BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
AWCC FILE № H304356

CANDACE FLETCHER, EMPLOYEE	**CLAIMANT**
INTERNATIONAL PAPER COMPANY, EMPLOYER	**RESPONDENT**
OLD REPUBLIC INSURANCE COMPANY, CARRIER	**RESPONDENT**
SEDGWICK CLAIMS MANAGEMENT, THIRD PARTY ADMINISTRATOR	**RESPONDENT**

OPINION FILED 10 NOVEMBER 2025

Heard before Arkansas Workers' Compensation Commission Administrative Law Judge JayO. Howe on 13 August 2025 in Little Rock, Arkansas.

Mr. Mark Alan Peoples appeared on behalf of the claimant.

Mitchell, Williams, Selig, Gates & Woodyard, PLLC, Mr. John P. Talbot and Ms. Abby Hart, appeared on behalf of the respondents.

STATEMENT OF THE CASE

A Prehearing Order was filed on 10 June 2025 and admitted to the record as Commission's Exhibit № 1. For this litigation, and consistent with that Order, the parties agreed to the following:

STIPULATIONS

1. The Arkansas Workers' Compensation Commission (the Commission) has jurisdiction over this claim.

2. The employee/employer/carrier-TPA relationship existed on 26 June 2023 when the claimant allegedly sustained an injury by specific incident to her left arm.

3. The claimant's average weekly wage of $780.58 would entitle her to weekly benefits of $520 for Temporary Total Disability (TTD) and $390 for Partial Permanent Disability (PPD).

4. The respondents have controverted this claim in its entirety.

ISSUES TO BE LITIGATED

1. Whether the claimant suffered a compensable injury to her left arm by specific incident on 26 June 2023.

2. Whether the claimant is entitled to TTD benefits from 8 July 2023 to 1 December 2023.

3. Whether the claimant is entitled to reasonable and necessary medical treatment of her alleged compensable injury.

4. Whether the claimant is entitled to an attorney's fee.

All other issues are reserved.[1]

CONTENTIONS

The Prehearing Order incorporated the following contentions from the parties' respective prehearing questionnaire responses:

Claimant

> The Claimant contends that she is entitled to TTD from on or about 8 July 2023 to her return to work elsewhere beginning on or about 1 December 2023. Claimant also contends that she is entitled to medical treatment. This claim is controverted, and counsel is entitled to a maximum of statutory fee. All other issues are reserved.

Respondent

> The respondents contend that the claimant did not sustain a compensable injury while employed with the respondents on 26 June 2023, or she cannot carry her burden of proving she sustained a compensable injury on such date. Further, the respondents contend the claimant's claim may be barred, or her benefits may be limited, due to her involvement in an incident of workplace violence.[2] The respondents reserve the right to modify, supplement or amend these contentions as discovery and investigation continue.

[1] At the beginning of the hearing, the claimant sought to additionally plead a gradual onset of her alleged injury as an alternative theory. The respondents objected, stating, "That's got other elements to it that we might have brought a witness to address had we known that was going to come up today." [TR at 8.] I sustained the objection, noting that any additional theories for sustaining her claim and any claims for additional benefits were reserved.
[2] The respondents withdrew this contention at the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the record as a whole, including the evidence summarized below, and having heard testimony from the witness, observing her demeanor, I make the following findings of fact and conclusions of law under Ark. Code Ann. § 11-9-704:

1. The Commission has jurisdiction over this claim.

2. The stipulations as set forth above are reasonable and are hereby accepted.

3. The claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her left arm by specific incident.

4. Because the claimant has failed to prove a compensable injury, her other claims are moot and will not be addressed in this Opinion.

5. Because the claimant has failed to prevail on any claim for indemnity benefits, she is not entitled to an attorney's fee.

ADJUDICATION

The stipulated facts as outlined above are reasonable and accepted. It is settled that the Commission, with the benefit of being in the presence of a witness and observing their demeanor, determines a witness' credibility and the appropriate weight to accord their statements. *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). A claimant's testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of a witness' credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id.* In so doing, the Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

SUMMARY OF THE EVIDENCE

The claimant was the only witness. The record consists of the hearing transcript and the following exhibits: Commission's Exhibit № 1 (the 10 June 2025 Prehearing Order); Claimant's Exhibit № 1 (one index page and 20 pages of medical records); Claimant's Exhibit № 2 (one index page and five pages of non-medical records); Respondents' Exhibit № 1 (one index page and seven pages of non-medical records); and Respondents' Exhibit № 2 (three index pages and 93 pages of medical records).

Hearing Testimony

The claimant was 40 years old at the time of the hearing. She testified that she had been working for the respondent-employer for six or seven weeks on the date of her alleged injury. She worked as a palletizer, stacking packaged products onto shipping pallets.

The claimant stated that she "felt like a little pop" in her left arm while working on 26 June 2023. [TR at 17.] She testified that her supervisor gave her some ibuprofen after she reported the injury. She said that someone at work initiated a video chat with a doctor for her after she returned for the start of her next shift still complaining of pain. According to the claimant, she then saw an orthopedic doctor on her own, via video chat at midnight, every night, for the next seven nights. She did not recall any of those doctors' names or provide records from those visits. The claimant testified that she eventually saw a local provider, Dr. Gil Johnson in July of 2023, around the same time that she was terminated from her employment.

The claimant eventually began working as a tax preparer with Jackson Hewitt on 1 December 2023. She testified that had she not been terminated, she could not have physically performed her job with the respondent-employer during the time that she was not employed.

Q: … eventually, you went back to work, right?

A: Yes.
Q: I have December 1, 2023, does that sound right?
A: Yes.
Q: Okay. Where'd you go to work?
A: For Jackson Hewitt as a tax preparer.
Q: Okay. So a much less physically demanding job?
A: Yes.
Q: Are you physically able to do that job?
A: Yes.
Q: During that period from July the 8th of 2023, to December 1st, 2023, would you have been able to do your job at International Paper?
A: No.

[TR at 24.]

She denied any problems with her left elbow prior to 23 June 2023. The claimant described the pain in her left arm as a "sharp shooting pain." [TR at 26.] She said that at times the pain would get so bad that:

A: …when my inflammation gets real high, I can't even move it and it goes from one arm to the other.
Q: Okay.
Judge: The pain goes from one arm to the other?
A: Yes.

Id. She went on to state that she was still seeking treatment for her left elbow and forearm; and she claimed that a specialist diagnosed nerve damage in the elbow.

On cross-examination, the claimant acknowledged that she had been diagnosed with chronic pain syndrome and that she was seeking treatment from Arkansas Pain Center before her alleged injury. On the nature of the onset of her injury, the claimant testified:

Q: And so the injury, I guess, I'm confused. You attribute it to this pop in your arm, that's when it started?
A: Yes.
Q: Okay. But you're also reserving the right to say it was a gradual onset injury of some kind?
A: Oh, no. It happened while I was working.
Q: It started with this pop?
A: Yes.
Q: It wasn't bothering you before that?
A: I couldn't work there if it was bothering me.
Q: And had—you had this pop, and that's when it all started?
A: Yes.

[TR at 32-33.] She also testified that she reported an accurate past medical history and list of current medication to Dr. Gil Johnson when she saw him on 20 July 2023.

> Q: … When you first started seeing Dr. Johnson, did you tell him that you'd been in good health with no major problems?
> A: Yes.
> Q: Okay.
> A: I took a physical. I took a physical. He also test[ed] me for diabetes and all—and urine specimen. So he also knew what medications I was on.
> Q: Okay. So did you mention to him—
> A: Uh-huh.
> Q: -- about the pain doctor?
> A: Yes.
> Q: And the chronic pain syndrome and the Hydrocodone?
> A: Uh—
> Q: And the Gabapentin?
> A: Yes. Chronic pain was from my lower back, yes. I'm having to—
> Q: Did you ever tell Dr. Johnson that you had suffered more of a repetitive-motion-type injury?
> A: Prior or after?
> Q: When you saw him in July or August of '23?
> A: I didn't know exactly what, actually—what, actually, caused it, but I know it had happened. So once I seen Dr. Gil [Johnson], we were more trying to see what it was, not what caused it.

[TR at 34.]

The claimant testified that she returned to work after the alleged injury and that she continued working until 11 July 2023 when she was given notice of her termination.

> Q: And what did you understand the reason for your termination to be?
> A: Workhouse violence, which was a coverup for the accident.
> Q: Okay. And why do you say that?
> A: Because I reported that the machinist was speeding the machine up and working me more than normal and no one did anything about it. So when I became injured, then, that's when the HR Department and all that started reaching out.

[TR at 35.] She went on to explain that she believed a machine operator was intentionally running her production line too quickly and that she participated in a verbal altercation of some sort about it. That altercation was the stated basis for her termination.

Medical Evidence

On 8 June 2023, before the date of the injury alleged in this claim, the claimant attended a follow-up visit at Arkansas Pain Centers. The note from that visit provided, in part:

> CHIEF COMPLAINT: Pain
>
> SUBJECTIVE COMPLAINTS (HPI): … Ms. Fletcher is reporting pain today as high as 8.5/10, which stays at a 5/10 lasting 2-3 hours.
> …
>
> DIAGNOSIS/MEDICAL DECISION MAKING:
> M54.2 Cervicalgia
> M54.6 Pain in thoracic spine
> M54.16 Radiculopathy, lumbar spine
> M25.512 Pain in left shoulder
> G89.4 Chronic pain syndrome
> M25.511 Pain in right shoulder
> M54.50 Low back pain, unspecified
> M62.830 Muscle spasm of back
> M96.1 Postlaminectomy syndrome, not elsewhere classified
> Z79.891 Long term (current) use of opiate analgesic
> Z79.899 Other long term (current) drug therapy
> . . .
>
> PLAN:
> Refill meds today—Ms. Fletcher has requested an increase in pain medication several times. Considering her MRI findings, that she takes Soma 3 times daily, and physical presentation, she is not a good candidate for an increase in medication at this time. A drug holiday may be a better option for this patient.
> UDS [urine drug screen] and pill count will be performed periodically to monitor medication usage.
> PMP [Arkansas' Prescription Monitoring Program] was reviewed prior to today's visit. No concerns.
> Bowel program: adequate control with current regimen. Encouraged fiber and water intake for prevention.

[Resp. Ex. № 2.] The note for that visit also shows that she was assessed for/with right shoulder pain, chronic low back pain, lumbar spondylosis, and myofascial pain syndrome along the right hip and right shoulder, both anteriorly and posteriorly.

According to the claimant, she had a number of injury-related physician visits before being referred to Dr. Gil Johnson. But she did not introduce those records into evidence. On 20 July 2023, the claimant presented to the College Park Family Clinic, where she was seen by Dr. Johnson. The note from that visit includes:

> PROGRESS NOTE:
> Candace comes in today for assessment of injuries here. She comes in with the nurse case manager who was assigned. Candace works at International Paper. She complains of pain in her left arm that hurts […]. The safety and health department referred Candace to a telemedicine company: Ortho Live. She was given neck exercises and postural changes for exercises for her left arm. She subsequently saw her primary care doctor who prescribed steroid dose pack that was a 5-day prescription. He also gave her a muscle relaxant. She had a scheduled visit again with the Ortho Live physician—telemedicine who advised her to stop the steroid dose pack after she had taken the first 2 days of it. She talked to the telemedicine Dr. for the next several days with the last telemedicine consult being July 7 at 1 AM. She was referred to me for evaluation after that and present today for initial visit.
>
> PAST MEDICAL HISTORY: She is started working at International Paper in May of this year. She reports that she's in good health with no major medical problems.
>
> PAST SURGICAL HISTORY: none reported.
>
> CURRENT MEDICATIONS: none reported.
>
> PHYSICAL EXAM:
> . . .
> Examination of the left upper extremity reveals discomfort at the antecubital fossa and proximal forearm. This is over the brachioradialis muscle mostly. She has good grip strength. Tinel's sign is negative. Phalen's test is negative. She does not have pain in the axilla or her neck. She has a normal biceps reflex.
>
> IMPRESSION:
> Left forearm strain.

[Resp. Ex. № 2.] Dr. Johnson ordered X-rays of the claimant's left arm. That imaging was performed on 31 July 2023. According to the reports:

> PROCEDURE: 2 view left forearm
> FINDINGS: The left radius and ulna are unremarkable.

> . . .
> PROCEDURE: 2 view left elbow
> FINDINGS: Left elbow is unremarkable.

The claimant then returned to Dr. Johnson's clinic on 1 August 2023. The notes from that visit include:

> She continues to have pain when I palpate the brachioradialis muscle.
> Tinel's test is negative
> Phalen's test: [blank space in original] Allens's test is negative. There's good circulation to the hand.
> She complains of pain when she extends her left forearm out to [150 degrees]. She can extend all the way to 180 [degrees] although she complains of discomfort at the brachioradialis muscle on the left side. There is no pain to palpate the lateral or medial epicondyle or the antecubital fossa today. I did not observe fasciculations when I palpated and observed the musculature of the left forearm. She has good CRM [cervical range of motion]. There's no pain to palpate the spinous processes of the cervical spine.
> She states she was putting boxes onto a pallet. Usually the boxes are banded together she states. Each load consisted of 25 boxes. She was placing each load onto a pallet and she was to stack the pallet 7 high which means 7 boxes of 25 box load high which was above the level of her head. She performed this task many times over her shift and she states she noticed around 4:10 AM that she had pain in her left forearm. This was more of a repetitive motion type injury, not a sudden sort of pain or one particular load or movement that caused it.
>
> IMPRESSION:
> This appears to be musculoligamentous- brachioradialis strain.
> I'm going to review her progress and plan of care with the nurse case manager. I have advised that Candace continue range of motion exercises, heat and over-the-counter Aleve or ibuprofen. I'm going to recheck her back in one week or sooner if needed. Continue current job recommendations which are regular duty allowed with job modification to prevent further injury as reviewed with the nurse case manager previously and the EHS coordinator at the plant. I completed a work status to the report indicating my plan of care.

The claimant returned again to Dr. Johnson's clinic on 8 August 2023. He noted that, "Her treatment has consisted of conservative measures with range of motion, heat and over-the-counter ibuprofen. She has good grip strength. She has no cervical complaints. She has not responded to conservative treatment and she continues to complain of pain. This

appears to be a soft tissue injury. I did not observe fasciculations." Dr. Johson released the claimant that day and referred her to an orthopedist for review.

Also on 8 August 2023, the claimant returned to Arkansas Pain Centers. That note provides, in part:

> Interval history- no change in medical or surgical history reported. Rates pain at 7/10, site and nature unchanged, reports relief on the current regimen with improvements in ADLs and QOL. No new weakness or numbness was reported.
> . . .
>
> Ms. Fletcher is reporting pain today as high as 10/10 which stays at a 6/10 lasting 2 hours. (-) Constipation.
>
> Patient states she was informed at her last visit to not continue PT until she received her cervical MRI. Reviewed normal MRI today 12.08.22 and informed she would begin PT again. Asking for printout of her MRI in order to get a second opinion. (Previous visit) States she completed PT.
>
> Today c/o lumbar and LUE pain. States a month ago she injur[ed] it at work and is seeing a workman's comp MD. States X-ray was done and is going to be scheduled with ortho. States she will have imaging faxed to clinic.

Id. The assessment from that visit did not include any mention of her left arm.

The claimant then saw Dr. Michael Hussey on 30 August 2023. The note from that visit provides, in part:

> SUBJECTIVE:
> Candace Fletcher is a 39-year-old female who presents to discuss concerns about their elbow that began on 06/20/2023. She is a very pleasant left-hand-dominant lady here for evaluation of scalp (sic) arm pain that began when working her job loading pallets. She said pain radiates from her elbow up into the arm and down the forearm. Pain located lateral increased rotation and lifting. She states she saw a company doctor who prescribed NSAIDs and gave home exercises and Medrol Dosepak. She also saw an orthopedic fellow Dr. She denies prior trauma or surgery on the arm.
> . . .
>
> SHOULDER EXAM:
> There is no obvious trauma or deformity noted. Nontender over the AC joint, subacromial space, bicipital groove, glenohumeral joint line. The

shoulder has a full active range of motion without crepitus or pain. Motor strength of the shoulder is 5/5 to rotator cuff and deltoid muscle testing. There is no major atrophy noted of the shoulder girdle musculature. The patient has a negative Neer, Hawkins, Jove, Lag sign, Horn blower, apprehension, and Yergason's test.

ELBOW EXAM:
No obvious sign of trauma or deformity and no skin lesions present. Tender to palpation over the lateral epicondyle and extensor muscle origin. Nontender to palpation over the medial epicondyle, distal biceps tendon, cubital tunnel, triceps tendon attachment, olecranon process, and elbow joint line. There is full active range of motion of the elbow with no crepitus. 5/5 muscle strength testing to elbow flexion and extension, pronation and supination. Motor strength testing is 4/5 to wrist extension limited. 5/5 wrist flexion strength. Positive tennis elbow stress test to resisted wrist extension with the elbow in full extension. Negative Tinel's test at the cubital tunnel. The elbow is stable to varus and valgus stress. Full active range of motion of the wrist and hand without pain or crepitus. Sensation is intact to light touch to all nerve distributions. Brisk cap refill to all digits.

3 view X-ray of the left elbow: There is no obvious sign of trauma, deformity, or lesions around the elbow joint. The ulnohumeral and radiocapitellar joints are well aligned. There are no major signs of osteoarthritis.

ASSESSMENT/PLAN
39-year-old female sustained occupational related injury on 6/23/2023 with left elbow pain and dysfunction with differential diagnosis:
1. Extensor tendon strain/lateral epicondylitis

1. Recommend conservative treatment at the present time to include:
2. NSAID prescription given.
3. Handout given on tennis elbow with home exercises given to be performed daily.
4. Physical therapy prescription given for elbow/forearm strengthening, stretching, and modalities as indicated.
5. Recommended activity modification.
6. Forearm counterforce brace and wrist splint immobilizer ordered for patient, with instructions given on use.
7. Follow-up in 6 weeks for reevaluation.

1. Pain of left elbow joint…
2. Overweight…
3. Lateral epicondylitis…

[Cl. Ex. № 1.] She was given a note authorizing a return to work that day with restrictions.

The claimant then saw Dr. Hussey again on 17 January 2024. The note from that visit provides, in part:

> SUBJECTIVE:
> Candace Fletcher is a 39-year-old female. Since their last visit, patient reports feeling same. She is a very pleasant lady who returns back to clinic this time for nonoccupation-related problems but still with left elbow and forearm pain radiating. She states her work comp claim was denied and she is no longer working at her previous job. She states since that time her pain improved and she got a job at Amazon doing temporary seasonal work and did a lot of lifting and increased pain in the arm she states now more located anterior volar forearm areas increased with lifting. She has pain in the day as well as at night affecting her sleep. She states she has taken a leave of absence from work due to severe pain in the arm. She denies prior trauma or surgery on the arm.
> . . .
>
> ELBOW EXAM:
> There is no obvious sign of trauma or deformity to the arm. Tender to palpation over the antecubital fossa and radial tuberosity and lateral condyle. Nontender to palpation over the medial epicondyle, lateral epicondyle, cubital tunnel, triceps tendon attachment, olecranon process, and elbow joint line. There is full active range of motion of the elbow with no crepitus. Motor strength testing is 4/5 to elbow flexion and 3/5 to forearm supination. 5/5 triceps and forearm pronation strength testing. 5/5 wrist extension/flexion strength. Positive Yergason and Speed test. Negative tennis elbow and golfer's elbow stress test. Negative Tinel's test at the cubital tunnel. The elbow is stable to varus and valgus stress. Full active range of motion of the wrist and hand without pain or crepitus. Sensation is intact to light touch to all nerve distributions distally. Brisk cap refill to all digits.
> . . .
>
> 1. Biceps tendinitis

Id.

The claimant's next encounter note was from a 5 February 2024 visit with Dr. Butchaiah Garlapati at the Arkansas Pain Center clinic. That note includes, in part:

> SUBJECTIVE:
> . . .
> States she was injured left arm at work. [sic] She has been seeing Ortho Arkansas. Reports she tore the tendons in her arm. She wears an arm brace today under her elbow. She reports she has another brace she

> wears at night. She states she will wear this brace until March 15th, 2024 when she sees ortho MD again.
> . . .
>
> DIAGNOSIS/MEDICAL DECISION MAKING:
> M54.2 Cervicalgia
> M54.6 Pain in thoracic spine
> M54.16 Radiculopathy, lumbar spine
> M25.512 Pain in left shoulder
> G89.4 Chronic pain syndrome
> Z79.899 Other long term (current) drug therapy
> Z79.891 Long term (current) use of opiate analgesic
> M62.830 Muscle spasm of back
> M25.511 Pain in right shoulder
> M54.50 Low back pain, unspecified
> M96.1 Postlaminectomy syndrome, not elsewhere classified
> M79.18 Myalgia, other site
> M51.36 Other intervertebral disc degeneration, lumbar region
> M47.896 Other spondylosis, lumbar region
> M25.551 Pain in right hip

Then, on 18 September 2024, the claimant saw Dr. Mark Tait at a UAMS orthopedic clinic for a visit identified in the provider's note as an independent medical evaluation. That note included:

> REASON FOR VISIT: Elbow pain
>
> DOCUMENT REVIEW:
> 06/08/2023: Arkansas Pain Center progress report patient unable to attend therapy secondary to change in employment. Patient was scheduled 2 times a week for therapy and neuromuscular reeducation and gait training. Patient was given a home exercise plan. Medications including hydrocodone, naloxone, and gabapentin. She is also on Soma. They recommended a drug holiday.
> 10/09/2023: Arkansas Pain Center progress report. Pain medication continued as well as therapy. Medications include Voltaren at this time. He mentions include Norco. Recommeded referral for neurodiagnostic testing.
> . . .
>
> CHIEF COMPLAINT: Elbow Pain, Left
>
> HISTORY OF PRESENT ILLNESS:
> Candace Latoya Fletcher is a 40 y.o. female patient. This is a new patient today who sustained a work injury on 06/26/2023. She worked at International Paper at the time of her injury. She complained of left arm pain at presentation her initial visit was with telemedicine and she

was given range-of-motion exercises. She also has tried a Medrol Dosepak initially. She was also given a muscle relaxer. She injured this while stacking large boxes of paper. She states that the pain has improved some but she has persistent pain diffusely throughout the elbow. She states that this can hurt at any time and is not necessarily associated with activity but does seem to get worse with activity.
. . .

Examination today shows diffuse tenderness throughout the antecubital fossa of the elbow. There is no significant swelling noted. No evidence of atrophy. I am unable to solicit point tenderness at the area of the lateral epicondyle. She has minimal tenderness with resisted wrist extension. She has full elbow range of motion. There is no mid arc pain. She has no pain with tunnel flexion and extension. The biceps is exam[ined] today and there is a intact biceps tendon. She has good strength of resisted supination.
. . .

IMPRESSION:
Improved but continued left elbow pain of uncertain etiology without evidence of lateral epicondylitis or distal biceps tendinitis today.

DISCUSSION/PLAN:
I discussed with the patient at length in regards to her left elbow. She has some diffuse tenderness in the antecubital fossa not consistent with biceps tendinosis or distal biceps tendinitis. She has no evidence of instability of the elbow consistent with posterior lateral instability. She has no instability with varus and valgus stressing. There is no signs of peripheral compression in the arm no significant evidence of atrophy or swelling throughout the arm and today her exam is inconsistent with lateral epicondylitis. Although she is having some continued pain she does seem to have gone through the appropriate interventions and I see no indication for surgical intervention. She had a previous MRI which showed no evidence of injury. You could consider repeating this MRI because of the persistent pain, but the initial normal MRI is reassuring as it is reported as normal. I reassured the patient today that I do not think she has harming the elbow by using the arm although she may have some persistent pain.

IME QUESTIONS:
1. With greater than 51% medical degree of certainty that the previously diagnosed left elbow sprain versus lateral epicondylitis did result from her work injury on June 26th 2023, but there is no indication of current lateral epicondylitis today.
2. I have reviewed the video and [it] does show that she is moving the elbow and using the arm but a left elbow sprain or lateral epicondylitis could still exist with the activity shown in the video.
3. The patient has reached maximum medical improvement.
4. The patient has no permanent restrictions or impairment.

> . . .
>
> ADDENDUM 1/17/25:
> Secondary to MRI findings patient was unlikely to have lateral epicondylitis because of negative findings on the report. This was likely a mild elbow sprain without current evidence of residual injury.

On 15 March 2024, the claimant presented to the Little Rock Family Practice Clinic West, where she was seen by Dr. Harold Hedges. She complained of needing her pain medication refilled. She then returned to that clinic about two weeks later. The notes from that visit include:

> CHIEF COMPLAINTS:
> Blood work for anemia and Vitamin D due to deficiency.
> c/o LUE nerve pain- wants referral
> HISTORY OF PRESENT ILLNESS:
> L arm pain. No inciting injury. Evaluation by Orthopedist.
> Recommended evaluation by neurologist. Requesting labs to follow up on deficiencies.
> . . .
> PLAN:
> Referral to: Neurology
> Reason: Eval and treat- Pt already had MRI with Ortho to rule out orthopedic concerns.

[Resp. Ex. № 2]

DISCUSSION

The claimant alleges that her injury occurred by specific incident. The claimant must establish four (4) factors by a preponderance of the evidence to prove a specific incident injury: (1) an injury occurred that arose out of and in the course of her employment; (2) the injury caused internal or external harm to the body that required medical services or resulted in disability or death; (3) the injury is established by medical evidence supported by objective findings, which are those findings which cannot come under the voluntary control of the patient; and (4) the injury was caused by a specific incident and is identifiable by time and place of occurrence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997). If a claimant fails to establish by a preponderance of

the evidence any of the above elements, compensation must be denied. *Id.* As explained below, she has failed to meet this burden.

The claimant has a history of being treated for pain across multiple body parts before the alleged work incident related to this claim. She was already an established chronic pain patient whose records from just before the alleged work incident noted that she had "requested an increase in pain medication several times" and was "not a good candidate for an increase in medication." A "drug holiday" was suggested for her instead.

A couple of weeks following that visit, she reported the alleged injury at issue in this claim. Notably, she testified that she heard and felt a sudden "pop" in her left arm while working and knew that was when she hurt her arm. Her report of a "pop," which could be clinically relevant for diagnosing an injury is, however, not mentioned in any of the medical records relating to her alleged injury.

A month after the alleged injury, Dr. Johnson saw the claimant and performed an exam that suggested a possible muscle strain. He ordered over-the-counter Aleve and declined to take her off work. About two weeks later, the claimant returned to Dr. Johnson's clinic after negative X-ray studies. He again performed an exam with essentially no relevant findings. He noted, however, that "This was more of a repetitive motion type injury, not a sudden onset of pain or one particular load or movement that caused it." Dr. Johnson recommended that she continue over-the-counter medication for what appeared to have possibly been a strained muscle. When the claimant returned again the following week still complaining of ongoing pain and additional pain in another part of her arm, he released her to an orthopedist's care, noting, "she continues to complain of pain. This appears to be a soft tissue injury. I did not observe fasciculations."

Interestingly, on the same day that Dr. Johnson released her and documented that she "had no cervical complaints," she presented for a follow-up visit at the pain clinic where

her complaints included ongoing thoracic and cervical pain. (It also appears that she had recently refused physical therapy due to concerns with her cervical spine. She was assured that the MRI had no findings; but it was documented that she wanted to look for a second opinion regarding the same.) As the respondents' counsel pointed out, Dr. Johnson's initial visit note indicates that she reported being in good health with no current medications. Inconsistent with that note, she seemed to testify, however, that she either told Dr. Johnson that she was already seeing a pain doctor for many complaints not related to her arm and that she was taking hydrocodone and gabapentin *OR* that he would have known about her medication anyway because he "took a physical. He also test[ed] me for diabetes and all—and urine specimen. So and he also knew what medications I was on." It is possible that the claimant was misattributing to Dr. Johnson the urine drug screens performed by the pain clinic to test for any substances besides what they knew to be prescribed; but there is nothing in the medical record to suggest that Dr. Johnson ordered a drug screen, tested her for diabetes, or had any information about her relevant medical history or then-current drug regimen besides what she chose to report *or not report* to him that day in the clinic. To the extent that she reported to Dr. Johnson that she was in good overall health, her pain clinic treatment records clearly contradict that assertion. To the extent that she claims that she did report those conditions, the record clearly reflects otherwise. Either way, her credibility in this regard is wanting.

Also, without any medical evidence supporting her assertion, the claimant testified that she was physically unable to perform her work duties (or what had been her work duties) between the date of her termination and eventually starting a new job months later. The record, however, does not show that she was taken off work at any time during her course of treatment; and she made no effort to establish any actual change in her physical condition at the time of her termination to support a finding that she was, indeed, unable to

work around that time. Lastly, she testified incredulously that the pain in her left arm was so bad at times that it jumped from her left arm over to her right arm. Taking these statements together with her demeanor on the stand, I again do not find her to be a credible witness.

More than two months after her alleged injury, on 30 August 2023, the claimant saw Dr. Michael Hussey. She complained of pain and tenderness. His exam suggested that the claimant might have tennis elbow. She was, again, not taken off work. When the claimant returned to Dr. Hussey's clinic on 1 January 2024, the exam from that visit revealed a negative test for possible tennis elbow, but possible bicep tendonitis.

When the claimant eventually saw Dr. Mark Tait on 18 September 2024, his impression was "continued left elbow pain of uncertain etiology without evidence of lateral epicondylitis or distal biceps tendinitis today." In response to questions apparently posed to him as a reviewer on the case, Dr. Tait noted, "greater than 51% medical degree of certainty that the previously diagnosed left elbow sprain versus lateral epicondylitis did result from her work injury on June 26th 2023, but there is no indication of current lateral epicondylitis today." Basically, he acknowledged that she had ongoing subjective complaints of pain in her left elbow; but he found no objective support for a diagnosis beyond that.

And it is on those subjective claims of pain, unsupported by credible objective findings, that this claim turns and fails. The record shows that as her reports of pain continued, the doctors suggested different possible diagnoses or causes, but those varying differential diagnoses did not prove out. All of the imaging reports that were ordered returned with negative or unremarkable findings. And Dr. Johnson specifically noted that he did not observe any fasciculations during his examinations. Additionally, he at one point surmised that whatever could be causing her pain could be of a chronic nature, but "not a sudden onset."

The claim must fail for the lack of objective findings in support of a compensable injury. Importantly, this claim can be distinguished from *Nucor Yamato Steel Co. v. Shelton*, 2025 Ark. App. 249, 713 S.W.3d 494, in that *Nucor* (reaffirming its precedent in *Melius v. Chapel Ridge Nursing Ctr., LLC*, 2021 Ark. App. 61, 618 S.W.3d 410) supports the proposition that a compensable injury may exist where a physician prescribed a muscle relaxer for reported pain and unobserved spasms. That is, in the absence of other clear objective findings, a provider prescribing medication for muscle spasms, physical therapy, and pain management can be sufficient to establish an objective finding. Here, the records do not show a level of clinical decision making in line with that in the *Nucor* case. Instead, the claimant simply reported pain that was attributed, inconsistently, to either a mild muscle strain or a ligamentous condition usually attributed to overuse. And the records of the treating physicians[3] show only recommendations for over-the-counter medications for the claimant's otherwise unsupported subjective complaints of pain.

In short, because the medical records in evidence are devoid of objective findings of an injury, the claimant cannot, and has not, proven by a preponderance of the evidence that she sustained a compensable injury. Her other claims for benefits are therefore moot and are not being addressed in this Opinion.

Attorney's Fee

Because the claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury, her claim for an attorney's fee must also fail.

[3] I note that the claimant stated that she was prescribed a steroid by one doctor (and that another doctor told her to stop taking the steroids) and that Dr. Tait's report shows that she was given a muscle relaxer at some point. The records admitted into evidence, however, do not reflect actual orders or prescriptions for those medications.

CONCLUSION

The claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury by specific incident to her left arm. Accordingly, this claim for initial benefits is DENIED and DISMISSED.

SO ORDERED.

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JAYO. HOWE
ADMINISTRATIVE LAW JUDGE