

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H404860

DANNIE TOWNLEY, Employee	CLAIMANT
HILAND DAIRY CO., LLC, Employer	RESPONDENT
CCMSI, Carrier	RESPONDENT

OPINION FILED DECEMBER 9, 2025

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant represented by EDDIE H. WALKER, Attorney at Law, Fort Smith, Arkansas.

Respondents represented by ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On September 18, 2025, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on July 14, 2025, and a Pre-hearing Order was filed on July 15, 2025. 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 July 19, 2024.
3. The claimant sustained a compensable injury to his left knee, left ankle, and left foot on or about July 19, 2024.

4. The claimant was earning sufficient wages to entitle him to compensation at the weekly rates of \$848.00 for temporary total disability benefits and \$636.00 for permanent partial disability benefits.

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

1. Whether Claimant is entitled to additional temporary total disability benefits from March 25, 2025, to September 28, 2025, or in the alternative, whether claimant is entitled to A.C.A. §11-9-505(a) benefits.

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

The claimant's contentions are as follows:

“a. The claimant contends that he is entitled to additional temporary total disability benefits on or about March 8, 2025 until a date yet to be determined.

b. The claimant contends that if it is determined that he has reached MMI, he is entitled to benefits pursuant to ACA §11-9-505(a).

c. The claimant contends that his attorney is entitled to an appropriate attorney's fee on any indemnity benefits to which the claimant is entitled, that he has not already received.”

The respondents' contentions are as follows:

“1. The Respondents contend that the Claimant sustained primarily a left knee injury for which he underwent surgery by Dr. Justin Clayton on September 6, 2024, which has resulted in Dr. Clayton twice releasing the Claimant to Full Duty and assessing maximum medical improvement with a 2% point anatomical impairment rating that has been accepted and paid by Respondent. However, the Claimant's DOT Examiner placed work restrictions on the Claimant following each time Dr. Clayton released the Claimant to Full Duty. The Claimant works as a Transport Driver for the Respondent Employer, and that job requires a Full Duty Release from the DOT Examiner for the Claimant to be able to return to work for the Respondent Employer.

2. In light of the above, the Respondents contend that the Claimant is in no way entitled to additional temporary total disability benefits because his condition has plateaued, and he is at maximum medical improvement with the 2% impairment rating already assessed and paid. To the extent the Claimant has any further medical treatment such as additional surgery which requires the Claimant to re-enter the healing period, Respondents will reinstate all appropriately owed temporary total disability benefits. Thus, no additional temporary total disability benefits are owed at this time since the Claimant's conditions are plateaued and MMI has been achieved per Dr. Clayton.

3. With regard to Claimant's allegations of benefits pursuant to Arkansas Code Annotated §11-9-505(a), the Respondent Employer has in no way "unreasonably refused" to allow the Claimant to return to work. The job requirements for a Transport Driver are explicitly stated and have not changed in any way, and those job duties require a Full Duty release from a DOT Examiner in order for the Claimant to perform his job duties. The Claimant remains employed, and efforts continue to be made to determine what is necessary for the Claimant to obtain a Full Duty release from the DOT Examiner so that he can return to his job with the Respondent Employer as a Transport Driver. Accordingly, no benefits are owed pursuant to Arkansas Code Annotated §11-9-505(a).

4. Respondents concede that the Claimant is entitled to reasonably necessary medical treatment, and such medical treatment has in no way been refused or denied by Respondents.

5. Respondents concede that the Claimant's attorney would be entitled to an appropriate attorney's fee with regard to any indemnity benefits awarded to the Claimant beyond those which have been accepted and paid by the Respondents. However, Respondents affirmatively state that no attorney's fee would be owned in connection with subsequent temporary total disability benefits which might later come into play should the Claimant undergo further surgery which would result in the Claimant re-entering his healing period.

6. By way of alternative contention, the Respondents plead an offset for any group medical insurance or group short-term disability benefits paid to the Claimant or on his behalf. Respondents also assert an offset for an unemployment benefits paid to the Claimant, to the extent allowed under Arkansas law."

The claimant in this matter is a 41-year-old male who sustained compensable injuries to his left knee, left ankle and left foot on or about July 19, 2024. The claimant was employed by the respondent as a truck driver delivering dairy products. The claimant gave direct examination testimony regarding his July 19, 2024, incident as follows:

A The time of the injury?

Q Yes.

A How I got hurt? Well, I was at my last stop – no, I take that back. I was at my last stop for that trailer. Go to Walmart, Walmart on Rogers Avenue, the Neighborhood Market. And I did my usual, back the trailer in, went in, start unloading the trailer, and I got one or two pallets off. As we are going through there, the pallets have to be stacked on walls and stuff.

Then, I went to pick up another one, a full load of milk, and as I was backing up, I tripped and fell with the pallet, fell down on the ground.

Q And what part of your body did you injure?

A Well, the pallet jack ran over my foot and it went up my leg and then the pallet jack set up on top of my kneecap.

Q Did you end up seeing Dr. Clayton, an orthopedic surgeon, with the Mercy Orthopedic Department in connection with our knee?

A Yes.

On September 9, 2024, the claimant underwent surgical intervention for his compensable left knee injury at the hands of Dr. Justin Clayton. Following is a portion of that operative report:

PREOPERATIVE DIAGNOSIS: Left knee medial meniscus tear.

POSTOPERATIVE DIAGNOSIS: Left knee medial meniscus tear plus osteochondral defect of the medial femoral condyle.

PROCEDURES PERFORMED: Left knee arthroscopy with partial medial meniscectomy and left knee arthroscopic microfracture of an osteochondral lesion.

After surgery, the claimant underwent several weeks of physical therapy and on December 3, 2024, Dr. Clayton authored the following letter “To Whom It My Concern” regarding the claimant as follows:

Dannie Townley was seen in my clinic on 12/3/2024. Please excuse Dannie for his absence from work on this day to make the appointment.
He can return to work with no restrictions but should complete physical therapy for work hardening or job specific PT. Return to clinic in 6 weeks.

On December 9, 2024, the claimant underwent a DOT medical examination at the hands of Jacee Banning, APRN-CNP who determined the claimant did not meet DOT standards to drive giving the following specific reason, “weakness and limited ROM of the left lower extremity.”

The claimant continued physical therapy in December of 2024 and January of 2025 and was seen by Dr. Clayton on February 25, 2025. Following is a short progress note from that visit:

Chief complaint: Left knee pain.

History: This patient is currently in physical therapy after he had surgery for a work-related injury on his left knee. He reports that the only thing that he is really having difficulty with his deep bending and squatting they have been working on the some.

Exam: Patient ambulates unassisted in regular footwear he is apprehensive about deep bending of his knee.

Medical decision making: Postsurgical visit are not sure there is much else I can do for him at this point however I do think it reasonable for him to conclude his physical therapy. His certification ends in 2 weeks so I will see him in 2 weeks once he has concluded therapy. At that point we will need to either release him without restrictions or consider an FCE.

On March 18, 2025, the claimant again saw Dr. Clayton. Following is a progress note from that visit:

Chief complaint: left knee pain.

History: Patient is status post meniscectomy on the left knee. He reports that physical therapy has helped a lot. He reports that both he and the physical therapist think he could benefit from a little bit more therapy because he is just about to where he needs to be.

Exam: Patient's knee exam is largely unremarkable it is stable to stressing he ambulates in regular footwear without assistive devices.

Medical decision making: Left knee status post arthroscopy we will return him to work with no restrictions. Extend physical therapy for 2 weeks at which point he should be MMI. We would like an impairment rating in 2 weeks at the conclusion of his physical therapy and then he can come back to clinic so that we can sign off on that.

The claimant continued physical therapy and underwent another DOT medical examination on March 21, 2025. This examination was performed by Dominique Carver, APRN. The claimant, again, failed to meet the standards. The examiner specifically stated, "HTN; weakness and pain in the left; lower leg." The records in both the claimant's and respondents' exhibits are somewhat confused, but it appears that the claimant was examined by a DOT medical examiner on December 9, 2024; March 21, 2025; April 8, 2025; April 14, 2025; and April 25, 2025. It is undisputed by both parties that the claimant never was fully cleared by a DOT examiner to the point that the respondent would return him to work.

On May 15, 2025, the claimant was seen by Dr. James Brigance regarding his left knee difficulties. Following is a portion of that medical record:

Subjective

Patient ID: Dannie Gerald Townley Jr is a 41 y.o. male who presents for left leg pain.

Patient here to follow-up on chronic left knee pain. It has been awhile since he has been our clinic needs to reestablish care. He had an injury at work unloading a truck and had injury to his left knee which required meniscus repair about 9 months ago. He went to physical therapy and has been having ongoing evaluation by outside Orthopedics Dr. Clayton. He comes in today stating an needs referral to a new orthopedist because he is having trouble getting into Dr. Clayton. Does not have any insurance and is Osage tribal member. Reports continued left knee pain difficulty with extension and flexion and has not been able to pass a DOT physical to return to work.

Assessment & Plan

History of bucket handle tear of medial meniscus

Continued left knee pain after surgical intervention and meniscus repair about 9 months ago. Had an injury at work unloading a truck. Is requesting a 2nd opinion or follow-up with some of the orthopedist because he has had difficulty getting into his previous orthopedic surgeon Dr. Clayton who performed this surgery 9 months ago. I informed the patient that since he is not a Choctaw tribal member he is not eligible to see our orthopedic surgeon. We will in the meantime get x-ray of the left knee and repeat MRI to evaluate and consider outside referral for further evaluation as necessary. I will follow up on x-ray and MRI results as they return. Patient agrees.

Orders:

XR knee 3 views left; Future

MR knee left wo IV contrast; Future

On May 16, 2025, the claimant underwent an MRI of the left knee at the Talihina hospital. Following are the impressions from that diagnostic test:

Impression:

1. Horizontal-oblique signal abnormality in the posterior horn and body of the medial meniscus concerning for a meniscal tear. Given the clinical history of recent meniscal repair surgery, the signal abnormality could be related to postoperative changes. Clinically correlate with physical exam.
2. Minimal grade II chondromalacias along the articular surfaces of the medial femoral condyle and medial facet of the patella.
3. Small suprapatellar joint effusion.

4. Mild tendinosis of the biceps femoris tendon at its fibular attachment.
5. Focal small area of amorphous signal MLD in the infrapatellar fat pad near the midline of the joint likely representing developing arthrofibrosis related to recent arthroscopy.

On August 12, 2025, the claimant was seen at UAMS Orthopedics and Sports Medicine by Dr. Tyler Carllee. Following is a portion of that medical record:

Chief Complaint:

Left knee

History of Present Illness

Dannie Townley is a 41 y.o. year old male patient.

He is a new patient to my clinic. A large portion of his history is documented in the outside records media lab. He had a work related injury in July of 2024 where he fell in his truck and a lift ran over his leg. He has had knee pain, leg pain and foot pain since. He was diagnosed with a medial meniscus tear and had an arthroscopic medial meniscectomy with medial femoral condyle microfracture in September of 2024. He has done PT and had some improvement. He has persistent medial knee pain and swelling. He had a post op MRI that showed concern for a persistent medial meniscus tear. He was referred to us for a second opinion. He continues to have numbness on the top of his left foot. He has not had a steroid injection. He unfortunately does not have all records associated with his care today.

Imaging and Results

I reviewed a post operative MRI from May of 2025. This was all that was available today. This shows oblique T2 signal in the medial meniscus posterior horn. This looks to be a tear vs. post surgical changes. He has an effusion. There is a full thickness cartilage defect on the posterior medial femoral condyle with underlying subchondral edema measuring about 1cm in its largest diameter. There is early patellar chondromalacia. There is a moderate size effusion.

Assessment and Plan

41 year old with left knee and foot pain. I have concern for a persistent medial meniscus tear medially. He has paresthesia over the dorsal foot that may be related to a compressive neuropathy or mononeuropathy of the left.

I have asked him to get his arthroscopic photos if possible. I would like to be able to view his pre operative left knee MRI. I would like to see his CT scan of the foot and radiographs. I am ordering an EMG/NCS to evaluate his peripheral neuropathy symptoms. I will see him again after all of this can be done and discuss options for treatment including non operative and operative options.

Total time on the date of the encounter is : 45 minutes.

On August 20, 2025, the claimant was again seen by Dr. Carllee. Following is a portion of that medical record:

Subjective:

Dannie is a 41-year-old gentleman who returns today for his left knee. Since we last saw Ms. Undergone EMG nerve conduction study to evaluate for peroneal neuropathy. He has also obtain records including his previous surgery arthroscopic photos his preoperative MRI his preoperative CT scan of his foot and other radiographs available for review today.

Assessment and Plan:

41-year-old gentleman with a work related injury over a year ago. He has persistent pain and swelling in his knee. I think he has a meniscus tear that was incompletely resected and would recommend arthroscopic revision medial meniscectomy. I do not think an aggressive approach with his cartilage lesion will result in any benefit but chondroplasty may be indicated if he has any loose fragments or unstable flaps persisting on the medial femoral condyle. I do not think his peroneal nerves including his current symptomatology from a compression standpoint and thus I would not recommend any surgery for that. He may benefit from some neuropathic medication like gabapentin or Lyrica in the future if his symptoms do not improve. He is in agreement with our plan today. He would like to proceed with revision surgery. He understands risks benefits alternatives to surgery. Risks of surgery include by are not limited to incomplete relief of symptoms, progression of osteoarthritis, need for further surgery, pain and swelling, would complications and infection, bleeding, blood clot, neurovascular injury, risks of anesthesia and others. When repair or reconstruction is indicated there are risks for retear of the repaired or reconstructed structure.

I discussed his case independently with the case manager who was with him separately today. We will try to see if this is approved by worker's comp. He will keep his same work restrictions as last time.

Total time on the date of the encounter is: 38 minutes.

The claimant has asked the Commission to determine if he is entitled to temporary total disability benefits from March 25, 2025, to September 28, 2025, or in the alternative, whether he is entitled to ACA § 11-9-505(a) benefits.

A claimant who suffers a scheduled injury is entitled to receive temporary total or temporary partial disability benefits during their healing period or until they return to work, regardless of whether there is a total incapacity to earn wages. *Wheeler Construction Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W. 3d 822 (2001).

Dr. Clayton's March 18, 2025, progress note states, "... We will return him to work with no restrictions. Extend physical therapy for 2 weeks at which point he should be at MMI." However, even after Dr. Clayton's full release, the claimant continued to have difficulties due to his compensable left knee injury; to the point that the claimant was unable to pass multiple DOT medical examinations.

The claimant sought relief for his compensable left knee injury from Dr. Brigance, who provided the claimant with a left knee MRI and referred him to Dr. Carllee. Dr. Carllee alternately concluded in his August 20, 2025, that the claimant "has a meniscus tear that was incompletely resected" and recommended an arthroscopic revision medial meniscectomy.

While Dr. Clayton found the claimant to be at MMI, he was incorrect as the claimant's healing period had never ended due to the incomplete meniscus resection. The claimant never returned to work for the respondent as he was unable to pass multiple DOT medical

examinations. The claimant has a scheduled compensable left knee injury, did not return to work for the respondent, and never left his healing period from the time period of March 25, 2025, to September 28, 2025. As such he is entitled to temporary total disability benefits during that period of time. It was noted at the hearing in this matter that the claimant was in arrears for child support. The claimant's award of temporary total disability benefits is subject to the statutory offset required by the Arkansas Workers' Compensation Act regarding child support arrearages.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe his 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 July 14, 2025, and contained in a Pre-hearing Order filed July 15, 2025, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that he is entitled to temporary total disability benefits from March 25, 2025, to September 28, 2025.

3. The claimant has proven by a preponderance of the evidence that his attorney is entitled an attorney's fee in this matter.

ORDER

The respondents shall pay the claimant temporary total disability benefits from March 25, 2025, to September 28, 2025, subject to the statutory offsets required by the Arkansas Workers' Compensation Act for any child support arrearage.

The respondent shall pay to the claimant's attorney the maximum statutory attorney's

fee on the benefits awarded herein, with one-half of said attorney's fee to be paid by the respondent in addition to such benefits and one-half of said attorney's fee to be withheld by the respondent from such benefits pursuant to Ark. Code Ann. § 11-9-715.

All sums herein accrued are payable in a lump sum and without discount and shall earn interest at the legal rate until paid.

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**