fractures. (CX1 at 26-30). In his "Return to Work" note dated February 22, 2023, Dr. Bruffett released the claimant to return to work with no restrictions related to the 11/15/2022 work-related incident. (CX1 at 31; RX1 at 216).

The claimant testified he is still in a great deal of pain and is unable to do some of the things he was able to do before the date of his compensable injury. Specifically, he testified he had a burning and vibrating sensation that made his body feel "like a human pitchfork." (T. 27-30). Medical records reveal Dr. Bruffett was aware of the claimant's complaints in this regard before he released him to return to work with no restrictions as of February 22, 2023. (CX1 at 21-25).

The claimant testified he loved his job at DG and would still be working there if DG had not terminated him. (T. 46-47). He admitted DG terminated his employment because of his involvement in the "fight situation", but said he was never given the specific reason DG let him go.

(T. 47-48). The claimant testified he had made no efforts to seek other employment and had not worked anywhere or looked for a job since Dr. Bruffett released him in February 2023.

The claimant further testified he had not sought any additional medical treatment for his November 15, 2022, injury(ies) since Dr. Bruffett released him to return to work without restrictions on February 22, 2023. Moreover, the claimant acknowledged he had not sought any medical treatment for his back, nor had he requested any further medical treatment related to his back for over two (2) years between Dr. Bruffett's February 2023 no-restrictions release and the subject hearing. (T. 33-34; 51).

DISCUSSION

The Burden of Proof

When deciding any issue, the ALJ and the Commission shall determine, on the basis of the record as a whole, whether the party having the burden of proof has established it by a preponderance of the evidence. *Ark. Code Ann.* § 11-9-704(c)(2) (2025 Lexis Replacement). The claimant has the burden of proving by a preponderance of the evidence he is entitled to benefits. *Stone v. Patel*, 26 Ark. App. 54, 759 S.W.2d 579 (Ark. App. 1998). *Ark. Code Ann.* Section 11-9-704(c)(3) (2025 Lexis Repl.) states that the ALJ, the Commission, and the courts “shall strictly construe” the Act, which also requires them to read and construe the Act in its entirety, and to harmonize its provisions when necessary. *Farmers Coop. v. Biles*, 77 Ark. App. 1, 69 S.W.2d 899 (Ark. App. 2002). In determining whether the claimant has met his burden of proof, the Commission is required to weigh the evidence impartially without giving the benefit of the doubt to either party. *Ark. Code Ann.* § 11-9-704(c)(4) (2025 Lexis Repl.); *Gencorp Polymer Products v. Landers*, 36 Ark. App. 190, 820 S.W.2d 475 (Ark. App. 1991); *Fowler v. McHenry*, 22 Ark. App. 196, 737 S.W.2d 633 (Ark. App. 1987).

All claims for workers' compensation benefits must be based on proof. Speculation and conjecture, even if plausible, cannot take the place of proof. *Ark. Dep't of Corrections v. Glover*, 35 Ark. App. 32, 812 S.W.2d 692 (Ark. App. 1991); *Deana Constr. Co. v. Herndon*, 264 Ark. 791, 595 S.W.2d 155 (1979). It is the Commission's exclusive responsibility to determine the credibility of the witnesses and the weight to give their testimony. *Whaley v. Hardees*, 51 Ark. App. 116, 912 S.W.2d 14 (Ark. App. 1995). The Commission is not required to believe either a claimant's or any other witness's testimony but may accept and translate into findings of fact those portions of the testimony it deems believable. *McClain v. Texaco, Inc.*, 29 Ark. App. 218, 780 S.W.2d 34 (Ark. App. 1989); *Farmers Coop. v. Biles*, *supra*.

The Commission has the duty to weigh the medical evidence just as it does any other evidence, and its resolution of the medical evidence has the force and effect of a jury verdict. *Williams v. Pro Staff Temps.*, 336 Ark. 510, 988 S.W.2d 1 (1999). It is within the Commission's province to weigh the totality of the medical evidence and to determine what evidence is most credible given the totality of the credible evidence of record. *Minnesota Mining & Mfg'ing v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999).

Wage Loss Disability

The Act specifically sets forth the requirements governing the Commission's findings related to wage loss disability. For unscheduled injuries, *Ark. Code Ann.* § 11-9-522 (2025 Lexis Repl.) controls an injured worker's entitlement to permanent disability benefits. The payment of compensation for permanent disability compensation is appropriate where the permanent effects of a work-related injury incapacitate the worker from earning the wages he was receiving at the time of the injury. *Id.*

The Commission is charged with the duty of determining a claimant's wage loss disability, if any, based upon consideration of the medical evidence and other matters affecting wage loss. *Lee v. Alcoa Extrusion*, 89 Ark. App. 228, 201 S.W.2d 449 (Ark. App. 2005). When making a determination of the degree of disability an injured worker has sustained as the result of an unscheduled injury, the Commission must consider evidence demonstrating the degree to which the worker's physical anatomical impairment adversely affects his earning capacity, as well as other factors such as the worker's age, education, work experience, and other matters which may reasonably be expected to affect his future earning ability. Such other matters may include, but are not limited to: motivation, post-injury income, credibility, and demeanor. *Ark. Methodist Hospital v. Adams*, 43 Ark. App. 1, 858 S.W.2d 125 (Ark. App. 1993); *Glass v. Edens*, 233 Ark. 786, 346 S.W.2d 685 (1961); *City of Fayetteville v. Guess*, 10 Ark. App. 313, 663 S.W.2d 946 (Ark. App. 1984); *Curry v. Franklin Electric*, 32 Ark. App. 168, 798 S.W.2d 130 (Ark. App. 1990).

The Commission may use its own superior knowledge of industrial demands, limitations, and requirements in conjunction with the relevant evidence to determine whether a claimant is entitled to wage loss disability. *Henson v. General Electric*, 99 Ark. App. 257, 257 S.W.3d 908 (Ark. App. 2007). A claimant's lack of interest in pursuing employment with his employer, and negative attitude in looking for work are impediments to the Commission's ability to assess wage loss disability. *Logan County v. McDonald*, 90 Ark. App. 409, 206 S.W.3d 258 (Ark. App. 2005). A claimant is not entitled to wage loss disability benefits for a scheduled injury. *Ark. Code Ann.* § 11-9-521 (2025 Lexis Repl.); *Moser v. Ark. Lime Co.*, 40 Ark. App. 113, 846 S.W.2d 188 (Ark. App. 1993).

Specifically with respect to PTD benefits, *Ark. Code Ann.* § 11-9-519(e) (2024 Lexis Repl.) states:

- (1) “Permanent total disability” means inability because of compensable injury or occupational disease, to earn any meaningful wages in the same or other employment.
- (2) The burden of proof shall be on the employee to prove inability to earn any meaningful wage in the same or other employment.

PTD “shall be determined in accordance with the facts.” **Ark. Code Ann.** § 11-5-519(c) (2025 Lexis Repl.). “In considering a claim for permanent disability, the commission and the courts shall not consider the odd-lot doctrine.” **Ark. Code Ann.** § 11-5-519(f) (2025 Lexis Repl.); and *see, American Eagle Airlines v. Donald Berndt*, 2012 Ark. App. App. 220 (Ark. App. 2012), citing *Patterson v. Ark. Dep’t of Health*, 70 Ark. App. 182, 15 S.W.3d 701 (Ark. App. 2000).

As previously cited, *supra*, **Ark. Code Ann.** § 11-9-102(4)(F)(ii)(a) (2025 Lexis Repl.) requires further that:

- (a) Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment.
- (b) If any compensable injury combines with a preexisting disease or condition or the natural process of aging to cause or prolong disability or a need for 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.

(Emphasis added). The Act specifically defines the term “major cause” to mean more than fifty percent (50%) of the cause, which must be established by a preponderance of the evidence. **Ark. Code Ann.** § 11-9-102(14)(A) and (B) (2025 Lexis Repl.).

Suffice it to say the facts of this case are rather unique. Indeed, the clear preponderance of all the relevant evidence of record conclusively reveals – as the claimant freely admitted at the hearing – he was “disabled” as a result of the admittedly serious multiple injuries he sustained as

a result of falling from the sanitation truck in 2013 or 2014 when he was working for the City of Little Rock. (T. 55; 15-18). In fact, after the City of Little Rock incident/multiple injuries the claimant applied for and began receiving SSD benefits. Again, as he readily admitted at the hearing, *this was some 11-12 years before he ever even went to work as a cashier at DG*. While the simple fact the claimant was drawing SSD benefits is not dispositive in determining whether he is PTD or entitled to wage loss disability as a result of his compensable injury(ies), it is certainly a factor to be considered along with the others.

And in this case it is a factor that should and must be given great weight on the facts of this case since – as the claimant readily admitted on more than one occasion at the hearing – he was “disabled” as a result of his long-standing, well-documented preexisting, symptomatic, debilitating problems long before he ever went to work at the obviously light duty cashier job at DG. Both the medical evidence and the claimant’s own testimony conclusively demonstrate this fact. There simply exists insufficient medical or other evidence in the record demonstrating the claimant is physically incapable of any gainful employment whatsoever as a result of his subject November 15, 2022, compensable injury(ies), or that he is entitled to *any* degree of wage loss disability on the facts of this case. Consequently, I find the claimant has failed to meet his burden of proof in demonstrating either that he is PTD, or that he is entitled to *any* percentage of wage loss disability on these facts, for the following reasons.

First, the medical evidence as well as his own testimony reveal the claimant has failed to meet his statutory burden of proof in demonstrating the subject November 15, 2022, injury(ies) is (are) the “major cause” of his “disability.” Indeed, quite to the contrary, the overwhelming preponderance of the medical records corroborate the claimant’s own admissions at the hearing: he was “disabled” well before the subject 11/15/2022 work incident.

On both direct and cross-examination the claimant himself testified concerning the extent of his significant, long-standing, preexisting, symptomatic physical and mental conditions and problems. He admitted he had 19 surgeries before the subject 11/15/2022 work incident, including but not limited to: three (3) shoulder operations; ankle fusions, thumb fusions, bilateral hip surgeries, knee surgeries, shoulder surgeries, carpal tunnel syndrome surgeries, foot surgery, toe surgery, and others as noted in the medical records. (T. 18-20; RX1 at 10-234). Well before the subject work incident the claimant had been diagnosed with fibromyalgia and had chronic headache problems, as well as psychological issues such as schizoaffective and bipolar disorder. (T. 31; 36; 34-44; RX1 at 17; 24; 33; 86; 98; 103).

The medical records reveal the claimant had shoulder problems as far back as 2013 and eventually had left shoulder surgery on or about January 8, 2015. (RX1 at 17). He underwent right ankle surgery with hardware placement on May 22, 2015. (RX1 at 24). On September 8, 2015, the claimant began undergoing evaluation of and treatment for psychological problems, which included schizoaffective disorder and bipolar issues. The relevant records indicate the claimant was having problems with chronic pain, depression, anxiety, and anger issues, and was “hearing voices.” (RX1 at 58). He was diagnosed with depression, antisocial personality disorder, anxiety disorder, unspecified anxiety type, and cannabis abuse. (RX1 at 35; 29-38; 58).

The claimant underwent right knee surgery in December 2015 (RX1 at 40), and his psychological issues remained an ongoing concern. Psychological counseling records reveal that at various times the claimant was “hearing voices” which were encouraging him to do negative things, which are noted in the medical records themselves. (RX1 at 58). Some of the claimant’s other medical problems that existed some five (5) years before his 11/15/2022 work incident included a left hip decompression surgery in December 2016. (RX1 at 74).

The hearing record further demonstrates that although in his deposition the claimant denied he had had any prior back problems, relevant medical records reveal he had problems with his back as far back as 2015, and that by 2017 he had pain radiating down his left leg. (RX1 at 86). A January 5, 2017, medical report states the claimant told the medical provider he had recently fallen experienced severe lower back pain that radiated down his left leg. (RX1 at 86-94).

The medical record reveals the claimant continued to undergo medical procedures for these long-standing, preexisting, symptomatic problems, including a right rotator cuff surgical repair on January 12, 2017. (RX1 at 88). Furthermore, he underwent left ankle surgery on May 5, 2017. (RX1 at 98). On January 11, 2018, the claimant underwent another right shoulder surgery. (RX1 at 103-108). In 2018 the claimant not only had the right shoulder surgery but also underwent right thumb surgery in May 2018 and left thumb surgery in September of 2018. (RX1 at 109, 122). In addition, the claimant was treated with Botox injections for headaches for many years, and was still receiving these injections in June 2021 as he reported having up to 20 severe headaches per month. (RX1 at 125, 153, 207). The claimant underwent another right ankle surgery on November 25, 2020, and continued to complain about bilateral shoulder problems, bilateral hip problems, and knee problems in November 2021, as reflected in the various exhibits. (RX1 at 141, *et seq.*).

Although the claimant argues the 11/15/2022 work incident aggravated his various preexisting problems thus rendering him PTD or entitling him to significant wage loss disability over and above his 19% BAW impairment rating, the medical record reveals these various conditions were long-standing, preexisting, symptomatic, and debilitating both long before and continuing after the 11/15/2022 work incident, and Dr. Bruffett's February 22, 2023, no-restrictions work release. The medical record reveals the claimant continued to treat for his ongoing preexisting bilateral hip problems.

At the hearing the claimant not only admitted he had undergone 19 surgical procedures on various parts of his body before the 11/15/2022 work incident, at the hearing he admitted he was expecting to undergo bilateral shoulder replacements, bilateral hip replacements, and bilateral knee replacements. (T. 43-44; RX1 at 226). A May 1, 2023, medical record lists the claimant's prior surgeries and prior diagnoses stretching back almost a decade from August 2013 through May 1, 2023. (RX1 at 226). All of the aforementioned evidence conclusively reveals the claimant has failed to meet his burden of proof in demonstrating that his 11/15/2022 compensable injury(ies) is the "major cause" of his current disability. In fact, all this evidence compels an objective, reasonable fact-finder to reach the opposite conclusion.

Second, the claimant failed to meet his burden of proof in demonstrating he is incapable of earning the same wages he was earning at the time of his compensable injury. Here the claimant already was drawing \$1,000 per month in SSD benefits and was admittedly "disabled" at the time of his 11/15/2022 injury. He is now drawing \$1,051 per month. At the hearing, although Dr. Bruffett released the claimant to return to work with no restrictions effective February 22, 2023, the claimant readily admitted he had not looked for any other jobs since DG terminated his employment, apparently as a result of the "fight situation" at work.

Of course, there exist other employers which have cashier and similar jobs as the one the claimant was performing at DG; and the claimant testified he would still be working at DG if his employment had not been terminated. Consequently, it follows that if the claimant was able to physically and otherwise capable of returning to his cashier job at DG, he is able to perform a similar job for another employer; however, to date he has failed and/or refused to even seek other employment, or to make any job search whatsoever. This failure to seek other employment reveals

a lack of interest in seeking employment and, therefore, is an impediment to accurately assessing the amount of the claimant's wage loss disability, if any.

Therefore, for all the aforementioned reasons I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this claim.
2. The stipulations contained in the prehearing order filed October 22, 2024, as modified and affirmed on the record at the subject hearing, hereby are accepted as facts.
3. The claimant has failed to meet his burden of proof in demonstrating that he is PTD as a result of his November 15, 2022, compensable injury(ies).
4. The claimant has failed to meet his burden of proof in demonstrating he is entitled to *any* percentage of wage loss disability in excess of his 19% BAW permanent anatomical impairment rating as a result of his subject November 15, 2022, compensable injury(ies).
5. The claimant's attorney is not entitled to a fee on these facts.

Therefore, this claim is denied and dismissed without prejudice subject to the parties' statutory appeal rights. If they have not already done so, the respondents shall pay the court reporter's invoice within ten (10) days of their receipt of this opinion.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

Joseph Taylor; AWCC N0. H208333

MP/mp