BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H507508

KAYLA PARTIAN, Employee	CLAIMANT
TWIN LAKES THERAPY & LIVING CTR, Employer	RESPONDENT
CCMSI, Carrier	RESPONDENT

OPINION FILED SEPTEMBER 15, 2026

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Mountain Home, Baxter County, Arkansas.

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

Respondents represented by MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On June 17, 2026, the above captioned claim came on for a hearing at Mountain Home, Arkansas. A pre-hearing conference was conducted on April 27, 2026, and a Pre-hearing Order was filed on April 28, 2026. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

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

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

2. The relationship of employee-employer-carrier existed between the parties on May 19, 2025.

3. The respondents have controverted the claim in its entirety.

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

1. Whether Claimant sustained a compensable injury to her lumbar spine on or about May 19, 2025.

2. Whether Claimant is entitled to medical treatment for her lumbar spine injury.

The claimant's contentions are as follows:

> "The Claimant contends that she sustained a compensable injury to her left leg and lower back while performing employment services for the respondent employer.
>
> The Claimant contends that she is entitled to past TTD benefits (dates to be determined).
>
> The Claimant contends she is entitled to an impairment rating and related PPD benefits."

The respondents' contentions are as follows:

> "Respondents contend that Claimant did not suffer a compensable injury on or about 5/19/25. Respondents contend that the claimant's need for medical treatment, if any, is related to preexisting and underlying problems and not an acute injury."

The claimant in this matter is a 31-year-old female who alleges to have sustained a compensable injury to lumbar spine on or about May 12, 2025. I note the prehearing order states her allegations of injury on May 19, 2025, however, in direct and cross examination, the claimant testified that she alleges her lumbar spine injury to have occurred on or about May 12, 2025. Following is a portion of the claimant's direct examination testimony about her alleged lumbar spine injury:

> Q And what I want you to do now, Kayla, is I just want you to tell Judge Wells in your own words what happened to you on May the 12 of '25?
>
> A Yes, sir. I was giving this little lady – she was about 50 to 60 pounds – a shower, and we were in the shower room, and I gave her a shower. And towards the end she was crying and didn't want to walk, and I knew I couldn't put her in a wheelchair because she

rocked too hard. So I carried her about 100 feet. And then I started feeling sciatica pain down my left leg and in my neck. And so I put her down. And I was hurting pretty bad after that. And then someone helped me walk her to her room. And then after that, I tried to find Jessica.

Q And Jessica is the lady who's sitting next to Respondents' counsel; is that correct?

A Yes, sir.

Q Okay. And did you find Jessica?

A Yes, I did.

Q And did you file – did you tell her about the injury?

A Yes, sir.

Q And what was the response?

A That I was going to get fired if I did a workmen's comp claim, and she was very angry.

Q Did she say anything about a policy that you'd broken, too?

A Yes, sir.

Q What is that policy?

A I have no idea. She just told me I broke a policy and that I wasn't going to get workman's comp.

Q Okay. And after that, you did go to the doctor; is that correct?

A Yes, sir.

Q First you went to Boston Mountain in Yellville?

A Yes.

Q Is that the first place you went?

A Yes. That's where they suggested me to go.

Q Who's they?

A Twin Lakes.

Q Okay. Was that Jessica that said that, or was it –

A Yes, Jessica.

The respondent called Jessica Gilbert as a witness in this matter who serves as the personnel director for the respondent. Following is a portion of her direct examination testimony about her interaction with the claimant on May 12, 2025:

Q When Ms. Partain came on May 12th to report her alleged injury to you, do you remember that date, first of all?

A I do remember.

Q Tell us what you remember about the conversation.

A I remember her coming in and saying that she was carrying a resident out of the bath. I don't remember what shower room or anything it was. And that she said she hurt her back. The resident was very small. So I just made sure it was her. But there wasn't any like indication like that she was like in pain or anything, but we did workers' comp. I always do workers' comp, even for like a little bee sting. I've done it before on that.

Q When you say do workers' comp, what do you mean?

A We have to do ICE, so paperwork on it, drug tests, and then that kind of stuff.

Q Is there any policy at Twin Lakes about carrying patients?

A Yes, ma'am, there is.

Q What is that policy?

A We have a lifting transfer policy which is signed by every employee at orientation. And it's talked about in there in orientation the first day.

Q Is carrying the patients allowed?

A No, ma'am.

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Q How long have you done HR all together?

A All together for Reliance, 11 years.

Q Why is it important to not tell an employee something like they would be fired for filing a claim?

A That's very illegal.

Q Did you talk to her at all about possibly violating the policy about carrying the patient?

A I did. That it was against our lifting transfer policy.

Q Was she crying on the date that she claimed she was hurt?

A No, ma'am.

Q She claims that you harassed her to try to make her go back to work. Did that ever happen?

A No, ma'am.

The claimant testified that she was sent by the respondent to a medical care facility called Boston Mountain. There she underwent an x-ray and according to her testimony, she was returned to work. However, no medical records from Boston Mountain were introduced into evidence by either party. The claimant testified that she went on her own to the emergency room in Mountain Home due to continued pain. However, no medical records are in evidence regarding her emergency room visit.

The first medical record in evidence following the claimant's alleged lumbar spine injury of May 12, 2025, is dated June 9, 2025, when she was seen by Dr. Allan Gocio. Following is a portion of that medical record:

HPI:
This patient presents on today's date which is 6/9/2025 reporting an injury that occurred 5/16/2025 at work. Patient was lifting a patient developed abrupt onset of neck and low back pain, also left sciatica. Patient has had previous lumbar disc surgery in December 2021 with good results. Treatment has included anti-inflammatory medication, pain medication, heat, ice. Patient describes intermittent pain rated at 8/10, patient describes occasional sleep disturbance because of the pain. Pain is made worse with squatting, climbing stairs, reaching, sitting, standing, walking. Patient gets temporary relief with rest, medication, heat, lying down.

Imaging: Cervical spine x-rays show straightening of the cervical curve with multilevel spondylosis that is mild, CT scan of the lumbar spine shows degenerative disc disease at L4-5 with moderate stenosis L4-5, foraminal stenosis L5-S1 bilateral.

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Assessment:
Bulging lumbar disc
Lumbosacral disc herniation
Degeneration of intervertebral disc of lumbar region
Lumbar stenosis without neurogenic claudication
Other chronic pain
Lumbar postiminectomy syndrome
Cervical spondylosis
Sciatica of left side

Plan:
Treatment:
Sciatica of left side:
Notes: Patient symptoms and clinical reviewed, treatment options discussed. Updated imaging reviewed, I recommended symptomatic management with physical therapy, medication, restriction from work activity, return visit 3 weeks. Additional imaging may be needed if symptoms are not improved with current treatment.

Others:
Start Hydrocodone-Acetaminophen Tablet, 75.-325 mg, 1 tablet as needed. Orally, bid for pain, 30 days, 60 tablets, start date: 6/9/2025, stop date: 7/9/2025, refill 0.

On July 31, 2025, the claimant underwent an MRI of the lumbar spine at Baxter Health Neurosurgery and Spine Clinic, Mountain Home at the recommendation of Dr. Gocio. Following is a portion of that diagnostic report:

> MRI Lumbar Spine w/o Cont
> Straightening of the lumbosacral spine is disc desiccation at the L3-4 and L4-5 levels bony spurs present and this causes central canal narrowing. Patient's undergone surgery at the L4-5 and L5-S1 levels. No compression fractures noted.
>
> Postsurgical changes and there is still central canal neural foraminal narrowing at the L3-4 and L4-5 levels. L5-S1 level reveals bilateral neural foraminal narrowing left greater than right. There is no severe right neural foraminal narrowing at the L4-5 level and at the L3-4 level. There is bilateral neural foraminal narrowing and moderate central canal narrowing.
>
> No compression fractures or herniated discs are noted.

On August 4, 2025, the claimant was seen again by Dr. Gocio. Following is a portion of that medical record:

> HPI:
> This patient presents on today's date which is 6/9/2025 reporting an injury that occurred 5/16/2025 at work. Patient was lifting a patient developed abrupt onset of neck and low back pain, also left sciatica. Patient has had previous lumbar disc surgery in December 2021 with good results. Treatment has included anti-inflammatory medication, pain medication, heat, ice. Patient describes intermittent pain rated at 8/10, patient describes occasional sleep disturbance because of the pain. Pain is made worse with squatting, climbing stairs, reaching, sitting, standing, walking. Patient gets temporary relief with rest, medication, heat, lying down.
>
> Imaging: Cervical spine x-rays show straightening of the cervical curve with multilevel spondylosis that is mild, CT scan of the lumbar spine shows degenerative disc disease at L4-5 with moderate stenosis L4-5, foraminal stenosis L5-S1 bilateral.
>
> Patient returns for follow-up visit on today's date which is 7/7/2025. Patient describes continued neck pain, low back pain, she was unable to benefit from physical therapy because of

increased pain, she did not attend several sessions that were scheduled because of pain even in traveling to get treatment. MRI scans of the cervical and lumbar region have been requested, these have been denied due to lack of physical therapy. Patient describes no change in symptomology, additional imaging reviewed patient has multilevel disc degeneration with facet arthropathy, foraminal stenosis that is likely cause of symptomology. Will request MRI scan cervical and lumbar, return after the studies have been obtained.

This patient returns for follow-up visit on today's date which is 8//2025. Patient has undergone updated MRI scan of the lumbar spine, cervical spine. She has multilevel disc degeneration and spondylosis in the cervical area, worse at C4-5, C5-6 but no clear spinal cord or nerve compression. In the lumbar area patient has degenerative disc disease that has worsened at L4-5, L5-S1 especially, there is foraminal stenosis L5-S1 bilateral, L4-5 left with central stenosis. Facet arthropathy is prominent.

Based on current findings I have offered minimally invasive transforaminal lumbar interbody fusion L4-5 left, L5-S1 right, foraminotomies L4-5 right, L5-S1 left with minimally invasive approach. Posterolateral fusion with pedicle screws L4, L5, S1 bilateral utilizing Mazor approach.

The expected risk, expected benefits, expected outcomes, possible complications of surgery have been discussed. All questions and concerns addressed, patient would like to proceed with the surgery that has been offered.

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Assessment:
Bulging lumbar disc
Lumbosacral disc herniation
Lumbar stenosis without neurogenic claudication
Other chronic pain
Cervical spondylosis
Sciatica of left side

Plan:
Treatment:
Lumbar stenosis without neurogenic claudication
Notes: Patient symptoms and clinical findings reviewed, response to treatment discussed. Patient has had significant progression of disc degeneration L4-5, L5-S1 with disc bulging, foraminal

> stenosis, mild to moderate disc degeneration at L3-4 has not progressed significantly.
>
> Patient continues with back hip and leg pain with bilateral sciatica despite nonsurgical measures including physical therapy which actually made her pain worse. Based on current findings, it symptoms and imaging studies have recommended minimally invasive transforaminal lumbar interbody fusion L4-5 left, minimally invasive transforaminal lumbar interbody fusion L5-S1 right, posterolateral decompression minimally invasive L4-5, L5-S1 bilateral, posterolateral fusion with pedicle screws and rods L4, L5, S1 bilateral utilizing image guided stereotactic navigational robotic approach with Mazor robot. Patient will need Mazor CT for surgical planning.

On August 29, 2025, the claimant underwent surgical intervention at the hands of Dr. Gocio. Following is a portion of that operative report:

> Indication for Surgery
> Low back bilateral hip and leg pain, left sciatica. Patient had previous laminectomy but continued to have back, hip and leg pain despite medical and physical measures. Imaging revealed advanced spondylosis with foraminal stenosis, disc degeneration L4-5, L5-S1 with flattening of the lumbar curve. Patient was offered lumbar fusion surgery minimally invasive approach.
>
> Preoperative Diagnosis
> Bulging lumbar disc, lumbosacral disc herniation, lumbar stenosis without neurogenic claudication, other chronic pain, sciatica of left side, bleeding tendency.
>
> Postoperative Diagnosis
> Bulging lumbar disc, lumbosacral disc herniation, lumbar stenosis without neurogenic claudication, other chronic pain, sciatica of left side, bleeding tendency.

I note on cross examination the claimant was asked about the results from her August 29, 2025, surgery by Dr. Gocio. Following is her testimony:

> Q I asked you in the deposition whether the surgery that Dr. Gocio performed helped at all. You said it did not; is that correct?
>
> A Yes, ma’am.

> Q I asked if it helped anything, any of your symptoms. You said no; is that right?
>
> A Yes, ma'am.

On May 4, 2026, Dr. Gocio authored a letter, To Whom It May Concern, regarding the claimant's treatment with him as follows:

> Kayla Partain is a patient of mine. Her past history involved a back surgery by myself on or around December of 2021 which resulted in a successful outcome and recovery after she had fallen out of a shower.
>
> However, approximately four years later on or around May 12, 2025, while working at Twin Lakes Therapy and Living, Ms. Partain was injured while lifting and carrying a patient after giving a shower to one of her patients. The circumstances at that time was that she was required to carry the lady patient down the hallway to the patient's bedroom. However, during that trip while carrying the patient, Ms. Partain felt a sharp pain down her left leg requiring her to set the patient down in the hallway because of the pain.
>
> Three months later, on or around August 29, 2025, her condition required me to perform an interbody fusion to her back at L4/5 left and L5/S1 right. Therefore, it is my sincere belief based upon the history given by her that within a reasonable degree of medical certainty the major cause (greater than 50%) of her need for this surgery and her subsequent disability resulted from her work-related injury on or around May 12, 2025, which clearly triggered her need for the surgery and resulting disability.

In order to prove a compensable injury as the result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish by a preponderance of the evidence (1) an injury arising out of and in the course of employment; (2) the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury; and (4) the injury was caused by a specific incident identifiable by time and place of occurrence. *Odd Jobs*

and More v. Reid, 2011 Ark. App. 450, 384 S.W. 3d 630.

The claimant is able to prove objective medical findings of derangement in her lumbar spine as evidenced by her July 31, 2025, lumbar spine MRI and Dr. Gocio's August 29, 2025, operative note regarding her lumbar spine surgery. The claimant must also be able to prove a causal connection between those objective medical findings and May 12, 2025, compensable lumbar injury she alleges.

The claimant first underwent lumbar spine surgery in December of 2021 at the hands of Dr. Gocio. This surgery, as testified to by the claimant, was the result of a fall in her shower at home. On direct examination the claimant testified that she had a successful lumbar spine surgery in December 2021 as follows:

> Q And had Dr. Gocio treated you before?
>
> A Yes. Four years prior. But I hadn't seen him since after that surgery.
>
> Q He did a surgery in December of 2021 – around December of 2021?
>
> A Yes, sir.
>
> Q And was that to your back?
>
> A Yes.
>
> Q And was it successful?
>
> A Yes, it was.
>
> Q Did you have any –
>
> A I worked –
>
> Q -- issues –
>
> A -- full time after that.

Q I'm sorry.

A I'm sorry.

Q You worked full time after that?

A Yes, sir.

Q How long were you off after that surgery; do you remember?

A Six weeks.

The claimant was also asked on cross examination about chiropractic care, other lower back issues, and whether she received treatment for her lower back after her release from Dr. Gocio from her December 2021, surgery until the May 12, 2025, incident she now alleges as follows:

Q Okay. I had asked in your deposition if you've ever been to a chiropractor, and you told me you had not; is that correct?

A Yes.

Q That fall at home in the shower, was that the only injury you've had to your lower back prior to the one you're claiming at –

A Yes.

Q -- Twin Lakes? You indicated in your deposition that after Dr. Gocio released you in early '22 that you had no treatment at all until this surgery at Twin Lakes; is that right?

A Yes, ma'am.

Q You had no followup of any kind after his release in early '22; is that right?

A No, I have not had another followup.

While the claimant testified at the hearing and in her deposition submitted as Joint Exhibit 1 that she had never undergone any chiropractic care, medical records introduced into evidence by both the claimant and the respondent are contrary to the claimant's testimony. A June 7, 2021, record from Access Medical states, "Patient here to establish care, c/o back pain, states she has a bulging disc and doesn't want to go to a chiropractor any longer, having increased frequency of urination, cloudy urine, is afraid she has a UTI." … "Patient has an increase in back pain with radiation down the right leg. She has had chiropractic care, home PT, anti-inflammatory medication, and has not had improvement. I will order an MRI of her lumbar."

A medical report found at Claimant's Exhibit 1, page 1, and dated August 9, 2021, states, "Patient has had physical therapy in the past without benefit. She has had chiropractic treatment as well, this made her pain worse and precipitated right lower extremity pain." However, the claimant continued to deny any chiropractic care throughout her testimony.

The claimant's testimony also contradicts medical records regarding low back difficulties after she was released from Dr. Gocio from her December 2021 lumbar spine surgery and prior to her current lumbar spine injury. A medical record from April 9, 2024, from Access Medical Clinic states, "Patient reports chronic back pain after two back surgeries." Another medical record from Access Medical dated December 3, 2024, states under the "Review Problems" section, "Chronic back pain onset 12/3/2024." … "Suffers from chronic lower back pain. I have sent in a medical marijuana evaluation for her to the Pain Clinic in Mountain Home per her request." Another Access Medical record dated December 27, 2024, includes a referral for physical therapy due to the claimant's chronic back pain. The claimant was seen at Hometown Behavioral Health in Mountain Home on January 20, 2025, for an initial evaluation. That

medical report states, “Kayla struggles with sleep due to chronic back pain. She uses muscle relaxants for help with this.” Clearly, the claimant did continue to struggle with chronic back difficulties contrary to her testimony to the Commission.

The claimant’s MRI of her lumbar spine dated July 12, 2021, which follows, indicates very similar issues in her low back to those issues she is currently alleging.

> Impression:
> Markedly abnormal findings with disc disease at the L3-4 and L4-5 levels causing central canal and neural foraminal stenosis especially on the right side at the L4-5 level as well as the right side at the L3-4 level. There is herniated nucleus pulposus at both of these levels. Follow-up with spine surgeon is recommended.

Dr. Gocio, in his May 4, 2026, letter regarding the claimant’s lumbar spine condition indicates that he believes the claimant’s alleged work injury is “greater than 50% of her need for this surgery.” However, Dr. Gocio also makes clear in that letter that he is basing his opinion “upon the history given by her.” It reasonable that the claimant gave Dr. Gocio the same inaccurate history that she provided to the Commission while under oath.

The credibility of witnesses and the weight to be given to their testimony are matters solely within the province of the Commission. *Ringier America v. Combs*, 41 Ark. App. 47, 849 S.W.2d 1 (1993).

The claimant is unable to prove a causal connection between her alleged May 12, 2025, work injury and the objective medical evidence of derangement in her lumbar spine. The claimant’s testimony is low in credibility, and I find it is more likely that her current back difficulties are a result of her chronic low back problems seen her medical records and denied in testimony by the claimant. The claimant is unable to prove that she sustained a compensable lumbar spine injury on or about May 12, 2025.

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

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on April 27, 2026, and contained in a Pre-hearing Order filed April 28, 2026, are hereby accepted as fact.

2. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury to her lumbar spine on or about May 12, 2025.

3. The claimant has failed to prove by a preponderance of the evidence that she is entitled to medical treatment for her alleged lumbar spine injury.

ORDER

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

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

IT IS SO ORDERED.

HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE