BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H307191

ROBIN COSEK, Employee	CLAIMANT
DOLLAR GENERAL STORE, Employer	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT, Carrier	RESPONDENT

OPINION FILED JUNE 30, 2026

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Russellville, Pope County, Arkansas.

Claimant represented by DANIEL E. WREN, Attorney at Law, Little Rock, Arkansas.

Respondents represented by LEE J. MULDROW, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On April 2, 2026, the above captioned claim came on for a hearing at Russellville, Arkansas. A pre-hearing conference was conducted on December 1, 2025, and an Amended Pre-hearing Order was filed on April 2, 2026. A copy of the Amended Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The relationship of employee-employer-carrier existed between the parties on October 27, 2023.

3. The claimant sustained a compensable injury to her right shoulder on or about October 27, 2023.

4. The claimant was earning sufficient wages to entitle him to compensation at the weekly rates of $616.00 for temporary total disability benefits and $462.00 for permanent partial disability benefits.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant is entitled to additional medical treatment for her compensable right shoulder injury in the form of surgery as recommended by Dr. Bryan Head.

2. Whether Claimant sustained a compensable consequence to her compensable right shoulder injury in a doctor's office visit on May 13, 2024, in the form of a new rotator cuff tear.

3. Whether Claimant is entitled to temporary total disability benefits from August 14, 2025, through September 1, 2025, and from September 9, 2025, to a date yet to be determined.

4. Whether Claimant's attorney is entitled to an attorney fee.

The claimant's contentions are as follows:

> "The Claimant sustained a compensable injury on October 27, 2023, while working for Respondent Employer. The injury was to her right shoulder while unloading a rolltainer of food when Claimant reached up to remove a case of oil that was wedged. As Claimant pulled it out it was heavy and fell down pulling something in right shoulder.
>
> The Claimant was initially treated by Randall Osborn, APRN. Dr. Charles Pierce at UAMS took over her care and an MRI was performed on 12-19-2023 which showed a full-thickness rotator cuff tear and a SLAP tear.
>
> Claimant underwent surgery for right shoulder surgery on 1/24/2024 with Dr. Pierce. Claimant was returned to work on 02/06/2024 with left arm duty only.
>
> On October 28, 2024, Dr. Pierce returned the Claimant to full duty with no restrictions.

> On June 16, 2025, the Claimant was granted a change of physician by the AWCC to treat with Dr. Bryan Head at Conway Orthopedic. The Respondents agreed to the Change of Physician.
>
> An MRI was ordered and a surgery was scheduled for Monday August 11, 2025, but surgery was cancelled due to being denied by the Respondents."

The respondents' contentions are as follows:

> "Respondents contend that claimant has received all benefits to which she is currently entitled. Further, if additional surgical treatment is needed, the need is not causally connected to her remote job injury. More specifically respondents contend, based on subsequently developed medical evidence, that the new RC tear is clearly medial to the original tear and is therefore not causally related to the job injury. However, respondents would concede that if the new tear was caused by Dr. Pearce's examination on 5/13/24, as contended by claimant, then the law of the 'compensable consequence' would apply. Finally, respondents contend the weight of the evidence does not support claimant's contention of an in-office injury on 5/13/24."

The claimant in this matter is a 66-year-old female who sustained a compensable right shoulder injury on October 27, 2023. The claimant has asked the Commission to determine if she is entitled to additional medical treatment for her compensable right shoulder injury as recommended by Dr. Bryan Head. The claimant also requests the Commission to determine if sustained a compensable consequence to her right shoulder injury during a visit with Dr. Charles Pearce on May 13, 2024. I note Dr. Pearce was the surgeon that repaired the claimant's admittedly compensable October 27, 2023, right shoulder rotator cuff tear through surgical intervention on January 24, 2024.

The claimant was seen at UAMS Orthopedic Clinic by Dr. Pearce on May 13, 2024. Following is a portion of that medical record:

> INJURY DATE: date of surgery was January 24, 2024.

> HPI: patient is post right shoulder arthroscopic rotator cuff repair. She is making the expected progress. She is still complaining of pain about the shoulder and some swelling. I do not think any of this is unusual at this point.
>
> PHYSICAL EXAM:
> Right Shoulder: Allows nearly full passive motion. Actually quite good strength early on in to finger abduction.
>
> IMPRESSION: Expected progress after right shoulder arthroscopic rotator cuff repair.
>
> PLAN:
> 1. The patient is not at maximal medical improvement.
> 2. No lifting greater than 10 lb. and no over shoulder work.
> 3. Continue therapy to maximize range of motion and strengthening. 2-3 times per week x6 weeks.
> 4. Continue home exercise program.
> 5. Recheck 6 weeks.

On direct examination the claimant gave testimony about her May 13, 2024, visit with Dr. Pearce as follows:

> Q All right. Was there one visit that – during which you felt significantly different pain than you had been feeling before?
>
> A Oh, yes, sir.
>
> Q All right. Approximately when was that?
>
> A In May.
>
> Q Of 2024?
>
> A Uh-huh. It was probably the 13th that I went in for just a checkup, my routine checkup.
>
> Q What was the doctor doing, and what did you feel?
>
> A When I sat on the table – you know, they always get you to sit on the table – and then he talked to me for a few minutes, and then he took my arm –

Q Now, you're showing left arm, but it was actually your right arm?

A That's because this one is really sore.

Q Okay.

A And so he took my arm, and he pulled it straight up just like that. He jerked it straight up just like that. And I screamed.

Q Literally screamed?

A Yes. I said, ow, that hurts. And then he brought it down, and when he brought it behind me. And I was just in tears.

Q Did the pain cause you to come up off of the exam table?

A Yeah, I did like this.

Q Okay. You popped up?

A Yeah. Yeah. Because it hurt.

Q Okay. And you gave me a volume there of a yell. Was it that loud, louder?

A It was loud. I'm a loud person. Because it hurt.

Q You screamed out?

A Yes.

Q Okay. Did that upset you?

A Yeah, it upset me pretty bad.

Q Tell me about what that pain was, where it was.

A It was just like in where it still is, right here, in this –

Q -- right there, the AC joint, the shoulder and arm –

A Yeah.

Q -- where they come together?

A Uh-huh. And it was just like – it just – I want to – kind of popped, and then it started burning, and then I was like, oh, no, and then – yeah, and it just like – yeah.

Q Did that pain radiate anywhere?

A Just down the arm.

Q Down the arm?

A Uh-huh.

Q Did that radiating pain go away after a period of time?

A Not really. It eased up a little bit, but the pain is still there.

Q Okay.

A The pain is still there. I mean it eased up.

Q Okay.

A It didn't have me like where I was in tears.

The next day, May 14, 2024, and two days later, May 16, 2024, the claimant was seen at Chambers Memorial for occupational therapy. Notes from both of those visits follow:

05/14/24
Occupational Therapy
Plan:
PT had 6 weeks meeting with MD. MD stated PT was babying injury and needed to "get with the program." PT continues to display pain and states she is not comfortable with pushing past her pain. PT states MD did nothing to ensure there is no novel damage or injury to shoulder. COTA will call WC and discuss possible AVES. COTA and PT discussed plan from here.

05/16/24
Occupational Therapy
Objective-Manual Therapy:
Joint mobilization, compression, traction, AROM in flexion with compensation with elbow moving into abduction, educated in muscle isolation and isometric strengthening x20 minutes, PT

> states that pain is decreased following active movement, let PT know WC would have to address their EX and AROM at this point in healing, PT tolerated tasks well with minimal c/o pain.

On June 24, 2024, the claimant was seen again by Dr. Pearce. Following is a portion of that medical record:

> INJURY DATE: date of surgery was January 24, 2024.
>
> HPI: the patient returns for follow-up after right shoulder arthroscopic rotator cuff repair. She has been back to light duty. She is having some pain about the shoulder and some discomfort at night. I do not think any of that is unusual at this point. She seems to be making reasonably good progress in therapy all of the therapists apparently told her that she needed some imaging as she may have injured her biceps. This is not borne out by exam. She also asked me about swelling which is minimal at the most. She actually is making the expected progress at 5 months. Average time to return to all activities after rotator cuff repair after an on-the-job injury is about 9 months.
>
> PHYSICAL EXAM:
> Right Shoulder: She actually has quite good motion. Her strength is at least 4/5. Minimal pain at the extremes. No appreciable swelling. Biceps intact.
>
> IMAGING: She and I reviewed the intraoperative pictures. Biceps was normal. Rotator cuff repair appeared solid.
>
> IMPRESSION: Expected progress after right shoulder arthroscopic rotator cuff repair.
>
> PLAN:
> 1. The patient is not at maximal medical improvement.
> 2. No lifting greater than 10 lb and no over shoulder work.
> 3. Continue therapy 1-2 times per week 6 weeks to maximize range of motion and strengthening.
> 4. Continue home stretching.
> 5. Recheck 6 weeks.

On August 5, 2024, the claimant was again seen by Dr. Pearce. Following is a portion of that medical record:

> INJURY DATE: date of surgery was January 24, 2024.
>
> HPI: patient post right shoulder arthroscopic rotator cuff repair. She has been doing limited work duties. She is still going through therapy. She needs work on strength. The therapist thought her strength was 3+ over 5 but by my testing I think it is better than that. There are complaints of anterior shoulder pain. The biceps was seen at the time surgery was totally normal. I think the complaints she is having are fairly normal in the recovery process after this surgery. I want her to continue therapy for now but it is possible that she will need a functional capacity evaluation at some point.
>
> PHYSICAL EXAM:
> Right Shoulder: Nearly full motion. Lacks some internal rotation. Abduction strength is 4/5.
>
> IMPRESSION: Expected progress after right shoulder arthroscopic rotator cuff repair.
>
> PLAN:
> 1. The patient is not at maximal medical improvement.
> 2. No lifting greater than 15 lb and no over shoulder work.
> 3. Continue therapy 1-2 times per week x6 weeks to maximize range of motion strengthening.
> 4. Continue home stretching.
> 5. Recheck 6 weeks.

On September 16, 2024, the claimant was again seen by Dr. Pearce. Following is a portion of that medical record:

> INJURY DATE: date of surgery was January 24, 2024.
>
> HPI: patient is post right shoulder arthroscopic rotator cuff repair on the above date. Therapist again documented 3+ over 5 strength and recommended more strengthening. However, clearly the patient has at least 4/5 strength. I am not opposed to 4 more weeks of strengthening but I think that should be the limit.
>
> PHYSICAL EXAM:
> Right Shoulder: Full motion. Strength against resistance is at least 4/5 or better.
>
> IMPRESSION: Post right shoulder arthroscopic rotator cuff repair.

> PLAN:
> 1. Continue therapy 1 to 2 times week x6 weeks to maximize strengthening.
> 2. Continue home exercises.
> 3. Patient is not at maximal medical improvement.
> 4. No lifting greater than 25 lb to the waist and no over shoulder work.
> 5. Recheck 6 weeks at which time I would expect maximal medical improvement.

On October 28, 2024, Dr. Pearce determined the claimant had reached maximum medical improvement and provided the claimant with a permanent partial impairment rating. Following is a portion of that medical record:

> INJURY DATE: date of surgery was January 24, 2024
>
> HPI: the patient is post right shoulder arthroscopic rotator cuff repair on the above date. She has gone to 3 weeks of therapy. Unfortunately, her mother passed away last week. She has made good progress. She does have some pain about the shoulder but that is not unexpected. I suspect she will continue to improve over time.
>
> PHYSICAL EXAM:
> Right Shoulder: Full motion. Mild crepitation. Strength 4 to 4+ over 5.
>
> IMPRESSION: post right shoulder arthroscopic rotator cuff repair.
>
> PLAN:
> 1. Patient has reached maximal medical improvement.
> 2. The patient can return to regular work duties without restrictions.
> 3. The patient should continue a home stretching and strengthening program.
> 4. The patient was sustained a 6% permanent partial impairment as it pertains to the upper extremity. This is 4% of the person as a whole. This is according to the guides to the evaluation of permanent impairment set forth by the American Medical Association, 4th edition.
> 5. Recheck as needed.

The next medical treatment received by the claimant for her right shoulder is roughly eight and a half months after she was found at maximum medical improvement by Dr. Pearce. The claimant was seen on July 15, 2025, by Dr. Bryan Head of Conway Orthopedic and Sports Medicine Center. Following is a portion of that medical record:

> Chief Complaint
> Chief Complain: Right shoulder
> Date of Injury
> Date of Injury: 10/28/25
>
> HPI:
> HPI
> COSMC Shoulder Consult:
> Chief Complaint:
> Robin is a 65 y/o female whom presents to clinic today as a new patient regarding the right shoulder. Patient reports the injury happened on 10/28/25 while at work. She went to see Dr. Pears and had a shoulder scope done on 1/23/24. She did therapy after surgery and he released her to return to work 12 weeks post surgery. She states the most pain is located at the anterior/lateral shoulder. She will have increase pain with abduction, extension and flexion. The pain is worse with over use and lifting anything over 2 lbs. She is not able to lift a 2 liter or a gallon of milk without pain or help with the other arm. Her pain level today is 8/10. She is currently taking dual to help decrease the pain. She is currently employed as a manager at Dollar General. She is RHD.
>
> ***
>
> Exam
> General
> Details:
> Right Shoulder Exam:
> General Appearance: Well appearing without atrophy or sign of trauma
> Skin: Normal
> Neck: Full range of motion with no tenderness, negative Spurling's sign
> Vascular: 2+ radial pulse
> Lymph: No lymphedema
> Inspection/Palpation: Tender interior GH joint
> Sensation: Intact including axillary nerve
> Strength: able to fire deltoid

> AROM: FF (160), Abduction (symmetric 130), Ext Rot in abduction (60), Int Rot (SI joint)
> Stability: No anterior, posterior, or inferior instability
> Special Exams:
> Impingement: painful
> Empty Can Test: weakness and pain
> Speed's Test: painful
> Cross Chest Test: negative
> Belly press good strength
> Negative hornblowers in pain
>
> ***
>
> PLAN
> Impression:
> Right recurrent rotator cuff tear s/p RCR
> Details:
> After a failed rotator cuff surgery and physical therapy she is still having pain. She has been in pain for 16 months since her last surgery and can't find any relief. I recommend a MRI arthrogram of the right shoulder for further diagnose. She is amenable to this. Follow up with the results.

The claimant underwent an MRI of the right shoulder with arthrogram at the order of Dr. Head on July 24, 2025. Following are portions of that diagnostic report:

> Rotator cuff: Postsurgical changes of prior rotator cuff repair noted.
>
> Supraspinatus: There is full-thickness tear involving the mid and distal supraspinatus tendon.
> Infraspinatus: tendinosis and thinning without evidence of tear.
> Subscapularis: tendinosis of the mid and distal superior subscapularis.
> Long head biceps tendon: Tendinosis of the long head biceps tendon.
> Teres Minor: Normal without tendinosis or tear.
> Rotator cuff muscle atrophy: No present
>
> Impression:
> 1. Postsurgical changes of prior rotator cuff repair. There is full-thickness tear involving the mild distal supraspinatus tendon.
> 2. Tendinosis and thinning of the distal infraspinatus. Tendinosis mid and distal superior subscapularis. Tendinosis, long head biceps.

On July 29, 2025, the claimant again had a visit with Dr. Head. At that time, he recommended surgical intervention. Following is a portion of that medical report:

> Chief Complaint
> Chief Complaint: Right shoulder
> Date of Injury
> Date of Injury: 10/28/25
>
> HPI
> HPI
> COSMC Test Results:
> Chief Complaint:
> Robin, an established patient, presents to the clinic for a follow up on her right shoulder MRI with contrast. There have been no changes in her symptoms since her last appointment. Pain rated 4/10. She would like to know the next steps of treatment.
>
> ***
>
> Advanced Imaging Details
> MRI obtained on 7/24/2025 at Conway Regional Imaging Center.
>
> Impression:
> 1. Postsurgical changes of prior rotator cuff repair. There is full-thickness tear involving the mild distal supraspinatus tendon.
> 2. Tendinosis and thinning of the distal infraspinatus. Tendinosis mid and distal superior subscapularis. Tendinosis, long head biceps.
> 3. Fraying of the superior and posterior labrum
> 4. Moderate DJD of the acromioclavicular joint.
>
> I personally reviewed the MRI and agree with this interpretation.
>
> PLAN:
> Impression:
> Right recurrent rotator cuff tear s/p RCR
> Details:
> I reviewed the results with the patient and suggest proceeding with a revision right rotator cuff repair. The patient agrees and would like to proceed with this course of treatment. I explained risks and benefits of surgery. Risks include no improvement, infection, bleeding, numbness, vessel damage, stiffness, and more surgery among other risks. Possible anesthetic risks are understood as well.

> No guarantees were made. Surgery will be scheduled. Plan to see her back once worker's comp approves the surgery.

The claimant's request for additional medical treatment in the form of surgical intervention by Dr. Head was denied by the respondents. Dr. Head authored a letter regarding an appeal of that decision by the respondents. That letter is undated, but the letter's context places that letter at least some time after July 15, 2025. I also note that this letter from Dr. Head is found at Respondents' Exhibit 1, page 1, but I note that the respondents' index/abstract, which is 14 pages in length, places the document on page 1 of Respondents' Exhibit 1, even though it does not appear in the index until page 7. The letter itself does actually appear on page 1 of Respondents' Exhibit 1. Following is the body of that letter:

> Robin Cosek came into my office on 7/15/25 for a consultation on her right shoulder. She states the injury happened on 10/27/2023 while at work. She went to see Dr. Pears and had a shoulder scope done on 1/23/24. She did therapy after surgery, and he released her to return to work 12 weeks post-surgery.
>
> Even after conservation treatment, Robin is still experiencing pain that increase with abduction, extension and flexion. She is not able to lift a gallon of milk without any pain. Regarding the video from WorkersComp, there is no evidence of Robin lifting a grocery bag over her head, and even when lifting the bag, the right arm is kept close to her side for caution.
>
> The MRI of the shoulder showed these findings:
> Impression:
> 1. Postsurgical changes of prior rotator cuff repair. There is full-thickness tear involving the mild distal supraspinatus tendon.
> 2. Tendinosis and thinning of the distal infraspinatus. Tendinosis mid and distal superior subscapularis. Tendinosis, long head biceps.
> 3. Fraying of the superior and posterior labrum
> 4. Moderate DJD of the acromioclavicular joint.
>
> I believe Robin Cosek is an acceptable candidate for a revision right rotator cuff repair. She demonstrates a need for surgery that I would be happy to perform.

The respondents sought a second opinion of the claimant's right shoulder MRI dated July 24, 2025. This second opinion was done through a records review by Dr. Lillian Orson of Lafayette, California. The second opinion report is found at Respondents' Exhibit 1, pages 50-56. Following is a small portion of that letter/report:

> 1. The first post DOI MRI dated 12-19-23 shows significant degeneration of the rotator cuff with moderate to marked diffuse abnormal signal of the supraspinatus tendon most prominent near the anterior greater tuberosity insertion compatible with tendinosis. There is an area of more prominent abnormal signal and moderate attenuation at the far anterior greater tuberosity attachment involving 5 mm of the AP attachment most probably representing a combination of degenerative fraying and moderate to high grade partial undersurface and bursal sided tears of the tendon. A small full thickness communication may be present extending to the far anterior bursal attachment. There is no musculotendinous retraction or muscular atrophy. There is no blunt torn tendon or muscle edema to indicate an acute post traumatic process. Partial tears and even small full thickness defects of the tendon in part of the aging degenerative process. There is significant generalized rotator cuff degeneration. There is no definite finding on the first post DOI MRI (based on reasonable medical probability) to suggest a post traumatic process related to the DOI.
>
> 2. The second post DOI MRI dated 7-24-25 shows evidence of interval rotator cuff repair with surgical anchors at the greater tuberosity since the prior study of 12-19-23. Surgery was performed on 1-23-24. The second post DOI MRI of 7-24-25 shows the distal supraspinatus tendon contains diffuse abnormal signal compatible with post surgical supraspinatus tendon located 1 cm proximal to the osseous attachment near the anterior greater tuberosity attachment measuring 7x7 mm in the subacromial subdeltoid bursae. There is no musculotendinous retraction or muscular atrophy. No muscle edema to indicate acute injury. The recurrent tear is quite small and may be due to progressive degeneration of the tendon with post surgical change. The MRI findings are (based on a reasonable medical probability) degenerative and post operative in nature There is no MRI evidence of aggravation (new structure change) of preexisting (degenerative) conditions. There is no definite finding on the

> second MRI (based on reasonable medical probability) to suggest a post traumatic process related to the DOI.
>
> 3. Daniel Wren: "I took the liberty of asking Dr. Bryan Head, who had recommended the new surgery for Ms. Cosek's shoulder, if there were clinically observed correlations between Mrs. Cosek's current problems and the finding of a new tear of the supraspinatus tendon. He has confirmed the correlation between the MRI and the clinical observations." In any case, the present clinical symptoms of a cuff tear per Dr. Bryan Head does correlate with the findings of a cuff tear on the second MRI of 7-24-25 but present symptoms still do not indicate that the recurrent tear is due to trauma from the DOI. The first post DOI MRI shows severe degenerative change without evidence of a traumatic tear as indicated on the comments of the original report and additional comments #1.

On February 17, 2026, the claimant was again seen by Dr. Pearce for a reevaluation of her right shoulder. Following is a portion of that medical record:

> INJURY DATE: date of surgery was January 24, 2024
>
> HPI: I have been asked to see Ms. Cosek for re-evaluation of her right shoulder. Her original on-the-job injury occurred on October 27, 2023. This ultimately led to arthroscopic surgery and rotator cuff repair on the above date. She was last seen for follow-up on October 28, 2024 and released from my care. At that point, she did have some pain about the shoulder but I did not thing this was unusual and her strength and motion were good. Today, she says that she has had continued pain and that when released to light duty she was actually asked to do full duty with her right shoulder. There was no new injury. Ultimately, MR arthrogram was done on July 24, 2025 and by report shows a full-thickness rotator cuff tear. This is described as recurrent tear but I do not have the images to review today although we have asked for them to be sent to us for electronically. We still have not received them. The patient tells me that she has been fired from her job. Her husband is with her today.
>
> ***
>
> PLAN:
> I have been asked questions about a recurrent tear but I cannot answer that presently and hopefully will be able to do that in the next few days. And a 2nd question regarding causality related to the October 2023 job injury or January 2024 arthroscopic rotator cuff

> tear. I am not sure that those are exclusive episodes. What would be possible is either nonhealing of the original repair or recurrent tear at the same site or different site. The patient tells me that there has been no new injury. However, she is fairly certain that she overused her arm when trying to return to light duty restrictions.
>
> Addendum being dictated on February 25, 2026: I have received and reviewed the MR arthrogram of this patient's right shoulder done on July 24, 2025. The previous site of tear and repair appears to have healed. There is a new full-thickness tear medial to the previous repair. This tear either occurred because of a new injury or because of attrition. This new tear is not connected with the previous tear and repair. These statements are made within a degree of medical certainty.

On March 23, 2026, Dr. Pearce authored a letter "To Whom It May Concern" regarding his reevaluation of the claimant's right shoulder on February 17, 2026. Following is the body of that letter:

> On February 17, 2026, I conducted a reexamination (IME) of a former patient, Ms. Robin Cosek. There was an initial report dictated that same day, with an addendum done on 2/25/2026, specifically analyzing the question of a "recurrent tear" causation which I had been asked to address. After reviewing the latest medical information to include an MR arthrogram from July of 2025, it was apparent that the previous repair site had healed, but that there was indeed a new full-thickness tear medial to the previous tear. I opined that the new tear was not connected with the earlier tear and repair.
>
> It was subsequently brought to my attention that Ms. Cosek believes the new injury (tear) happened on May 13, 2024, during a postoperative examination in my office. That examination would have involved typical passive range of motion testing, and my notes specifically reflect that her motion was nearly full and that she demonstrated good early strength. Had there been a significant amount of pain or a painful response to testing, I would have stated that in my office note. Two weeks later on May 29, 2024, Ms. Cosek was found to have "full active motion" by the therapist and although still complaining of pain, the therapist specifically noted that there were no physical signs of discomfort. I continued to follow Ms. Cosek until she was released and given an impairment rating on October 28, 2024. During the interim she never

> mentioned the in-office incident about which she is not claiming injury. My understanding is that this new injury incident was first brough to the attention of her attorney after she received my IME report last month.

The claimant has asked the Commission to determine if she is entitled to additional medical treatment for her compensable right shoulder injury in the form of surgical intervention recommended by Dr. Head.

An employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a)(1). The claimant bears the burden of proving that he is entitled to additional medical treatment. *Dalton v. Allen Engineering Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999).

Dr. Pearce found the claimant at maximum medical improvement on October 28, 2024, for her admittedly compensable right arthroscopic rotator cuff repair. The medical record indicates "full motion; mild crepitation; strength 4 to 4+ over 5" at that time. Roughly eight and a half months from her finding of maximum medical improvement the claimant is seen by Dr. Head, who has the claimant undergo an MRI of the right shoulder on July 24, 2025. The diagnostic report from that MRI does indicate a new rotator cuff tear but not a retear of the previous operated tear. In Dr. Head's July 29, 2025, medical report he does state that he "suggests proceeding with a revision right rotator cuff repair." However, this appears to be a new tear or a second tear in the claimant's right rotator cuff, not a retear of her admittedly compensable October 27, 2023, tear.

That position is supported in the records review second opinion given by Dr. Orson on August 9, 2025, in her exhaustive report. Dr. Head's "appeal letter" found at Respondents' Exhibit 1, page 1, does not state an opinion that this new tear is a result of her previous injury.

Dr. Pearce gives the clearest medical opinion in the medical report from his February 17, 2026, reevaluation of the claimant's shoulder stating:

> I have received and reviewed the MR arthrogram of this patient's right shoulder done on July 24, 2025. The previous site of the tear and repair appears to have healed. There is a new full-thickness tear medial to the previous repair. This tear either occurred because of a new injury or because of attrition. This new tear is not connected with the previous tear and repair. These statements are made with a degree of medical certainty.

After a review of the testimony and medical evidence submitted into the record, I find the claimant has failed to prove that she is entitled to additional medical treatment in the form of surgical intervention as it relates to her original October 27, 2023, right shoulder injury. The claimant has the burden to prove additional medical treatment to be reasonable and necessary and she has failed to do so.

The claimant has asked the Commission to determine if she sustained a compensable consequence to her compensable right shoulder injury during a doctor's visit on May 13, 2024, in the form of a new rotator cuff tear.

If an injury is compensable, every natural consequence of that injury is likewise compensable. *Air Compressor Equipment Co. v Sword,* 69 Ark. App. 162, 11 S.W. 3d 1 (2000). The test is whether a causal connection exists between the two episodes. *Sword, supra.*

When the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is compensable unless it is the result of an independent intervening cause. The basic test is whether there is a causal connection between the two conditions. *Jeter v. B.R. McGinty Mechanical,* 62 Ark. App. 53, 968 S.W.2d 645 (1998), *Bearden Lumber Company v. Bond*, 7 Ark. App. 65, 644 S.W.2d 321 (1983).

The claimant alleges that during her May 13, 2024, visit with Dr. Pearce that he manipulated her right shoulder in such a way that it caused a new rotator cuff tear that is shown in her July 24, 2025, right shoulder MRI.

I will now address the video that has been submitted into evidence that was reported by the respondents to be a video taken by the claimant's significant other of her visit with Dr. Pearce on May 13, 2024. However, through the course of the hearing, it became clear to all that the video introduced as Respondents' Exhibit 2 was not from the claimant's May 13, 2024, visit with Dr. Pearce, but instead from the claimant's October 28, 2024, visit. The respondents' counsel makes clear of this stipulation in the transcript at pages 44 line 7 through 20.

Dr. Pearce's actual May 13, 2024, medical record regarding the claimant does state, "she is still complaining of pain about the shoulder and some swelling. I do not think any of this is unusual at this point."

The claimant's direct examination testimony about her May 13, 2024, visit is fully recounted above. The claimant's testimony is in conflict with the indications given about her right shoulder in Dr. Pearce's May 13, 2024, report.

The claimant was seen at physical therapy on May 14, 2024. In those records there is no indication of the events she describes in the physical therapy notes from that date, but the note does state, "MD stated PT was babying injury and needed to 'get with the program.' PT continues to display pain and states she is not comfortable with pushing past her pain. PT states MD did nothing to ensure there was no novel damage or injury to the shoulder." The May 16, 2024, physical therapy note also fails to indicate the events of the claimant's May 13, 2024, visit that she has alleged.

The claimant began to see Dr. Head in July of 2025. Upon review of Dr. Head's medical records regarding the claimant, I find no mention or indication of the incident she alleges to have occurred at her May 13, 2024, visit with Dr. Pearce.

In Dr. Pearce's March 23, 2026, letter "To Whom It May Concern", Dr. Pearce directly discusses the claimant's claim of a new rotator cuff tear as a result of his May 13, 2024, examination of her right shoulder as follows:

> It was subsequently brought to my attention that Ms. Cosek believes the new injury (tear) happened on May 13, 2024, during a post-operative examination in my office. That examination would have involved typical passive range of motion testing, and my notes specifically reflect that her motion was nearly full and that she demonstrated good early strength. Had there been a significant amount of pain or painful response to testing, I would have stated that in my office note. Two weeks later on May 29, 2024, Ms. Cosek was found to have "full active motion" by the therapist and although still complaining of pain, the therapist specifically noted that there were no physical signs of discomfort.

The claimant is unable to prove that she sustained a compensable consequence to her compensable right shoulder in her May 13, 2024, office visit with Dr. Pearce in the form of a new rotator cuff tear.

Issues regarding temporary total disability from August 14, 2025, through September 1, 2025, and from September 9, 2025, to a date yet to be determined, along with her attorney's entitlement to an attorney's fee are moot, as the claimant has failed to prove her entitlement to additional medical treatment, reaching maximum medical improvement on October 28, 2024, and to prove that she sustained a compensable consequence to her compensable right shoulder injury in her May 13, 2024, office visit with Dr. Pearce in the form of a new rotator cuff tear.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of

the witness and to observe her demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on December 1, 2025, and contained in an Amended Pre-hearing Order filed April 2, 2026, are hereby accepted as fact.

2. The claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable right shoulder injury in the form of surgery as recommended by Dr. Head.

3. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable consequence to her compensable right shoulder injury in a doctor's visit on May 13, 2024, in the form of a new rotator cuff tear.

4. The issue of the claimant's entitlement to temporary total disability benefits is moot.

5. The issue of the claimant's attorney's entitlement to an attorney's fee in this matter is moot.

ORDER

Pursuant to the above findings and conclusions, I have no alternative but to deny this claim in its entirety.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE