

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G805671

JO TUROVER,  
EMPLOYEE

CLAIMANT

BENCHMARK GROUP, INC.,  
EMPLOYER

RESPONDENT

ACCIDENT FUND INSURANCE COMPANY,  
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED APRIL 8, 2021

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JAMES A. ARNOLD, II, Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed October 29, 2020. The administrative law judge found that the claimant failed to prove she suffered a compensable injury to her left wrist. After reviewing the entire record *de novo*, the Full Commission reverses the administrative law judge's opinion. The Full Commission finds that the claimant proved she sustained a compensable injury.

I. HISTORY

Jo Lynn Turover, now age 44, testified that she used a computer mouse exclusively with her left hand beginning in 1999, "Because I'm

permanently disabled in my right hand due to an accident that happened where it was crushed.” The claimant agreed on cross-examination that she severely injured her right hand in 1999, which led to limited use of her right upper extremity since that time.

The record indicates that the claimant began working for the respondent-employer, Benchmark Group, Inc., in 2015. The claimant testified that she was employed as an Architectural Designer for the respondents. The claimant testified that her work duties for the respondents included drafting, research, and use of a computer mouse with her left hand.

The record indicates that the claimant treated at Arkansas Occupational Health Clinic on October 16, 2017. Dalana G. Rice, APRN reported at that time:

At the request of and authorization by Benchmark Group, we are seeing Jo Turover....Jo Turover is a 41 year-old Female, and employee of Benchmark Group....

Patient states she was lifting blue prints on to the table to be boxed. She felt pain in the pinky finger of her left hand and in her right elbow. She feels she exacerbated two previous injuries she thought were healed.

**HISTORY OF PRESENT ILLNESS**

Jo’s primary problem is pain located in the left fifth finger. She considers it to be moderate....The problem began on 10/13/2017. It is improved with popping it into place, taping. She has noticed that it is made worse by when its out of joint, in the splint. She feels it is getting worse.

Jo’s secondary problem is pain located in the right elbow....The problem began on 10/13/2017....

**DISCUSSION**

Ms. Turover complains of right elbow pain and left fifth finger pain. She admits to prior pain in both areas. She states that she dislocated her fifth finger at the PIP joint several months ago and dislocated it again on 10/13/2017 with this injury. She put it back into place and is buddy taping the finger. She reports mild pain but feels that it is improving.

The right elbow began bothering [her] gradually a few weeks ago. She first noticed it when she was shifting gears in her car (it is a standard). She says that the pain has gotten worse with driving her car on several road trips. She feels that the injury on 10/13/17 just exacerbated the elbow pain....In my opinion, the right elbow pain is related to a pre-existing problem. The left fifth finger pain is work related.

Recommend continued buddy taping on the left fifth finger. Continue the elbow support on the right elbow. Recommend Ibuprofen and Aspercream.

Dalana Rice diagnosed “1. Left fifth finger pain. 2. Pain in right elbow....Jo’s recommended work status is Regular Duty.” The claimant followed up with Dalana G. Rice on October 30, 2017. Ms. Rice diagnosed “1. Pain in left finger(s). 2. Pain in right elbow....Jo’s recommended work status is Regular Duty.”

The parties stipulated that the employee-employer-carrier relationship existed on October 31, 2017. The claimant testified on direct examination:

Q. Now, when you were at work on October 31 of 2017, what happened?

A. It was a normal day like any other. It was Halloween so I was expecting, you know, to go to the work party and enjoy lunch. I was sitting at my desk working on an assignment and using a computer mouse. All of a sudden I felt a little twinge in my wrist. I said, “Well, okay, let me – I should probably take a break but let me finish this last couple of things,” and I used the mouse more, and the next thing I know it felt like

flames were shooting up from that spot in my wrist to my fingers and all the way to my elbow.

Q. And did you report that?

A. Yes, I did.

Q. And were you sent to a doctor?

A. I was, that same day.

The respondents' attorney cross-examined the claimant:

Q. On October 31, 2017, at 11:00 a.m., you tell us that you experienced a sharp pain in your left hand, wrist, and up your arm. Correct?

A. Correct.

Q. Now, how far up your arm?

A. It shot, basically, up towards my elbow....

Q. I want you to tell the judge exactly what you were doing with your left hand and wrist when you felt this twinge.

A. My left hand and wrist were on my desk with my hand on the normal computer mouse, and I was using the computer mouse at my desk.

Q. You weren't lifting anything?

A. Correct.

Q. Your hand was flat on the desk on top of the mouse?

A. Correct.

Q. And you were using your hand and fingers to manipulate a mouse?

A. Correct.

Q. And you weren't lifting, reaching, pulling on anything?

A. Correct.

Q. You just had your hand on top of a mouse and felt a twinge?

A. Correct.

According to the record, a Workers Compensation – First Report Of Injury Or Illness was prepared on October 31, 2017. According to the First Report Of Injury Or Illness, the "Specific Activity The Employee Was Engaged In When The Accident or Illness Exposure Occurred" was "using

keyboard and mouse,” “entering information into her computer with keyboard & mouse.” The Part Of Body Affected was “Left Wrist.”

The claimant treated at Arkansas Occupational Health Clinic on October 31, 2017, at which time the claimant filled out a “Workers’ Compensation Health History Questionnaire.” The claimant wrote on the Questionnaire that she had sustained an injury to her left wrist while using a computer mouse at 11:00 am. on October 31, 2017. The claimant wrote that her symptoms arose “Suddenly then gradually got worse.” “ J. Daniel Nicholas, PA-C examined the claimant at Arkansas Occupational Health Clinic on October 31, 2017: “At the request of and authorization by Benchmark Group, we are seeing Jo Turover....Patient states that she was using a computer mouse and patient started to feel an aching pain on her left wrist that radiated to her hand. Patient states that the pain is radiating to her left forearm and is also having tingling in her fingers.” J. Daniel Nicholas examined the claimant’s left wrist and noted, “A ganglion is not present....Bruising is not present. A deformity is not present. Range of motion is limited. Pain to palpation is present over the wrist. Pain on motion is present over the wrist. Swelling is present over the fingers, hand.” Mr. Nicholas stated, “This is the first time I have evaluated Jo for this problem. She has no specific injury and her symptoms started today. I have instructed her to take naproxen or ibuprofen. I have instructed her to

use ice to reduce pain and swelling.” The diagnosis was “1. Pain in left wrist....The cause of this problem appears to be related to work activities.” The claimant was placed on Restricted Duty.

The claimant’s testimony indicated that the respondent-carrier authorized medical treatment provided in connection with the October 31, 2017 accident. The record indicates that the claimant continued to follow up with J. Daniel Nicholas at Arkansas Occupational Health Clinic.

Meanwhile, the claimant followed up with Dalana Rice on November 14, 2017: “Patient states she was lifting blue prints on to the table to be boxed. She felt pain in the pinky finger of her left hand and in her right elbow.” Ms. Rice diagnosed “1. Pain in left finger(s). 2. Pain in right elbow.” The claimant followed up with Dalana Rice on November 28, 2017, and Ms. Rice referred the claimant to physical therapy. The claimant was evaluated for physical therapy on December 7, 2017. The claimant also continued to follow up with Dalana Rice for treatment related to the injury which occurred on October 13, 2017.

J. Daniel Nicholas returned the claimant to unrestricted work on December 19, 2017.

The record indicates that Dalana Rice referred the claimant to Dr. Bryan Benafield, Jr., who reported on February 7, 2018:

Ms. Turover is a 41-year-old, right-hand dominant female, who works for Benchmark Group, where she does

architectural design. She was at work in October 2017 when she had an elbow injury. She was moving heavy sheets of architectural paper repetitively over several days and her elbow started hurting. It was both on the medial and lateral aspects. She turned it into Worker's Compensation, went to Arkansas Occupational Health Clinic. They did x-rays, gave her a strap and told her she had a combination of tennis and golfer's elbow. She then went to PT but because of some other issues that she has in her hand from an old injury, she was discharged from PT because they told her they could not help her. She has had no injections. Currently, she has some pain with use. She has numbness in the hands from a previous problem that she had when she worked and lived in California.

Dr. Benafield's impression was "1. Right lateral epicondylitis. 2.

Right medial epicondylitis....I think she would benefit from injections.

These were offered. She accepted, so under sterile conditions, 40 mg of Depo-Medrol and 0.5 mL of lidocaine and Marcaine was injected into the right lateral and medial epicondyles....We will check her back in 1 month for a recheck." Dr. Benafield noted on March 7, 2018, "She is seen in followup for the right lateral medial epicondylitis. She had good improvements with the injection....We are going to send her back to full duty without restrictions. We will check her back in a month to see how she is doing."

Dr. Benafield reported on April 13, 2018:

She is seen for a new problem on the left wrist. Ms. Turover has had left wrist pain since last year. She had some sort of injury with a twisting motion and then has had ulnar-sided pain and dorsal pain ever since. She has been seen at Arkansas Occupational Health Clinic. She has done therapy and has had anti-inflammatories. She has been sent to see me. She has had no other imaging studies. She has continued pain,

especially with forearm rotation along the ulnar aspect of the wrist....

Exam of her left wrist shows intact skin. She has limited flexion and extension, pain along the dorsal carpus and pain with lunotriquetral shock and shear. Some pain over the ECU tendon and some pain over the TFCC. Equivocal pain with ulnar deviation of the supinated wrist.

**IMAGING:** X-rays, AP, lateral and oblique views of her wrist show no bony abnormalities.

Dr. Benafield's impression was "Left wrist pain....I think at this point we should obtain an imaging study which would consist of an MRI to rule out any other severe things that she might need surgical intervention for....She will remain on limited use of the arm and I will see her back in a month for recheck."

An MRI of the claimant's left wrist was taken on May 2, 2018 with the following findings:

No abnormal bone marrow signal is identified. A T2 bright T1 dark lobulated cystic structure is seen along the ulnar aspect of the pisiform consistent with a ganglion cyst. This measures 6.9 x 8.3 x 8.4 mm. The intrinsic ligaments of the wrist are grossly intact. The triangular fibrocartilage is grossly intact. The median nerve is unremarkable. Subtle edematous changes are seen adjacent to the external canal can't be a stent in the level of the ulnar styloid. This could indicate underlying tendinopathy.

**IMPRESSION:** 1. 6.9 x 8.3 x 8.4 cm ganglion cyst is seen along the ulnar aspect of the pisiform.

2. Edematous changes are seen involving the extensor carpi ulnaris tendon at the level of the ulnar styloid which could indicate underlying tendinopathy.

Dr. Benafield noted on May 9, 2018, "She is seen in followup after the MRI of the wrist. It showed a ganglion cyst on the ulnar aspect of the

wrist near the pisiform. It also showed some changes in the ECU tendon which could be tendinopathy....**ASSESSMENT AND PLAN:** I think it is more likely tendinopathy or tendinitis that is causing her pain. We discussed doing an injection in the ECU tendon sheath. She was comfortable with this. In the office 40 mg Depo-Medrol and 0.5 mL of lidocaine and Marcaine were injected. We will see what this does and see her back in a month for recheck. She should be of no use of that hand today. She is comfortable with this.”

Dr. Benafield noted on June 13, 2018, “She is seen in followup for her left wrist. She says that the shot did not help her at all, but on exam, she has minimal pain. She has full range of motion and no real provocative testing positive. **ASSESSMENT AND PLAN:** I think she should return to full duty without restrictions. We will check her back in a month. With regard to the elbow, I think she should be on full duty on that as well. If she has continuing trouble, we may have to send her for an FCE.” Dr. Benafield performed another left wrist injection on July 9, 2018 and returned the claimant to full duty. Dr. Benafield noted on August 16, 2018, “I think we should obtain an FCE for validity and permanent restrictions.”

The claimant participated in a Functional Capacity Evaluation on September 5, 2018: “The results of this evaluation indicate that a reliable effort was put forth, with 52 of 55 consistency measures within expected

limits....Ms. Turover completed functional testing on this date with **reliable** results. Overall, Ms. Turover demonstrated the ability to perform with in the **LIGHT** classification of work as defined by the US Dept. of Labor's guidelines over the course of a normal workday with limitations as noted above."

The claimant followed up with Dr. Benafield on September 13, 2018: "She reports that her right pain is not improved and has not gotten better....I do not think that she is a surgical candidate, based on her exam, and lack of improvement. We talked about the cyst and how the cyst is in the area of the wrist that is away from her pain, so I do not really think it is causing the pain. **PLAN:** We had obtained an FCE for both arms and I think that what needs to happen at work is she is to have permanent restrictions. She showed good reliability for the FCE and graded out at a light category which means that she should have permanent restrictions where she can lift 11 to 20 pounds occasionally up to a third of the work day...."

Dr. Benafield reported on October 16, 2018:

The patient is seen for her left wrist. She is seen in followup. She went back to work like her elbow (sic). She tells me that the wrist is still bothering her anytime she uses it. **ASSESSMENT AND PLAN:** I have advised her that none of the interventions have worked. I do not think she is a good surgical candidate and I think she may have to consider alternate employment. We had a similar discussion about her right elbow. At this point, she said that I told her different things about where her cyst was. Her pain has always been dorsal and either midline or dorsal towards the DRUJ. Her

cyst is over the ulnar platform. At this point, I suggested that she might want to seek a second opinion. She seemed interested in that. I gave her different names, both my partners, Drs. Henley and Johnson and/or Dr. Kelly in Fort Smith. She is going to talk to Worker's Compensation about arranging those. I am going to see her back in a month if she has done that and she is comfortable with this plan.

Dr. Benafield noted on November 27, 2018, "She is seen for her left wrist. She says it has not really bothered her much....I think at this point we should just watch it. She will stay on her permanent restrictions and I will see her back in 2 months." The claimant continued to occasionally follow up with Dr. Benafield.

Dr. Benafield performed surgery on March 8, 2019: "Right lateral epicondylar debridement." The pre- and post-operative diagnosis was "Right lateral epicondylitis, chronic." Dr. Benafield provided follow-up treatment after surgery. Dr. Benafield also arranged occupational therapy for the claimant's left wrist. Dr. Benafield noted on or about May 16, 2019, "Joe (sic) is seen almost 2 months out from her right lateral colitis debridement. She reports that the pain is back. This is a very disappointing development."

Dr. J. Marcus Heim provided an Independent Medical Examination on August 12, 2019. Dr. Heim reported in part, "Claim #2 involves the left wrist and began gradually over a several month period while using a keyboard and mouse at work." The claimant denied at hearing that she had

informed Dr. Heim her left wrist pain began gradually rather than suddenly. Dr. Heim concluded in part, “The only objective abnormality noted on physical exam of the right and left upper extremities is a scar over the lateral epicondyle of the right elbow....Claimant has reached maximum medical improvement.”

A pre-hearing order was filed on February 18, 2020. According to the pre-hearing order, the claimant contended that she was “entitled to additional treatment for a compensable left hand and wrist injury of October 31, 2017. The claimant reserves all other issues.” The parties stipulated that the respondents “have controverted the claim in its entirety.” The respondents contended that the claimant “did not sustain a compensable injury as defined by the Arkansas Workers’ Compensation Act.”

The parties agreed to litigate the following issues:

1. Whether the claimant sustained a compensable injury to her left hand and wrist on October 31, 2017.
2. Whether the claimant is entitled to medical treatment.

Dr. James E. Kelly, III corresponded with a representative of the Workers’ Compensation Commission on March 11, 2020:

Thank you very much for referring the patient for consultation. This is a 44-year-old female architectural designer who presents to the office for secondary opinion. She is employed by Benchmark Group and was utilizing a mouse, which of course she does regularly and extensively with the type of work she does. She developed pain over the dorsum of the wrist. She was seen by Dr. Benefield (sic) who had completed MRI but no arthrogram was done. She states that

she had a ganglion but the ganglion was on the ulnar side of her wrist. This scan was done three years ago. In examining her wrist, she has pain over the radius and proximal rows, i.e., scapholunate interface. She has no boggy swelling or other signs of tenosynovitis. There is a palpable fullness in this area. I am questioning whether she has a ganglion from the radiocarpal joint or possible SL ligament abnormality due to the area where she has pain. I explained to her that with an MRI that it is that all but I think it warrants having a new MRI, as it has been such an extensive period of time. I am going to order an MRI arthrogram and I will review those results when she returns. If there is a ganglion then obviously I am recommending resection. If there is no ganglion but has some intercarpal abnormality, we will make appropriate recommendations thereafterwards, I will of course be following her throughout her care and gain (sic) I would like to thank you very much for this consultation and for allowing me to participate in your client's care.

A hearing was held on August 20, 2020. The claimant testified that she remained gainfully employed with the respondents. The claimant testified regarding her left wrist, "It hurts when I use it, you know....I still have problems using the mouse for long periods. I have to switch tasks often. I can't carry items that I used to be able to carry with my left wrist."

An administrative law judge filed an opinion on October 29, 2020. The administrative law judge found that the claimant failed to prove she suffered a compensable injury to her left wrist on October 31, 2017. The claimant appeals to the Full Commission.

## II. ADJUDICATION

Ark. Code Ann. §11-9-102(4)(Repl. 2012) provides, in pertinent part:

(A) "Compensable injury" means:

(i) An accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). “Objective findings” are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Repl. 2012).

The employee has the burden of proving by a preponderance of the evidence that she sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i)(Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

It is the duty of the Full Commission to enter findings in accordance with the preponderance of the evidence and not on whether there is substantial evidence to support the administrative law judge's findings. *Roberts v. Leo Levi Hospital*, 8 Ark. App. 184, 649 S.W.2d 402 (1983). The Full Commission reviews an administrative law judge's opinion *de novo*, and it is the duty of the Full Commission to conduct its own fact-finding independent of that done by the administrative law judge. *Crawford v. Pace Indus.*, 55 Ark. App. 60, 929 S.W.2d 727 (1996). The Full Commission

enters its own findings in accordance with the preponderance of the evidence. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990).

An administrative law judge found in the present matter, “3. The claimant has failed to prove by a preponderance of the evidence that she suffered a compensable injury to her left wrist on October 31, 2017.” The Full Commission finds that the claimant proved by a preponderance of the evidence that she sustained a compensable injury to her left hand and wrist. As we have discussed, the claimant testified that she had been required to use her left hand to operate a computer mouse as the result of an injury to her right hand occurring in 1999. The claimant became employed as an Architectural Designer for the respondents in 2015. The claimant testified that her work duties for the respondents included drafting, research, and use of computer mouse exclusively with her left hand.

The parties stipulated that the employment relationship existed on October 31, 2017. The claimant testified that while using a computer mouse at work, “All of a sudden I felt a little twinge in my wrist....the next thing I know it felt like flames were shooting up from that spot in my wrist to my fingers and all the way to my elbow.” The claimant agreed on cross-examination that she felt a sudden “twinge” in her left wrist at 11:00 a.m. on October 31, 2017, while manipulating a mouse with her left hand. The

evidence of record, including the First Report Of Injury prepared on October 31, 2017, corroborates the claimant's testimony. The First Report Of Injury confirmed that the claimant injured her left wrist while entering information with a computer mouse. Moreover, the respondents provided authorized medical treatment at Arkansas Occupational Health Clinic beginning October 31, 2017. The Full Commission recognizes the report of J. Daniel Nicholas, PA-C that there was "no specific injury." Nevertheless, it is within the Commission's province to weigh all of the medical evidence and to determine that is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). The claimant plainly reported at the Health Clinic that her symptoms began suddenly at 11:00 a.m. on October 31, 2017. The Full Commission finds that the claimant's injury was not gradual but instead was caused by a specific incident and was identifiable by time and place of occurrence.

There is other evidence of record which corroborates the claimant's contention that there was a specific incident identifiable by time and place of occurrence on October 31, 2017. Dr. Benafield reported on April 13, 2018 what the claimant had sustained an injury to her wrist as the result of "a twisting motion and then has had ulnar-sided pain and dorsal pain ever since." Dr. Benafield did not report that the claimant's left wrist injury had arisen "gradually." During the September 5, 2018 Functional Capacity

Evaluation, in which the claimant gave reliable effort, it was noted, “She reports that while using her computer mouse on 10/31/17 she felt a sharp and burning pain that shot up her arm.” The Functional Capacity Evaluation corroborates the claimant’s testimony and is further evidence of an accidental injury occurring on October 31, 2017. The claimant expressly denied reporting to Dr. Heim that she had sustained an injury to her left wrist which “began gradually over a several month period.”

In addition there are objective medical findings establishing an injury. J. Daniel Nicholas, PA-C, physically examined the claimant on October 31, 2017 and reported, “Swelling is present over the fingers, hand....I have instructed her to use ice to reduce pain and swelling.” Swelling is objective medical evidence of an injury. *Cienfuegos-Mendoza v. Dobbs Coating System*, 2011 Ark. App. 2014, citing *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). Whether or not the ganglion cyst reported as a result of the MRI taken May 2, 2018 was causally related to the claimant’s October 31, 2017 accidental injury, the Full Commission finds that the swelling reported by the physician’s assistant on October 31, 2017 was a patent objective medical finding establishing an injury.

The Full Commission finds that the claimant proved by a preponderance of the evidence that she sustained a compensable injury. The claimant proved that she sustained an accidental injury causing

physical harm to her left wrist. The injury arose out of and in the course of employment and required medical services. The injury was caused by a specific incident and was identifiable by time and place of occurrence on October 31, 2017. The claimant established a compensable injury by medical evidence supported by objective findings, namely, the physician's assistant's reports of swelling in the claimant's hand and fingers on October 31, 2017. The Full Commission finds that the reports of swelling on October 31, 2017 were causally related to the accidental injury.

After reviewing the entire record *de novo*, therefore, the Full Commission reverses the administrative law judge's finding that the claimant failed to prove she suffered a compensable injury to her left wrist. We find that the claimant proved by a preponderance of the evidence that she sustained a compensable injury to her left wrist. The claimant proved that the current medical treatment of record for her left wrist provided on and after October 31, 2017 was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). The claimant also proved that an MRI arthrogram as recommended by Dr. Kelly on March 11, 2020 was reasonably necessary in connection with the compensable injury. For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to fees for legal services in the amount of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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M. SCOTT WILLHITE, Commissioner

Commissioner Palmer dissents.

DISSENTING OPINION

I respectfully dissent from the majority because I find the evidence insufficient to prove that Claimant's injury was acute in nature or causally connected to her workplace incident.

Claimant alleges that the injury involved in the current claim occurred on October 31, 2017, while she was moving a computer mouse. Two weeks before this mouse-moving incident, however, Claimant was treated by Ms. Dalana Rice, APRN, at Arkansas Occupational Health Clinic. There she reported that she had injured her left pinky and right elbow while moving some blueprints on a desk. She reported that she thought that the left-pinky pain was an exacerbation of two previous injuries, which she thought had healed. Specifically, the note reads, "[Claimant] admits prior pain in both areas. She states that she dislocated her fifth finger at the PIP joint several months ago and dislocated it again on 10/13/2017 with this

injury.” Claimant followed up with Ms. Rice on October 30, 2017. She was released to return to regular duty.

The very next day, Claimant was moving a computer mouse when, according to Claimant, she “felt a little twinge in [her] wrist.” She continued using the mouse and the next thing she knew, “it felt like flames were shooting up from that spot in [her] wrist to [her] fingers and all the way to [her] elbow.”

Later that day, Claimant was treated by Mr. J. Daniel Nicholas, PA-C. Mr. Nicholas noted that Claimant did not appear to have bruising, deformation, nor a ganglion cyst. He also noted that Claimant was experiencing pain to palpation over the wrist and pain on motion over the wrist. Then, and this is crucial, Mr. Nicholas noted that “Swelling is present over the **fingers, hand.**” (emphasis added). The majority finds that this swelling “was a patent objective medical finding establishing an injury.” If so, it was to her “fingers, hand” and not to her wrist.

Ms. Rice continued to treat Claimant’s left finger and right elbow for the injuries reportedly sustained on October 13. Ms. Rice referred Claimant to physical therapy and later referred her to Dr. Bryan Benafield, Jr. Dr. Benafield noted that Claimant was sent to physical therapy “but because of some other issues that she has in her hand from an old injury, she was discharged from PT because they told her they could not help her.” He then

reports, “She has numbness in the hands from a previous problem that she had when she worked and lived in California.”

So far, Claimant reported to Ms. Rice that she had a couple of related previous injuries and had dislocated her left pinky a couple months before the October 13, 2017 incident. She also reported to Dr. Benafield that she had problems previously.

A May 2, 2018 MRI of Claimant’s left wrist revealed a “T2 bright T1 dark lobulated cystic structure along the ulnar aspect of the pisiform consistent with a ganglion cyst.” It also revealed “underlying tendinopathy.” Dr. Benafield noted that he “thought it is more likely tendinopathy or tendinitis that is causing her pain.”

The majority finds that Claimant proved by a preponderance of the evidence that, while moving a computer mouse on October 31, 2017, she sustained a compensable injury to her left wrist. This, the majority finds, is supported by objective medical evidence because Mr. Nicholas noted “swelling is present over the fingers, hand.”

First, this swelling was not found to be on her wrist – it was on her “fingers, hand.” Thus, it seems more likely that this swelling was from the unrelated incident of October 13, 2017. Second, even if we were to speculate that the swelling extended to her wrist and speculate that it was caused by the mouse-moving incident, Dr. Benafield’s opinion is the best

medical evidence on this point. His opinion is that the enduring problems with Claimant's left wrist is most likely tendinopathy or tendinitis – neither of which are acute injuries nor are attributable to the mouse-moving incident.

Given the above, I find the evidence insufficient to support a finding that Claimant sustained a compensable injury to her left wrist on October 31, 2017. Accordingly, I respectfully dissent.

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CHRISTOPHER L. PALMER, Commissioner