BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. H401460

SHARON MCCULLER, EMPLOYEE	**CLAIMANT**
STUTTGART SCHOOL DISTRICT, SELF-INSURED EMPLOYER	**RESPONDENT**
AR SCHOOL BOARDS ASSOC., TPA	**RESPONDENT**

OPINION FILED 10 AUGUST 2026

Heard before Arkansas Workers' Compensation Commission Administrative Law Judge JayO. Howe on 14 May 2026 in Pine Bluff, Arkansas.

Sheila F. Campbell Law Firm, Ms. Sheila Campbell, appeared for the claimant.

Worley, Wood & Parrish, P.A., Mr. Jarrod Parrish, appeared for the respondents.

I. STATEMENT OF THE CASE

A Prehearing Order was filed on 17 February 2026 and admitted to the record as Commission's Exhibit № 1.

STIPULATIONS

Following an amendment at the hearing, the parties agreed to the following Stipulations:

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

2. The employee/self-insured employer/TPA relationship existed at all relevant times, including on or about 22 September 2023, when the claimant sustained a compensable injury by specific incident to her left knee. The respondents accepted the claim as medical-only.

3. The claimant's average weekly wage of $1,315.78 would entitle her to weekly benefits in the amounts of $835 for temporary total disability (TTD) and $626 for permanent partial disability (PPD).

ISSUES TO BE LITIGATED AT HEARING

Consistent with the Prehearing Order, the parties agreed to litigate the following:

1. Whether the claimant's total left knee arthroplasty performed on 22 April 2024 was reasonable and necessary medical treatment associated with her accepted injury and for which the respondents should be liable.

2. Whether the claimant is entitled to TTD benefits for the period between 30 June 2024 and 19 August 2024.

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

All other issues are reserved. The claimant specifically reserved litigating whether she was entitled to a permanent impairment rating and benefits associated with the same.

CONTENTIONS

The parties' Contentions were set out in their respective Prehearing Questionnaire Responses and were amended at the hearing to read:

Claimant:

> The claimant contends that she sustained a compensable injury to her left knee in the course and scope of her employment on 22 September 2023. Claimant contends that she is entitled to temporary total disability from 30 June 2024 to 19 August 2024. She contends that the respondents are liable for her left knee replacement surgery. Claimant contends that she is entitled to medical mileage, medical expenses and attorney's fees.

Respondents:

> The respondents contend that Claimant's need for a total knee replacement is associated with her preexisting and underlying problems and not her work-related injury. Respondents contend the medical documentation does not support entitlement to additional benefits associated with the claimant's compensable injuries nor does it support entitlement to additional indemnity. Additionally, they contend that if the claimant were found to be entitled to a period of TTD benefits, that period would be limited to the dates between 30 June 2024 and 14 July 2024.

II. 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 claimant, 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 the total left knee arthroplasty she underwent was reasonable and necessary medical treatment in connection with her stipulated compensable injury. The respondents are not liable for any treatment costs associated with the same.

4. The claimant has failed to prove by a preponderance of the evidence that she is entitled to TTD benefits for the period between 30 June 2024 and 19 August 2024.

5. The claimant has failed to prove by a preponderance of the evidence that she is entitled to an attorney's fee.

III. 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 at the hearing. The record consists of the hearing transcript, which includes following exhibits: Commission's Exhibit № 1 (the 17 February 2026 Prehearing Order); Claimant's Exhibit № 1 (one index page and 57 pages of medical records); Respondents' Exhibit № 1 (two index pages and 399 pages of medical records); and Respondents' Exhibit № 2 (one index page and 21 pages of non-medical records). Additionally, I have blue-backed to this Opinion nine pages of medical records and correspondence. The medical records relate to the claimant's 26 January 2024 visit with Dr. Victor Vargas. The clinic notes from that visit that were included in the respondents' exhibit, but the complete text of the notes was not clear. The respondents agreed on the record to provide a more legible copy of the same after the conclusion of the hearing. Those records and the correspondence providing the same are being served upon the parties along with this Opinion in accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549.

Claimant's Testimony

The claimant was working as a 5th Grade math teacher for the respondent-employer at the time of her injury. She testified that she hurt her left knee when she fell down while trying to break up a scuffle between two students. "I did hear my leg pop," she said. [TR at 16.] That incident occurred on a Friday. Her knee began swelling while she was at home over the weekend, so she initiated her claim paperwork and sought care at the beginning of the following work week.

She recalled eventually being sent to Dr. Vargas at OrthoArkansas, who ordered an MRI and withdrew some fluid from her knee. According to the claimant's recollection, Dr.

Vargas advised that she required a total knee replacement. She also acknowledged a recent and relevant history of left knee meniscus surgery with Dr. Roy Burrell in May of 2023; but she testified that she experienced no difficulties between her meniscus surgery and her work-related accident.

The claimant stated that she recalled hearing a pop from her leg when she fell and that she described that to Dr. Vargas. But she could not account for her medical records including no report of the same. She testified that at her last visit with Dr. Vargas, he wanted to schedule her for knee replacement surgery as a result of her alleged injury; but he ultimately declined to do so, she said, after she informed him that she wanted to pursue a second opinion. After that apparent falling out with Dr. Vargas, she returned to Dr. Burrell's care. He eventually performed a total knee replacement on 22 April 2024. She was ordered off work for some time after that procedure and remained unable return to work, according to her testimony, until around mid-August 2024.

She acknowledged that her records reflect an extensive history of osteoarthritis in her left knee that predates her injury in this claim. She acknowledged, too, that she required a left knee meniscus surgery before her accident and that she related at least some of her post-accident difficulties to those pre-existing conditions. She also confirmed that before her accident she had already discussed needing a total knee replacement with Dr. Burrell. But she insisted that she was symptom-free between her meniscus surgery and her work-related accident.

She was presented on cross-examination with records reflecting a visit with Dr. Burrell on 14 August 2023. She complained at the time, according to the records, of left knee pain and swelling, and feared that she might have reinjured her knee. She disputed that the records were accurate, or that her testimony had been inaccurate, or that her

credibility should be called into question in light of the inconsistency in her testimony and the records. The back-and-forth continued:

> Q: You agree if I had not requested records and introduced them, then, we would be left with your testimony that you had been completely asymptomatic since the meniscus surgery; that would be the gospel here today, right?
> A: That would be the gospel.
> Q: Right.
> A: And it's still the gospel today with the records.
> Q: So you're just not going to acknowledge this document says what it says?
> A: I'm not acknowledging it.

[TR at 58-59.] And then:

> Q: You don't remember getting an injection in your knee?
> A: Oh, most definitely, I got it.
> Q: A little over a month before this incident with the student?
> A: I got an—I got injections. I got injections.
> Q: Okay.
> A: Uh-huh.
> Judge: So are you now saying that you do remember getting an injection—
> A: Injections.
> Judge: --that day?
> A: Not that day, but I'm just saying, I did get injections.
> Q: And why would you get injections?
> A: Because Dr. Burrell said that the injection would help with the swelling.
> Q: And pain.
> A: Uh-huh. Yes, sir.
> Q: And range of motion?
> A: Yes, sir.
> Q: And difficulty walking?
> A: And it did.
> Q: Okay.
> A: Uh-huh. I'm saying it did.
> . . .
>
> A: I remember getting injections, Your Honor, but I could not say the dates. I do remember getting injections, and I want to say, sir, I may have gotten an injection, before meniscus surgery, and you're just bringing it to me saying that I got injections.
> Judge: Wel, this was after. This was—
> A: That's what I'm saying. Yes. So I'm very truthful on that. I got so many injections, so I can't remember.
> Q: And the reason, Your Honor, I know this is in the—in 2023, it's because Point 3 of the diagnosis on page 233 says, "Status, post-arthroscopic knee surgery."
> Judge: Yes.

> Q: So we know it's after surgery and before the incident.
> A: And that's good, 'cause, I mean, that's good to know. I didn't—I wasn't lying to say I—when you're saying I said no pain, I was in no pain or that. I just had been to him, and then, Dr. Burrell….

[TR at 65-68.]

Regarding her claim for TTD benefits, the claimant testified that she did not return to work for the respondent-employer after her knee replacement surgery. But she was paid through the end of her contract, which expired on 30 June 2024. She claimed entitlement to TTD benefits for the period between that date and 19 August 2024, when she testified that she began working for the next school year with another employer. She relates her time not working to her recovery from the knee replacement surgery.

On cross-examination, the claimant stated that she had accepted a contract (before 19 August 2024) to begin working for a different school district, and that she had begun her preparatory work for the school year before deciding that she did not like the school administration's "disorganization and lack of direction." [TR at 36.] She went on to acknowledge that she worked as a paid caregiver for her husband through the entirety of the time she now seeks TTD benefits:

> Q: And throughout the course of the claim, you have been paid as a caregiver for your husband as well, correct?
> A: And still do.
> Q: Still do, okay.
> A: Yes.
> Q: So you'll agree, if you're getting paid for doing work, you're not totally incapable of working.
> A: Agree.
> Q: Right?
> A: Yes.

[TR at 38.]

Relevant Medical and Documentary Evidence

Pre-accident Treatment

The claimant's records reflect complaints of left knee pain as early as 17 March 2017. A note from Dr. Nancy Williams indicated primary osteoarthritis in multiple joints and that the claimant "feels well except legs and knees hurt." [Resp. Ex. № 1 at 1.] At an encounter with Dr. Roy Burrell on 10 January 2019, he charted, "pain in both knees, however the left being more severe than the right." [*Id*. at 20.] That visit note includes the first left knee exam description provided by Dr. Burrell:

> Left lower extremity (left knee): Minimal effusion. Positive tenderness palpation medial joint line. Negative tenderness to palpation lateral joint line. Knee stable to varus and valgus stress. Range of motion is decreased and painful compared to the contralateral side. Crepitus. Pain with loading the patella and quadriceps contraction.

[*Id.* at 22.] An X-ray report noted in a record from 2 September 2021 detailed, "minimal decreased joint space in the medial compartment. Positive early osteophyte formation." [*Id*. at 64.]

On 27 February 2023, the claimant presented to both urgent care and emergency department providers complaining of severe left knee pain that she rated at 10 out of 10. [*Id*. at 126 to 149.] The claimant was then seen by Dr. Burrell on 3 March 2023. The note from that visit includes, in part, the following:

> CHIEF COMPLAINT
> Left knee pain and calf pain x1 week.
>
> HPI
> This is a 59-year-old female patient […] who presents with the above. Patient admits to being seen in the emergency department and then transferred to the urgent care and then told to return back to the emergency department. Patient states her pain in the knee came out of nowhere. Patient denies any known trauma. Patient does report the pain in the medial knee and calf area. Patient states she had an elevated "D dime." Patient was told this by the emergency department. Patient denies having her leg scan for DVT. Patient continues to report pain in the knee. Patient is present with her husband today.

> PHYSICAL EXAM
> Left lower extremity (left knee): minimal effusion. Positive tenderness palpation medial joint line. Negative tenderness to palpation lateral joint line. Knee stable to varus and valgus stress. Range of motion is decreased and painful compared to the contralateral side. Crepitus. Pain with loading the patella and quadriceps contraction. Calf tenderness.
>
> RADIOLOGY
> X-rays of the left knee reveals no acute fracture dislocation.
>
> DIAGNOSIS
> 1. Left knee pain
> Plan: MRI left knee. Norco prescription provided. Follow-up after MRI. We will call patient with DVT results.
> 2. Internal derangement of left knee
> 3. Pain of left calf.
> Plan: DVT scan ASAP.

[Cl. Ex. № 1 at 48-51.] Her problem list at that visit included obesity, hyperlipidemia, claudication, toe contusions, "fall from other slipping, tripping, or stumbling," primary osteoarthritis involving multiple joints, and previous knee surgery.

On 30 May 2023, the claimant returned to Dr. Burrell. They discussed her ongoing knee problems, which included a Baker's cyst, and his recommendations for an arthroscopic meniscus and chondroplasty procedure. [Resp. Ex. № 1 at 178.] He performed that procedure the following day. [*Id*. at 180.] She then began a course of physical therapy. The physical therapy notes indicate that her initial evaluation occurred on 5 June 2023. [*Id*. at 189.]

The claimant presented to Dr. Burrell again on 8 August 2023. The notes from that visit include, in part, the following:

> CHIEF COMPLAINT
> Left lower leg and left knee pain.
>
> HPI
> … Patient admits to having pain in the left knee. Patient denies any new or recent injury. Patient states she does remember getting out of her truck and potentially reinjuring her knee. Patient is known for undergoing left knee medial meniscectomy and chondroplasty. Patient states she completed

> physical therapy where she was doing fine. Since Saturday she has had some swelling in the lower leg and heaviness in the calf area. Patient also admits to pain in the knee.
>
> PHYSICAL EXAM
> Left lower extremity (left knee): Minimal effusion. Positive tenderness palpation medial joint line. Negative tenderness to palpation lateral joint line. Knee stable to varus and valgus stress. Range of motion is decreased and painful compared to the contralateral side. Crepitus. Pain with loading the patella and quadriceps contraction.
>
> DIAGNOSIS
> 1. Left knee pain
>
> Plan: DVT scan left lower leg. At this time we recommend CSI left knee. Under sterile technique 2 cc of 40 mg of Depo-Medrol in combination with 8cc of 0.5% bupivacaine plain was used to inject the left knee. Patient was injected through superior lateral injection site. Patient tolerated procedure without complication. Diclofenac prescription given. We will follow-up results of DVT scan. If patient is no better following the injection we will recommend repeat MRI.
> 2. Tear of medial meniscus.
> 3. Status post arthroscopic knee surgery
> 4. Localized swelling of left lower leg.
>
> Planned Diagnostic Testing:
> Knee 4 views

[Resp. Ex. № 1 at 230-233.]

Post-accident Treatment

The claimant's workplace accident occurred on 22 September 2023. On 25 September 2023, the claimant underwent X-ray imaging. The report from that study included:

> FINDINGS
> There is moderate narrowing of the medial knee joint. There is minimal chronic appearing lateral subluxation of the patella. I see no significant periarticular spurring. There is no fracture or dislocation. No lytic or blastic defect is visible. I see no joint effusion.

[*Id*. at 235.]

Then, on 2 November 2023, the claimant eventually saw Dr. Vargas. She reported a relevant history of anxiety, arthritis, and high cholesterol. The notes from that visit include, in part, the following:

> ASSESSMENT/PLAN
> In brief, this patient presented today for the first time to my clinic for an evaluation of pain in the left knee. The patient said that [she] had a work-related injury on 9/2/2023 (sic). She said that the students were fighting and she tried to break the fight and they and she fell, traumatizing the left leg. She has prior surgery on the left knee in March 2023. Patient stated that initially she did not have pain in the leg or in the knee but it started overnight next day. Then she had pain in the left foot and was swelling. In May 30, 2023, she has a right knee meniscal tear and she underwent surgery.
> . . .
>
> We have discussed at great length the findings at the physical examination, imaging studies, and the differential diagnosis as well. My recommendation is as follows:
> 1. Recommended to discontinue the walking boot.
> 2. Transferred to regular shoes.
> 3. Recommended to apply Voltaren gel 1%.
> 4. Physical therapy for the left knee and then for the left foot.
> 5. Diagnostic and therapeutic injection of the left knee intra-articular with steroids.
>
> Work status:
> Sedentary job

[*Id*. at 236-239.]

On 30 November 2021, the claimant saw Dr. Vargas again. The notes from that visit include, in part, the following:

> ASSESSMENT
> Left knee pain. Probably an aggravation of her pre-existing condition. Left ankle pain improved.
>
> PLAN
> We have discussed at great length the findings…
> At this point I am considering the patient required an MRI of the left knee for better assessment and objective findings that could be related to the accident.
> The patient has previous pathology for which she has had surgery.
> The fact that she has had improvement with the steroid injection but transient could indicate the possibility of internal derangement. I am considering that the next best step in the evaluation of this patient is an MRI of the left knee.
> Recommend to continue physical therapy, extension of the physical therapy 4 weeks is provided.
>
> WORK STATUS
> Same modified duty sedentary job.
> The patient is not at maximal medical improvement.

Follow-up after the MRI of the left knee.

[*Id*. at 248.] Severe obesity was included on the patient's problems list.

On 14 December 2023, the claimant was seen by Dr. Nancy Williams at one of Jefferson Regional's family health clinics. The Chief Complaint was listed as "6 months check up with multiple comorbidities." [*Id*. at 286.] The narrative section of the note from that visit includes, "Left knee has a cyst on it and they drew the fluid off. She is still in PT. *She is going to have a total knee*." [*Id*. at 289 (emphasis added).] She was assessed at the time with, among other things, primary osteoarthritis involving multiple joints.

The claimant returned to Dr. Vargas' clinic on 15 December 2023. The notes from that visit include, in part, the following:

> Patient presented today for follow-up of pain in the left knee and to discuss the findings of the MRI. The MRI showed abnormal morphology signal in the left medial meniscus at the posterior horn and body that could be sequela of partial meniscectomy and superimposed tearing. Tricompartmental left knee chondrosis more pronounced and moderate in the patellofemoral compartment. Large left knee joint effusion and synovitis, moderate left Baker's cyst with evidence of partial rupture.
> Patient presented today stating that the left knee pain is worse.
> She has had an MRI that shows a Baker's cyst rupture plus osteoarthritis.
> We discussed the options of treatment at this point and the option will be management conservatively or surgically.
> The patient would like to consider nonoperative treatment.
> We have outlined the conservative and preservation of the joint.
> It is important to unload the knee using a cane or external support on the contralateral upper extremity.
> Also she can wear unloader braces for medial compartment compromise.
> We discussed also the use of NSAIDs and Tylenol.
> Highly recommend to maintain a good range of motion and do physical therapy for strengthening of the quadriceps and hamstring. Handouts of exercises for knee arthritis are given.
> We discussed also the interventions with intra-articular injections that provided temporary control of the symptoms such as steroids, viscous supplementation and biologicals -PRP-.
> The patient will benefit [from]an aspiration and a steroid injection at the knee and for now we can hold physical therapy until she feels much better.

[*Id*. at 243.]

On 26 January 2024, the claimant returned to Dr. Vargas again. The notes from that visit include, in part, the following:

> ASSESSMENT/PLAN
> Patient presented today for a follow-up [for] pain and the knee and the left foot great toe.
> Patient said that she is feeling better. The injection in the knee has helped.
> The MRI showed abnormal morphology signal in the left medial meniscus at the posterior horn and body that could be sequela of partial meniscectomy and superimposed tearing.
> Tricompartmental left knee chondrosis more pronounced and moderate in the patellofemoral compartment.
> Large left knee joint effusion and synovitis, moderate left Baker's cyst with evidence of partial rupture.
> In summary, she had an MRI that showed a Baker's cyst rupture plus osteoarthritis.
> . . .
>
> 1. The patient is doing well. I think part of the symptomology the patient is having after the accident has improved.
> The knee has a chronic problem and we discussed with the patient that the injection will provide a temporary relief and the only procedure that can provide a longstanding relief and range of motion [is] the total knee arthroplasty.
> She would like to discuss surgical treatment, recommended to see Dr. Pruitt with her regular health insurance to discuss total knee arthroplasty.
> . . .
>
> With a reasonable degree of medical certainty, I am considering the patient has reached maximum medical improvement for the exacerbation of pre-existing conditions especially in the knee with severe knee osteoarthritis. She might pursue ultimate treatment for the osteoarthritis with arthroplasty on her regular health insurance.
>
> WORK STATUS
> Full duty.
>
> IMPAIRMENT RATING
> Patient is entitled to 0% permanent impairment as a whole person. Based on the Guides to Evaluation of Permanent Impairment. Fourth edition.

[*Id*. at 316 to 317; see also the same record blue-backed to this Opinion.] Dr. Vargas provided the claimant with a full-duty work release note that same day.

The claimant then returned to Dr. Burrell's clinic on 1 February 2024. The note from that visit includes, in part, the following:

> HPI
> … Patient successfully underwent surgery and was doing her therapy. Once completion of therapy patient was doing fine. Patient was involved in breaking up an altercation at the school she teaches at between 2 students. In an attempt to separate the kids she reinjured her knee. Again patient states she was doing moderate recreational activities following her knee arthroscopy and physical therapy. Patient was sent to other orthopedic places for the injury. Patient has continued to have discomfort and pain in the knee despite knee aspiration and injection which she received at OrthoArkansas. Patient is accompanied by her husband on today.
>
> PHYSICAL EXAM
> Left lower extremity (left knee): Minimal effusion. Positive tenderness palpation medial joint line. Negative tenderness to palpation lateral joint line. Knee stable to varus and valgus stress. Range of motion is decreased and painful compared to the contralateral side. Crepitus. Pain with loading the patella and quadriceps contraction. Healed arthroscopic portals.
> . . .
>
> DIAGNOSIS
> 1. Left knee pain
> Plan: At this time it is reasonable to believe that patient was doing fine after her knee arthroscopy however the knee was reinjured/aggravated from the injury that she sustained at work. Since that time patient has not been as active as she was leading up to September 2023. After review of the new X-rays and old arthroscopy pictures we recommend that patient undergo left total knee arthroplasty seeing that patient's injections etc. are not adequately addressing patient's discomfort.
> 2. Work-related injury
> 3. Chondromalacia of left knee
> 4. Effusion of left knee
> 5. Osteoarthritis of left knee

[Cl. Ex. № 1 at 38-41.]

She was seen by Dr. Burrell again on 22 March 2024. The note from that visit includes, in part, the following:

> CHIEF COMPLAINT
> Left knee pain.
>
> HPI
> … Patient is known to the orthopedic clinic for undergoing left knee arthroscopy back in May of last year. Patient underwent successful surgery and was in therapy. Once patient was finished she was doing fine. Patient had to break up an altercation between 2 students where she teaches. Following this, patient had pain in the knee. Patient was seen for an injection

> of the knee at outside facility. Patient was sent here based on injury she received while at work.
>
> DIAGNOSIS
> 1. Left knee pain
> Plan: I had a long discussion with the patient in clinic today regarding the nature of the problem and imaging findings. I have discussed possible treatment options to include continued conservative treatment measures versus surgical management. The surgery I have offered would include left total knee arthroplasty with Mako robotics. After going over and discussing the risks, benefits, and alternatives of the above-mentioned procedure the patient would like to think about it and discuss it with family. I believe this is reasonable in light of the patient's continued pain despite previous conservative treatment measures […].
> 2. Osteoarthritis of left knee.
> 3. Contusion of left knee.
> 4. Effusion of left knee.
> 5. Work related injury.

[*Id.* at 43-46.]

The claimant proceeded with the total left knee replacement on 22 April 2024. Following the initiation of this litigation, the claimant provided a questionnaire to Dr. Burrell regarding the claimant's treatment(s). His response was signed but not dated. He generally related her complaints of knee pain to her workplace accident. He stated that he believed within a reasonable degree of medical certainty that the claimant's workplace accident aggravated her pre-existing knee pain. His other responses included:

> Q: Was the on-the-job injury on or about September 22, 2023, the major cause for the claimant's need for treatment?
> A: Yes, because she was doing fine prior. Y'all sent her to another facility where they injected and drained her knee.

and

> Q: Do you have an opinion whether the on-the-job injury on September 22, 2023, contributed more than 50% to the claimant's need for a knee replacement? If so, please specify your opinion "Within a Reasonable Degree of Medical Certainty." Was the on-the-job injury the major cause for the need for treatment?
> A: In my opinion if she went to work fine and was doing fine then the altercation occurred following this event she had onset of pain and discomfort then sure this [the remainder of the answer is not legible].

[*Id*. at 53-55.]

Dr. Vargas also provided an opinion in response to questions from the respondents. His letter, dated 14 April 2026, relayed the following:

> Q: Is a left total knee replacement a reasonable and necessary treatment for this claimant?
> A: The claimant, Ms. McCuller-Silverman, has documented, via MRI, mild to moderate tricompartmental osteoarthritis of the left knee. Therefore, total knee arthroplasty is considered definitive treatment for this chronic, irreversible condition, especially when conservative measures have failed to improve her quality of life.
>
> Q: If a total knee arthroplasty is a reasonable and necessary treatment for the claimant, is it causally related to her work accident on 09/22/23?
> A: The patient experienced an incident that was more likely than not to aggravate her preexisting left knee osteoarthritis. Her acute left knee pain improved following treatment. As a result, she reached maximum medical improvement, and no further treatment is indicated for the work-related injury.

[Resp. Ex. № 1 at 399.]

DISCUSSION

The claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical benefits in relation to her accepted left knee injury. Specifically, the respondents are not liable for the total left knee arthroplasty that the claimant underwent after she was released from care at maximum medical improvement (MMI). Additionally, the claimant has failed to prove that she is entitled to TTD benefits for the period between 30 June 2024 and 19 August 2024. Because she has failed to prove an entitlement to any indemnity benefits, her claim for an attorney's fee must also fail.

Before discussing the issues noted above, I must address the claimant's credibility. I did not find her to be a credible witness. It is not uncommon to encounter a claimant-witness who cannot recall from memory the specific date of a specific encounter. I do not consider a witness' confusion or un-jogged memory to necessarily call their credibility into question. But the claimant here, despite contrary medical records, plainly refused to

acknowledge presenting for treatment with complaints of left knee pain and concerns about possibly injuring or reinjuring that knee about a month before her workplace accident. She refuted the notion that evidence of her subjective reporting of pain and complaints at that time had any relation to her contrary testimony about *not* experiencing any difficulty with her left knee before her workplace accident occurred. Her demeanor plainly displayed that she knew that the inconsistent records did not suit her version of events. The respondents effectively impeached her credibility with their examination around those records. Her lack of forthrightness and general demeanor in discussing that obvious contradiction of her offered testimony versus contemporaneously recorded medical evidence compels me to consider her narration around other subjective reports to be suspect.

A. THE CLAIMANT FAILED TO PROVE THAT THE TOTAL LEFT KNEE ARTHROPLASTY SHE UNDERWENT AFTER HER RELEASE AT MAXIMUM MEDICAL IMPROVEMENT WAS REASONABLE OR NECESSARY TREATMENT IN CONNECTION WITH HER COMPENSABLE INJURY.

The claimant believes that she is entitled to additional medical benefits beyond the treatment already provided and after her full-duty release at MMI on 26 January 2024. Specifically, she seeks to hold the respondents liable for benefits associated with a total left knee arthroplasty that she underwent on 22 April 2024. Employers must promptly provide medical services which are reasonably necessary in connection with the compensable injuries. Ark. Code Ann. § 11-9-508(a). However, injured employees have the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). What constitutes reasonable and necessary medical treatment is a fact question for the Commission, and the resolution of this issue depends upon the sufficiency of the evidence. *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 924 S.W.2d 790 (1996). A claimant may be entitled to additional treatment even after her healing period is ended, if that

treatment is geared towards management of a compensable injury. *Patchell, supra*. In order to prove her entitlement to additional treatment, the claimant here must prove that the treatment is causally related to her stipulated compensable knee injury. *See Pulaski Cty. Spec. Sch. Dist. v. Tenner*, 2013 Ark. App. 569, 2013 Ark. App. LEXIS 601.

The record indicates a well-documented history of diagnosed left knee osteoarthritis and accompanying complaints of pain. A review of the timeline drawn from the claimant's medical records is instructive: Dr. Williams noted on 17 March 2017 that the claimant had already been diagnosed by Dr. Burrell with osteoarthritis in her knees. Clinic notes routinely indicated a BMI of 40 or more and referrals for dietary counseling. The claimant's first visit note in evidence from Dr. Burrell relates to an appointment on 10 January 2019, where he described the claimant's report of left knee pain and documented his physical examination of her left knee. Afterwards, regular visit records indicated conservative treatment efforts, including injection therapy, to address her ongoing complaints of pain and problems associated with osteoarthritis in the left knee. She eventually underwent an arthroscopic medial meniscectomy and chondroplasty of the patellofemoral compartment and lateral compartment with Dr. Burrell on 31 May 2023.

She presented for her initial post-procedure physical therapy visit on 5 June 2023; the records show that she continued with physical therapy until at least 29 June 2023. Then, on 8 August 2023, she presented again to Dr. Burrell's clinic. She reported that she had been doing fine after completing physical therapy but that she was concerned that she might have reinjured her knee getting out of her truck. She was experiencing pain and swelling in her knee again. Dr. Burrell gave her another injection and recommended repeating an MRI if she continued to experience problems.

The claimant's workplace accident then occurred on 22 September 2023. She reported the incident on 25 September 2023 and apparently was sent for X-rays that day. There are no clinic notes associated with the imaging report from that day; the X-rays revealed degenerative findings. She then began treating with Dr. Vargas on 2 November 2023 in relation to her accepted left knee injury. He saw her again on 30 November 2023, 15 December 2023, and then on 26 January 2024, when he released her to full duty with no permanent impairment and placed her at MMI. She then returned to Dr. Burrell's care after that release and eventually underwent a total knee replacement.

Based on my review of the record, the claimant has failed to prove that the total knee replacement procedure she ultimately underwent was causally related to her stipulated compensable knee injury. The claimant fell at work on 22 September 2023; and the respondents accepted a medical-only claim of a left knee injury. When she eventually presented to Dr. Vargas for treatment, he acknowledged from the outset that the claimant had a pre-existing, chronic, and symptomatic condition in her left knee. His records reflect that he carefully considered her established history and her condition during the course of his evaluations and treatment. He saw her several times and ordered additional MRI imaging during the course of her treatment. He ultimately stated that her after-accident complaints were an exacerbation of her pre-existing condition and that she had returned to her pre-accident baseline condition following appropriate treatment. As cited above, he went on to explain:

> The knee has a chronic problem and we discussed with the patient that the injection will provide a temporary relief and the only procedure that can provide a longstanding relief and range of motion [is] the total knee arthroplasty. She would like to discuss surgical treatment, recommended to see Dr. Pruitt with her regular health insurance to discuss total knee arthroplasty.

He went on to state that the claimant had reached MMI, and that he was releasing her with no restrictions or impairment rating. He did not discount that the claimant might benefit from a total knee replacement. But he appropriately noted that she could pursue that option through another provider and under her regular health insurance. The claimant's testimony around that last visit differs significantly. She testified that Dr. Vargas explained to her that she needed knee replacement *as a result of her workplace accident* and that their physician-patient relationship only ended because she declined to schedule that surgery with him and his team. I recognize also that while the claimant testified that it was during that 26 January 2024 visit that Dr. Vargas first told her that she needed to pursue surgery, Dr. Williams was made to have the impression during their 14 December 2023 visit that the claimant was already "going to have a total knee." Nothing in Dr. Vargas' previous visit notes indicated that he was considering moving forward with a total knee replacement. But the claimant agreed in her testimony that she had already had a discussion about a total knee *with Dr. Burrell* even before the workplace accident.

The record includes letters from Dr. Vargas and Dr. Burrell that offer differing opinions on the relationship between her work accident and her eventual knee replacement surgery. The Commission is authorized to accept or reject a medical opinion and is authorized to determine its medical soundness and probative value. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002). I find that Dr. Vargas' opinions carry greater evidentiary value. He clearly stated that a knee replacement is the definitive treatment for a patient with chronic and symptomatic conditions like the claimant's. He went on to discern that her complaints, while likely related to a temporary exacerbation of her condition, were addressed by the treatment that was offered. She was thus returned to her pre-incident baseline of having a chronic and symptomatic condition. His clinic visit notes reviewed her history and related her complaints to objective findings. He

acknowledged that the claimant might benefit from a knee replacement but related that potential need to her pre-existing condition. I believe that his assessment of her reaching MMI and not requiring additional treatment for the work-related injury was credible. Accordingly, I assign significant evidentiary weight to Dr. Vargas' contemporaneous opinion of the claimant's condition in January of 2024 and his subsequent opinion regarding the causality of the claimant's need for a total knee replacement surgery that she underwent after being released from his care.

Dr. Burrell, conversely, relied on the claimant's subjective telling of what she experienced and when, stating, "if… then sure…." He only acknowledged a vague, plausible connection between the accident in September of 2023 and the surgery in April of 2024. His letter does not account for the span of time between the accident and her eventually seeking treatment with Dr. Vargas in November of 2023. He discounted the chronicity of the claimant's condition, he disregarded that they (he and the claimant) had already established (before the accident) that she was a candidate for total knee replacement; and he did not acknowledge that she presented to his clinic (once again) in the month before her accident and in enough pain that he (again) provided her with an injection, even after her first surgery. Importantly, Dr. Burrell's physical examination of the claimant's knee was *exactly the same before she underwent the replacement surgery in 2024 as it was back in 2019*, except for the inclusion of visible scarring from the arthroscopic procedure he performed in 2023. Assigning significant evidentiary weight to Dr. Burrell's noncommittal opinion of what *might* have been causally related to the claimant's decision to proceed with knee replacement surgery would require me to engage in speculation and conjecture, and that I cannot do. *Dena Constr. Co. v. Herndon*, 264 Ark. 791, 575 S.W.2d 155 (1979).

The record evidences a long history of a chronic, degenerative knee. The claimant complained of some symptoms relating to the same after her workplace accident. After

carefully considering the claimant's condition, Dr. Vargas appropriately placed her at MMI, and he released her from his care as not requiring additional treatment. Again, I find his opinion to be credible. The claimant has failed to prove by a preponderance of the evidence that the left total knee arthroplasty was reasonable and necessary treatment in connection with her stipulated compensable injury.

B. THE CLAIMANT IS NOT ENTITLED TO TTD BENEFITS.

The claimant's compensable left knee injury is a scheduled one. Ark. Code Ann. § 11-9-521(a)(4). An employee who has sustained a compensable scheduled injury is entitled to TTD benefits "during the healing period or until the employee returns to work, whichever occurs first." *Wheeler Const. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (2001). A claimant must prove her entitlement to TTD benefits by a preponderance of the evidence. Ark. Code Ann. § 11-9-705(a)(3).

The claimant seeks TTD benefits for a period of time during which she claims that she was healing from knee replacement surgery. Because she has failed to prove by a preponderance of the evidence that her knee replacement surgery was reasonably necessary treatment associated with her compensable injury, her accompanying claim for TTD benefits must fail. She failed to prove by a preponderance of the evidence that she entered a new healing period associated with her compensable injury.

C. THE CLAIMANT IS NOT ENTITLED TO AN ATTORNEY'S FEE.

Because she has failed to prove by a preponderance of the evidence that she is entitled to any indemnity benefits, the claim for an attorney's fee must fail.

IV. CONCLUSION

The claimant has failed to prove by a preponderance of the evidence that the knee surgery she underwent was reasonable and necessary treatment related to her compensable injury. Her claim for TTD benefits associated with her time in recovery from that surgery

fails, accordingly. Her claim for an attorney's fee must similarly fail. This claim for additional benefits is denied.

SO ORDERED.

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JAYO. HOWE
ADMINISTRATIVE LAW JUDGE