BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H307864**

THOMAS W. HENRIKSEN, EMPLOYEE	CLAIMANT
H. RAYMOND SHERRY, EMPLOYER	RESPONDENT
AMGUARD INSURANCE COMPANIES, CARRIER/TPA	RESPONDENT

OPINION FILED **JUNE 18, 2026**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Mountain Home, Baxter County, Arkansas.

Claimant represented by FREDERICK S. SPENCER, Attorney, Mountain Home, Arkansas.

Respondents represented by KAREN H. MCKINNEY, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On April 15, 2026, the above captioned claim came on for a hearing at Mountain Home, Arkansas. A prehearing conference was conducted by Judge James D. Kennedy on February 2, 2026, and a prehearing order was filed on February 4, 2026. A copy of the prehearing order has been marked as Commission's Exhibit One and made a part of the record without objection. Following the entry of that order, this matter was reassigned to the undersigned.

At the prehearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The employee/employer/carrier relationship existed between the parties on May 2, 2023, and September 15, 2023.
3. At the time of his injury, claimant earned an average weekly wage of $353.54, which computes to a temporary total disability rate of $236.00 and a permanent partial disability rate of $177.00.
4. Respondents accepted a compensable hernia as occurring on September 15, 2023, and

provided both medical and indemnity benefits.

By agreement of the parties, the issues to be litigated and resolved at the hearing were limited to the following:

1. Whether claimant's current right hand and right upper extremity condition is a compensable consequence of his September 15, 2023, compensable hernia injury.
2. Whether claimant is entitled to reasonable and necessary medical treatment for that condition.
3. Whether claimant is entitled to an impairment rating.
4. Whether claimant is entitled to permanent partial disability benefits.
5. Attorney's fees.

All other issues are reserved by the parties.

Claimant contends that he sustained a compensable consequence injury to his right hand during the surgery to repair his hernia. Claimant did not have any problems with his right hand prior to this surgery. The compensability of this injury is supported by Dr. Rauls in his medical records dated December 13, 2024, and January 10, 2025.

Respondents contend that after sorting out the correct date of injury, respondents accepted a September 15, 2023, hernia as compensable for which claimant was provided with medical and indemnity benefits. Claimant underwent a hernia repair surgery on January 10, 2024. Respondents contend that claimant cannot prove a compensable injury to his right upper extremity that is supported by objective medical findings or that is causally related to his compensable hernia injury.

From a review of the entire record including medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. § 11-9-704:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a prehearing conference conducted on February 2, 2026, and contained in a prehearing order filed on February 4, 2026, are hereby accepted as fact.
2. Claimant has proven by a preponderance of the evidence that his right upper extremity condition, specifically right cubital tunnel syndrome, is a compensable consequence of his September 15, 2023, compensable hernia injury.
3. Claimant is entitled to reasonable and necessary medical treatment for his right upper extremity condition, including the treatment recommended by Dr. Russ Rauls.
4. Because claimant has not yet reached the end of his healing period with respect to his compensable right upper extremity condition, the issues of whether he is entitled to an impairment rating therefor and permanent partial disability benefits pursuant thereto are not yet ripe. These issues will be considered reserved.
5. No attorney's fee can be awarded at this time, as no indemnity benefits have been controverted and awarded.

FACTUAL BACKGROUND

On some of the documents filed in this case, the respondent employer was called Sherry Raymond. Claimant clarified that he was working for H. Raymond Sherry, and as such, that is the name the respondent employer is called in this opinion.

HEARING TESTIMONY

Claimant was the only witness called at the hearing. He was 65 years old and worked for H. Raymond Sherry for approximately three years. Claimant agreed with the entry from Dr. Russ Rauls that his cubital tunnel syndrome appeared highly likely to be related to pressure on the nerve in his

right arm during surgery to repair a compensable hernia injury. Claimant said that when he awoke from the hernia surgery, he noticed his fingertip was numb. He sought benefits for the injury to his right arm that he maintains occurred during surgery.

On cross-examination, claimant testified that respondents accepted the hernia claim and that he underwent surgery at Baxter Regional for that injury. Claimant was unaware of what the medical staff did while he was under anesthesia. Claimant said he noticed his finger was numb before he left the hospital. He mentioned the numbness to Dr. Michael Adkins, his personal physician and to Dr. Jacob Dickinson, the surgeon for his hernia repair. Both doctors told claimant the numbness should get better over time, but it has gotten worse.

Claimant said Dr. Rauls ordered a neuro-conduction test which revealed claimant had both carpal tunnel syndrome and cubital tunnel syndrome. The EMG showed mild to moderate cubital tunnel syndrome. Claimant said his carpal tunnel was asymptomatic. Claimant had asked Dr. Dickinson for a letter or chart entry indicating that his cubital tunnel syndrome was from surgery and Dr. Dickinson declined because he did not have sufficient proof. Claimant then went to Dr. Rauls for the nerve testing and did not return to see Dr. Dickinson.

On redirect examination, claimant said he saw no reason to return to Dr. Dickinson because the hernia surgery was done.

The Court asked claimant if he could dispute or verify what was in the medical records on the day of the surgery and claimant said he could not, because he was not conscious during the procedure.

Claimant's March 2, 2026, deposition was admitted as Claimant's Exhibit Two and was considered. It was consistent with claimant's hearing testimony and added no material facts requiring separate discussion.

REVIEW OF THE EXHIBITS

The following exhibits were admitted into evidence without objection: Commission's Exhibit One: Prehearing Order filed February 4, 2026; Claimant's Exhibit One: Medical records of Dr. Russ Rauls (December 13, 2024, and January 10, 2025); Claimant's Exhibit Two: Deposition of Thomas W. Henriksen, taken March 2, 2026; Respondents' Exhibit One: Medical records with index (twenty-two pages). Respondents noted that the deposition contains hearsay testimony and requested that such testimony be given the weight to which it is entitled. That request is acknowledged.

Claimant first sought treatment for his right inguinal hernia on September 18, 2023, when he presented to Dr. Michael Adkins with pain in his right side and a reducible bulge at the right hip and groin that he reported first noticing on September 15, 2023. Dr. Adkins documented that the hernia developed after claimant was working on a horse farm, with symptoms worsening with increased activity and lifting. On examination he found a right-sided, moderate-sized, reducible inguinal hernia and referred claimant to Dr. Jacob Dickinson in general surgery. (R.X.1-2)

Dr. Dickinson evaluated claimant on September 28, 2023, at Ozark Surgical Group. He documented a history of right inguinal pain and swelling with onset described as sudden and exacerbated by straining, lifting, coughing, sneezing, and bending. On examination he again found a reducible right inguinal hernia and recommended surgical repair. An addendum to that note, signed the same day, reflects that the dictation should also note that the patient first noticed the area bulging on Friday, September 15, 2023. (R.X.3-5) Surgery was initially scheduled but not performed due to the insurance denial. Dr. Dickinson saw claimant again on January 3, 2024, at which point the claim had been accepted. He documented that claimant reported the hernia as persistent and worsening with activity and scheduled the open right inguinal hernia repair with mesh for January 10, 2024. (R.X.6-8)

On January 10, 2024, Dr. Dickinson performed an open right inguinal hernia repair with

placement of ProGrip mesh under general anesthesia with local anesthetic supplementation. Findings included an indirect hernia. The procedure began at 8:00 a.m. and concluded at 8:42 a.m. (R.X.9-10) The perioperative nursing records document that claimant's arms were extended on padded arm boards during the procedure. (R.X.16) No intraoperative complications were recorded. (R.X.19)

At his post-operative follow-up on January 25, 2024, claimant reported that his incision was healing well, and pain had decreased. He also reported new numbness in the right small finger since surgery. Dr. Dickinson noted the complaint, recorded that the hand was "a little numb since surgery," and noted it was possibly involving the ulnar nerve, adding that it was improving. He directed follow-up as needed. (R.X.21-22)

The next treatment of record occurred nearly eleven months later, when claimant presented to Dr. Russ Rauls, an orthopedic and sports medicine physician at Twin Lakes Orthopedics and Sports Medicine in Mountain Home, on December 13, 2024. Claimant reported right elbow symptoms of sudden onset — numbness, tingling, and weakness causing difficulty with everyday activities — that he said began immediately after waking from the January 2024 hernia surgery, starting in the tip of the small finger and progressing into the ring finger. He denied associated shoulder problems and reported no prior diagnostic studies or treatment for the condition. On examination Dr. Rauls found a positive Tinel's sign at the elbow, mild atrophy of the interosseous muscles of the right hand compared to the left and decreased light touch sensation in the ulnar two digits. X-rays of the right elbow demonstrated moderate osteoarthritis at the proximal radial ulnar joint and at the elbow itself, with no fracture. Dr. Rauls assessed right cubital tunnel syndrome and ordered EMG and NCV of the right upper extremity. In his Impression/Plan he stated: "This appears to be related to the surgery for his Worker's Compensation injury." (C.X.1-2)

Claimant returned to Dr. Rauls on January 10, 2025, via telemedicine, after undergoing the

nerve conduction study. The EMG/NCV results reflected moderate right carpal tunnel syndrome and mild to moderate right cubital tunnel syndrome, with a negative EMG. Dr. Rauls recorded that claimant was not experiencing any carpal tunnel symptoms and recommended ignoring that finding, with claimant's agreement. As to the cubital tunnel syndrome, Dr. Rauls stated: "This appears highly likely that this is related to pressure on the nerve during surgery and thus related to his initial Worker's Comp claim." He recommended right elbow ulnar nerve transposition and claimant agreed to proceed. (C.X.3-4)

ADJUDICATION

The issues for determination are whether claimant's right upper extremity condition is a compensable consequence of his accepted September 15, 2023, hernia injury, and whether he is entitled to reasonable and necessary medical treatment for that condition.

Under Arkansas law, an injury is compensable if it is a natural consequence that flows from the compensable injury. *Jeter v. B.R. McGinty Mech.*, 62 Ark. App. 53, 968 S.W.2d 645 (1998). Where a claimant relies upon a medical opinion to establish causation, that opinion must be stated within a reasonable degree of medical certainty, meaning that it is more probable than not that the condition resulted from the compensable injury. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000). However, a doctor need not be absolute in his opinion or use the magic words "within a reasonable degree of medical certainty" so long as his medical opinion is more than speculation. *Freeman v. Con-Agra Frozen Foods*, 344 Ark. 296 (2001).

Claimant testified that he awoke from the January 10, 2024, surgery with numbness in the tip of his right small finger, and that the numbness was present before he left the hospital. He reported

the numbness to Dr. Dickinson and then to Dr. Adkins.[1] At his post-operative visit with Dr. Dickinson on January 25, 2024, claimant reported numbness in the right small finger since surgery. Dr. Dickinson documented the complaint, noted it was possibly involving the ulnar nerve, and noted that it was improving. However, over the course of the next year, the symptoms did not resolve but rather progressed into the ring finger and have worsened over time.

When evaluated by Dr. Rauls in December 2024, claimant again reported onset immediately after surgery. Dr. Rauls found objective evidence of ulnar neuropathy — a positive Tinel's sign at the elbow, decreased sensation in the ulnar two digits, and mild interosseous atrophy. EMG/NCV testing confirmed mild to moderate right cubital tunnel syndrome. Dr. Rauls on two separate occasions provided a causation opinion connecting the condition to the hernia surgery. At the December 13, 2024, office visit, Dr. Rauls stated that the condition "appears to be related to the surgery for his Worker's Compensation injury." (C.X.1-2) At the January 10, 2025, follow-up, after reviewing the electrodiagnostic results, he stated that the condition "appears highly likely that this is related to pressure on the nerve during surgery and thus related to his initial Worker's Comp claim." (C.X.3-4)

Respondents argue that the phrase "appears highly likely" does not satisfy the reasonable degree of medical certainty standard. I disagree. A medical opinion is not evaluated by isolating a single phrase; it must be read in the context of the record as a whole. Dr. Rauls is a specialist in orthopedics and sports medicine who personally examined claimant, identified objective clinical findings consistent with ulnar neuropathy, ordered and reviewed confirmatory electrodiagnostic testing, and on two occasions specifically connected the clinical picture to the mechanism of surgical positioning. Read in context, Dr. Rauls' opinion establishes that the causal connection is more probable than not and

[1] No post-operative record from Dr. Adkins was submitted, however claimant credibly testified that he reported the numbness to Dr. Adkins after he saw Dr. Dickinson.

satisfies the reasonable degree of medical certainty standard. Dr. Rauls' opinion is supported by claimant's consistent and credible before-and-after symptom history and the absence of any alternative medical explanation in the record.

Respondents also argue that the perioperative records documenting identical positioning of both arms on padded arm boards is inconsistent with a finding that surgical positioning caused unilateral nerve injury. Those records reflect what the nursing staff charted but are not proof that the injury did not occur. The entry stating that the patient is free from signs and symptoms of injury related to positioning was made at 08:23:49, which would have been while claimant was still under sedation and unable to alert the nurses to any pain or discomfort he was experiencing. The development of classic cubital tunnel syndrome, together with the timing of claimant's symptoms and Dr. Dickinson's post-operative note observing that the numbness was possibly involving the ulnar nerve, is consistent with a causal connection to the surgery notwithstanding the charted positioning.

Based on all the evidence before me, I find that claimant has proven by a preponderance of the evidence that his right cubital tunnel syndrome is a compensable consequence of his accepted September 15, 2023, hernia injury and the surgery performed to treat it. I further find that the medical treatment recommended by Dr. Rauls, including the EMG/NCV testing and the proposed right elbow ulnar nerve transposition, is reasonable, necessary, and related to the compensable consequence injury. Respondents are liable for that treatment.

Because claimant has not yet reached the end of his healing period with respect to his compensable right upper extremity condition, the issues of whether he is entitled to an impairment rating therefor and permanent partial disability benefits pursuant thereto are not yet ripe. These issues will be considered reserved.

ORDER

1. Claimant's right cubital tunnel syndrome is a compensable consequence of his accepted September 15, 2023, hernia injury and the surgery performed to treat it. Respondents are liable for reasonable and necessary medical treatment for claimant's right cubital tunnel syndrome, including treatment already provided by Dr. Russ Rauls and future treatment reasonably recommended by him, including the proposed right elbow ulnar nerve transposition.
2. The issues of impairment rating and permanent partial disability benefits are reserved as not yet ripe, the healing period being ongoing.
3. Pursuant to A.C.A. § 11-9-715(a)(1)(B)(ii), attorney's fees are awarded only on the amount of compensation for indemnity benefits controverted and awarded. In this case, there was no claim that indemnity benefits have been controverted up to the date of the hearing, and as all issues other than medical benefits were reserved, no attorney's fee can be awarded in this matter at this time. Claimant's attorney is free to voluntarily contract with the medical provider pursuant to A.C.A. § 11-9-715(a)(4).
4. Respondent is responsible for paying the court reporter her charges for preparation of the hearing transcript.
5. All other issues are reserved.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE