BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G906148

HAROLD UTLEY, EMPLOYEE **CLAIMANT**

HUSQVARNA FORESTRY PRODUCTS, NA, EMPLOYER **RESPONDENT**

CORVEL ENTERPRISE COMP., INC./ INSURANCE CARRIER/TPA **RESPONDENT**

OPINION AND ORDER FILED JULY 28, 2021

Hearing conducted before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Mike Pickens, on April 29, 2021, in Hope, Hempstead County, Arkansas.

The claimant, Mr. Harold Utley, of Hope, Hempstead County, Arkansas, appeared pro se.

The respondents were represented by the Honorable Edward W. McCorkle, McMillan, McCorkle & Curry, LLP, of Arkadelphia, Clark County, Arkansas.

INTRODUCTION

In the Prehearing Order filed February 25, 2021, the parties agreed to the following stipulations, which they modified and affirmed on the record at the hearing:

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

2. The claimant's initial/first date of hire was July 17, 2017; and his second date of hire was October 9, 2017.

3. The employer/employee/carrier-TPA relationship existed with the claimant at all relevant times including February 5, 2018, when the claimant alleges his work duties culminated in a gradual onset injury(ies) to one (1) or both of his wrists.

4. The claimant's average weekly wage (AWW) was $186.00, entitling him to weekly compensation rates of $124.00 for temporary total disability (TTD), and $93.00 for permanent partial disability (PPD) benefits, *if* his injury(ies) is(are) deemed compensable.

5. The claimant applied for and drew short-term disability (STD) benefits in the

amount of $184 per week for a period of either 22 or 26 weeks ending on August 3, 2018.

6. The respondents have controverted this claim in its entirety.

7. The parties specifically reserve any and all other issues for future determination and/or litigation.

(Commission Exhibit 1 at 1-2; Hearing Transcript at 6-7). Pursuant to the parties' mutual agreement, the issues litigated at the hearing were:

1. Whether the claimant sustained a "compensable" gradual onset injury(ies) within the meaning of the Arkansas' Workers' Compensation Act (the Act) to one or both of his wrists which culminated in disability beginning on February 5, 2018.

2. If the claimant's alleged injury(ies) is(are) deemed compensable, whether and to what extent he is entitled to medical, indemnity, and all other applicable benefits pursuant to the Act, including a controverted attorney's fee, if he retains an attorney in this matter.

3. If the claimant's alleged injury(ies) is(are) deemed compensable, whether and to what extent the respondents are entitled to a set-off, pursuant to ***Ark. Code Ann.*** § 11-9-411 (2020 Lexis Supplement), for any and all STD or other benefits paid to the claimant by other carriers and/or any third-party(ies).

4. If the claimant hires an attorney in this matter, whether his attorney is entitled to a controverted fee on these facts.

5. The parties specifically reserve any and all other issues for future litigation and/or determination.

(Comms'n Ex. 1 at 2; T. 6-7).

The claimant contends he sustained a gradual onset injury(ies) to one (1) or both of his wrists which eventually culminated in disability on February 5, 2018; and that he is entitled to medical, indemnity, and any and all other applicable benefits pursuant to the Act, including but not

limited to a controverted attorney's fee if he retains an attorney in this matter. The claimant specifically reserves any and all other issues for future litigation and/or determination. (Comms'n Ex. 1 at 2; T. 6-7).

The respondents contend the claimant cannot meet his burden of proof in demonstrating he sustained a "compensable injury" pursuant to the Act and, therefore, they are not responsible for payment of any medical, indemnity or other benefits. (Comms'n Ex. 1 at 3; T. 6-7).

The record consists of the hearing transcript, and any and all exhibits contained therein and attached thereto.

STATEMENT OF THE CASE

The claimant, Mr. Harold Utley (the claimant), was 35 years old at the time of the subject hearing, and 31 years old in 2017, at the time he worked for Husqvarna Forestry Products, NA (HFP, or the respondents). (T. 27-28). As the parties stipulated, in 2017 the claimant worked with HFP for a short period of time on two (2) separate occasions. He first went to work with HFP on July 17, 2017, through August 24, 2017. Then, after having spent a period of time in jail, the claimant went back to work with HFP a second time from October 9, 2017, through February 5, 2018. (Comms'n Ex. 1 at 1; T. 11-15; T. 23; 16-25; 54-72; 33).

The claimant has an extensive employment history before he began working for the few months he worked for the respondents on two (2) separate occasions in 2017. This employment history includes truck driving and working on the line at a Purdue Farms chicken plant. (T. 54-64; RXB at 4, and 9). Medical records of Wadley Regional Medical Center at Hope (Wadley Regional) beginning February 6, 2017 – some five (5) months before the claimant first went to

work for HFP – reveal the claimant was working for Dart Transportation (Dart Transport) at the time. On February 6, 2017, he presented himself to Wadley Regional for treatment complaining he had hit his "right hand on metal part of an 18-wheeler last Thursday and hand is swelling." (Respondents' Exhibit 1 at 1; 1-7). These medical records note the claimant's musculoskeletal/extremity examination was "grossly normal except: noted in the right hand: contusion, decreased ROM, pain, swelling, tenderness." (RX1 at 5). An X-ray of the claimant's right hand taken on the same day proved to be normal with, "No fracture or dislocation." (RX1 at 7). The record is devoid of any medical records between February 6, 2017, through February 12, 2018. (Joint Exhibit A at 1-5; Claimant's Exhibit A at 1; RX1 at 1-7; 8-13). (**Note**: The markings on CXA are the claimant's, not the ALJ's, which the claimant had already made before the subject hearing. (T. 41)).

The claimant testified his first job at HFP which began in July 2017 required him to put "machines inside boxes, pushing them through the tape machine so they can get all sealed up. That's basically what I did all day. I went through five stations that were, basically, putting machines in boxes, pushing machines down a belt." (T. 12). He said the machines "weighed close to thirty to fifty pounds. Thirty to forty-five pounds." (T.12-13). The claimant said he was working most of the time "from 5:30 to 4:30", basically a 12-hour shift, but some days he would get off work early. (T.13). The claimant testified he "got maybe four breaks… . Two fifteens and a thirty" during the work day. (T. 13). He testified he would lift "maybe anywhere from a hundred and fifty to two hundred machines" in an hours' time. (T. 13). He said that over the course of an entire day, he would put "thousands" of the machines in boxes. (T. 14). He worked

four (4) days a week, and was off three (3) days a week. (T. 14). He said he reported both hand and wrist, as well as lower back pain, to a male nurse at some point during this first stint of employment with HFP; but that he changed jobs and this pain eventually resolved itself. (T.15-16). The claimant did not work for HFP between August 24, 2017, through October 9, 2017, as this was the period of time he was in jail. (T. 63; 33).

The claimant testified that during his second period of employment at HFP his job entailed putting "spark plugs in machines, spinning it and then pressing the… . Getting the gun, spinning it down and then, when it spin down, twist the back piece, the spinning machine around for the next person in eleven seconds, and I was doing this all day. I was drilling the spark plug in and my hand got stuck like that." (T. 16-17). The claimant said he basically got a muscle cramp in his hand, and this problem eventually resolved itself." (T. 17-18).

The claimant testified that when he returned to work for HFP the second time in October 2017 he "immediately" began experiencing pain, numbness, and tingling in his hands. He said he was told in orientation he was "going to have hand pain", that it was "part of the job", but "it should eventually go away." (T. 27-28). The claimant testified he reported this pain to the night supervisor, "Larena", and she told him "about different remedies to try like Lidocaine and other stuff to soak my hands in at night until the pain goes away, it should help, so I did those things." (T. 29). The claimant testified he did not report a workers' compensation claim to his supervisor, the nurse, or anyone else at HFP before February 2018. He said he knew how to file a workers' compensation claim, and he did file one, "Maybe February…2018 sometime." (T. 30).

The claimant testified he went to see Dr. Eve Covas, who he believed was a general

practitioner; that she prescribed him some anti-inflammatories, did not take him off work, and he returned to work until February 15, 2018. The claimant said the last day he worked for HFP was, "February 5th or the 15th" of 2018. (T. 31). The Form AR-N in the record shows his last day of work at HFP was February 5, 2018. (T. 31-32; RX5).

A medical record from Cabun Rural Health Services reveals the claimant was under the care of a Dr. Maria Ortiz "from 2/16/2018 to 2/16/2018." (RXB at 10). The record does not state the condition for which he had been under Dr. Ortiz's care, but does state the, "Pt is to wear a wrist splint till he is re-evaluate [sic] on his next app't." (RXB at 10) (Bracketed material added). The report does not mention which wrist was the focus of this examination. (RXB at 10) (Bracketed material added).

The respondents never paid the claimant any TTD benefits; and although the claimant had "a lot of disagreement with that" fact, the evidence reveals he did file for and receive STD benefits in the amount of $184 a week from March 5, 2018, through August 24, 2018, through the respondent-provided STD policy with Cigna. (Comms'n Ex. 1 at 2, Stipulation No. 5). While the claimant appears to have attempted to deny the fact on cross-examination, as all STD policies require, he was in fact required to represent to the STD insurer on the application for benefits that his disability was not the result of a work-related injury in order to draw STD benefits. (T. 83; 94-96). Thereafter, around the time his STD benefits expired, the claimant started driving eighteen wheelers for Southern Refrigerated Transportation (Southern Transport) in August of 2018. (T. 34-35). He testified his doctor(s) never took him off work as a truck driver, and that he did not miss any work. He also later went to work as a truck driver for Walmart, which was his

job at the time he underwent surgery in August of 2019. He was working at Walmart as a truck driver at the time of the subject hearing, and has health insurance through his job at Walmart.

A medical record from Wadley Regional dated February 12, 2018 – almost two (2) weeks after the claimant left HFP's employ – notes the claimant presented himself for treatment on this date complaining of "numbness in hands since he started his job in August 2017." (RXA at 9). The report lists the working or preliminary diagnosis as, "Paresthesia (Neuropathy)." (RXA at 9). The record further notes the claimant was complaining of, "Bilateral wrist numbness that has been intermittent for months." (RXA at 11; 12-13).

The hearing record contains medical records from Dr. Eve Copas from 2/16/2018 through 1/25/2019. (RXA at 14-28). Dr. Copas's clinical notes indicate she initially diagnosed the claimant with "Arthralgia of hand" on 4/27/2018, and "Episodic mood disorders" on 11/9/2018. (RXA at 24 and 16). Her notes further reveal the claimant had both a maternal and paternal family history of Diabetes Mellitus. (RXA at 23). Dr. Copas's clinic note of April 27, 2018 – over two (2) months after the claimant left HFP's employment – states:

> Nerve conduction test 4/19/2018 BILATERAL ULNAR AND MEDIAN NERVE TEST WERE NORMAL.

RXA at 23, and 17) (Bold in original). Dr. Copas faxed the normal nerve conduction velocity (NCV) test results to Cigna on or about 5/2/2018 per the claimant's request, which is consistent with the timeframe he applied for and was awarded STD benefits. (RXA at 22).

Since the claimant's bilateral ulnar and median NCV test was normal, Dr. Copas suspected the claimant's symptoms may be caused by some cervical spine anomaly, so she scheduled him for a cervical MRI. The cervical MRI was conducted on 7/20/2018 and proved to be

"NEGATIVE." (RXA at 16; T. 29-38) (Bold in original).

Dr. Copas's clinic note of 1/16/2019 – almost one (1) year after he had left HFP's employment – reiterates the claimant had undergone normal bilateral median and ulnar nerve NCV tests on 4/19/2018, and a negative cervical MRI on 7/20/2018. This clinic note further reveals Dayspring Behavioral Health Arkansas had treated the claimant for "episodic mood disorders, unspecified depressive disorder, attention/hyperactivity disorder predominantly inattentive presentation" for which he was still on medication at that time. This clinic notes further the claimant was working as a truck driver and he was using a rotating ball attached to the steering wheel to avoid having to grasp the wheel with his hands. The note states: "HE REFUSES TO HAVE SURGERY AT THIS TIME." (RXA at 14; 42-43) (Bold in original).

Finally, a 7/17/2019 multisequence, multiplanar MRI performed on both the claimant's wrists discovered the extremely rare origin of his wrist pain: congenital lunatotriquetral carpal coalition, a congenital condition where two (2) or more of the carpal bones in the wrist are fused (*see* Page 11, *infra*), and mild degenerative changes. (RXA at 44-45). The prescribed treatment for this congenital condition was a bilateral carpal tunnel release, which the claimant underwent on August 27, 2019. (RXA at 49-51). This surgery was performed over 18 months after the claimant left HFP's employment; and well over one (1) year after he had undergone bilateral NCV tests which proved to be normal, and a cervical MRI which was normal. The claimant admitted at the hearing he had not missed any time from work, either at HFP or any subsequent employer; and he produced insufficient evidence of any outstanding medical bills. (T. 83-85).

DISCUSSION

The Burden of Proof

When deciding any issue, the ALJ and the Commission shall determine, on the basis of the record as a whole, whether the party having the burden of proof on the issue has established it by a preponderance of the evidence. ***Ark. Code Ann***. § 11-9-704(c)(2) (2020 Lexis Supplement). The claimant has the burden of proving by a preponderance of the evidence he is entitled to benefits. *Stone v. Patel,* 26 Ark. App. 54, 759 S.W.2d 579 (Ark. App. 1998). ***Ark. Code Ann.*** Section 11-9-704(c)(3) (2020 Lexis Supp.) states that the ALJ, the Commission, and the courts "shall strictly construe" the Act, which also requires them to read and construe the Act in its entirety, and to harmonize its provisions when necessary. *Farmers Coop. v. Biles,* 77 Ark. App. 1, 69 S.W.2d 899 (Ark. App. 2002). In determining whether the claimant has met his burden of proof, the Commission is required to weigh the evidence impartially without giving the benefit of the doubt to either party**.** ***Ark. Code Ann***. § 11-9-704(c)(4) (2020 Lexis Supp.); *Gencorp Polymer Products v. Landers,* 36 Ark. App. 190, 820 S.W.2d 475 (Ark. App. 1991); *Fowler v. McHenry*, 22 Ark. App. 196, 737 S.W.2d 633 (Ark. App. 1987).

All claims for workers' compensation benefits must be based on proof. Speculation and conjecture, even if plausible, cannot take the place of proof. *Ark. Dep't of Corrections v. Glover,* 35 Ark. App. 32, 812 S.W.2d 692 (Ark. App. 1991); *Deana Constr. Co. v. Herndon*, 264 Ark. 791, 595 S.W.2d 155 (1979). It is the Commission's exclusive responsibility to determine the credibility of the witnesses and the weight to give their testimony. *Whaley v. Hardees,* 51 Ark. App. 116, 912 S.W.2d 14 (Ark. App. 1995). The Commission is not required to believe either a

claimant's or any other witness's testimony, but may accept and translate into findings of fact those portions of the testimony it deems believable. *McClain v. Texaco, Inc*., 29 Ark. App. 218, 780 S.W.2d 34 (Ark. App. 1989); *Farmers Coop. v. Biles, supra*.

The Commission has the duty to weigh the medical evidence just as it does any other evidence, and its resolution of the medical evidence has the force and effect of a jury verdict. *Williams v. Pro Staff Temps.*, 336 Ark. 510, 988 S.W.2d 1 (1999). It is within the Commission's province to weigh the totality of the medical evidence and to determine what evidence is most credible given the totality of the credible evidence of record. *Minnesota Mining & Mfg'ing v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999).

Ark. Code Ann. § 11-9-102 (4)(A) (2020 Lexis Replacement) defines "compensable injury" in relevant part as follows:

> (ii) An injury causing internal or external physical harm to the body and arising out
> of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence, *if* the injury is:
>
> (a) *Caused by rapid repetitive motion*. Carpal tunnel syndrome is specifically categorized as a compensable injury falling within this definition[.]

(Bracketed material and emphasis added).

The test for determining whether an injury is caused by rapid repetitive motion is two (2)-pronged: (1) the task must be repetitive, and (2) the repetitive motion must be rapid. *Malone v. Texarkana Public Schools*, 333 Ark. 343, 969 S.W.2d 644 (1998). Multiple tasks involving different movements can be considered together to satisfy the "repetitive element" of rapid repetitive motion. *Id*. It is unnecessary to prove rapid repetitive motion when there is a diagnosis

of carpal tunnel syndrome. *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W.2d 190 (1998).

Pursuant to the Act, a compensable injury, whether it is from a specific incident, or is gradual onset, must also be established by medical evidence supported by objective findings, which the Act specifically defines as "those findings which cannot come under the voluntary control of the patient." ***Ark. Code Ann.*** § 11-9-102(4)(D); ***Ark. Code Ann.*** § 11-9-102(16). Moreover – and significant if not dispositive in this case – a gradual onset injury caused by rapid repetitive motion, including carpal tunnel syndrome, is compensable *only if* the alleged compensable injury is the "major cause" of the disability or need for treatment. ***Ark. Code Ann.*** § 11-9-102(4)(E)(ii); *Medlin v. Wal-Mart Stores, Inc.*, 64 Ark. App. 17, 977 S.W.2d 239 (Ark. App. 1998).

Of course, the Act specifically defines "major cause" as "more than fifty percent (50%) of the cause", and states that this major cause requirement "shall be established according to the preponderance of the evidence." ***Ark. Code Ann.*** Section 11-9-102((14)(A)-(B). The "major cause" requirement may be established by the fact the claimant was asymptomatic prior to an incident, and then required medical treatment after the incident. *Parker v. Atlantic Research Corp*., 189 S.W.3d 449, 87 Ark. App. 145 (Ark. App. 2004). Consequently, based on the applicable law as applied to the facts of this case, I find the claimant has failed to meet the Act's required burden of proof for the following reasons.

First, the *Parker* case, *supra*, is not controlling on these facts because the medical evidence shows the claimant was in fact *symptomatic before* he ever went to work for HFP. The Wadley Regional records of February 6, 2017, some five (5) months before the claimant even started work with HFP the first time in July 2017, show the claimant was experiencing symptoms of his

extremely rare congenital lunotriquetral carpal coalition. This condition is an extremely rare developmental anomaly, the incidence of which is 0.1% in white populations and 1.6% in black populations. Because the wrist bones develop from the undifferentiated embryonic tissue *in utero* between the fourth and eighth weeks of fetal development, if the lunate and triquetrum fail to separate by the tenth week of fetal development, this results in a life-long carpal coalition. A gene mutation has been linked to the development of this congenital anomaly. "Lunotriquetral coalition and ulnar impaction syndrome: a pictorial essay," Davis**,** *Radiologia Brasileira,* www.ncbi.nlm.nih.gov, pages 1-2; (CBR 2019 March-April, 52(2):112-116. (**Note**: The Nat'l Center for Biotechnology Information (NCBI) is part of the United States Nat'l Library of Medicine (NLM), a branch of the Nat'l Institutes of Health (NIH), of which the ALJ, of his own initiative and discretion, takes judicial notice pursuant to ***Ark. Code Ann.*** Section 16-41-201(b) and (c) (2010 Lexis Replacement), of the Uniform Rules of Evidence, Article II, Judicial Notice, Judicial Notice of Adjudicative Facts). Again, the Wadley Regional medical records dated February 6, 2017 – some five (5) months *before* the claimant first went to work for the respondents in July 2017 reveal he was experiencing symptoms while he was driving a truck for Dart Transport essentially the same as those of which he complained intermittently at HFP, and after he left HFP's employment on February 5, 2018. (RX1 at 1; 1-7).

Second, and perhaps most significantly, the overwhelming preponderance of the medical evidence reveals the claimant has failed to prove that his August 2019 surgery, which was performed some 18 months after he left the respondents' employment, and after he had worked as a truck driver for two (2) other employers before the surgery without missing any work either

before or after the surgery, was the major cause of his disability (for which there exists insufficient evidence in the record, if any) or need for the August 2019 wrist surgery. Indeed, the preponderance of the credible medical evidence of record reveals the major cause – if not the *sole cause* – of the claimant's wrist surgery was not in fact carpal tunnel syndrome, nor any other injury, gradual onset or otherwise: it was the extremely rare congenital condition whereby the carpal bones in both his wrists have been fused since before his birth. And again, the claimant experienced and sought treatment for symptoms related to this condition well *before* he went to work for the respondents herein.

The claimant was never diagnosed with carpal tunnel syndrome during or contemporaneous with his employment at HFP. In fact, bilateral NCV tests performed just two (2) months after the claimant left the respondents' employment were negative. The claimant used this negative NCV test to support his request for STD benefits, which he received and drew for a period of between 22 and 26 weeks. The claimant also underwent a cervical MRI on 7/20/2018 that proved to be negative, which ruled-out his cervical spine as a cause of his complaints.

The evidence reveals that while the claimant began complaining of bilateral wrist pain to his physicians *after he left* HFP's employ in February 2018 that he alleged began in August 2017 before he spent some time in jail, the preponderance of the credible evidence demonstrates he was *not* making such complaints to the respondents. In fact, he represented on the HFP form for his second hiring in October 2017 he had not sustained any injuries on the job – which would include the first time he worked for HFP from July through August 2017. (RXB at 2). In addition, on the HFP Employee Health Screening Form he signed and dated "10-5-17", the

claimant checked the "No" box for both "Carpal Tunnel Syndrome", and "Pain (List Area)." (RXB at 3).

Third, the respondents' first aid records show the claimant only ever complained to them of right hand/thumb/wrist pain, not bilateral pain. Similarly, the nurses' contemporaneous notes of 2/6 – 7/2018, as well as the results of the HFP Incident Investigation (the report of which contains the claimant's signature as a participant in the meeting, and was a recipient of the report, although he denied these facts at the hearing) call into question the claimant's credibility as to both the origin, nature, and frequency of his complaints. (RXB 7, 8, and 9).

Fourth, the Form AR-N and "Husqvarna Employee Occupational Incident Report" the claimant signed on "2-5-18" show that at least as of the last day he worked for the respondents on February 5, 2018, it was *only his left* "Wrist, Hand right & thumb" he said were hurting, not both his wrists and forearms. (RXB at 5 and 6). On the incident report, he also both stated and indicated by his marking the area he alleges was injured as being only his left wrist, hand, and/or thumb, not his right wrist.

Finally, I do note the respondents' offered the testimony of two (2) long-time, knowledgeable, fair, objective and, therefore, credible witnesses, Ms. Doris Scoggins and Ms. Carol Kissman, who gently and courteously, but affirmatively and effectively called into question the claimant's credibility. (T. 86-93; 109-122; 93-96). While I do not believe the claimant's lack of credibility was due to any intentional attempt to deceive, he simply was not a credible witness in light of his own oftentimes confusing and seemingly conflicting testimony, especially when his testimony is weighed against the medical records, other documentary evidence, and the respondents'

witnesses' testimony. In light of the claimant's rare congenital disorder that was symptomatic before he ever started working with the respondents, and in light of all the other evidence of record, it would constitute sheer speculation and conjecture to find the claimant's congenital wrist problems constitute a compensable gradual onset injury within the Act's meaning which, of course, is not in compliance with the Act's clear language. *See Deana, supra*.

Therefore, for all the aforementioned reasons, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this claim.

2. The stipulations contained in the Prehearing Order filed February 25, 2021, which the parties affirmed on the record at the hearing, hereby are accepted as facts.

3. The claimant has proved he has objective medical evidence of an extremely rare congenital medical condition in both his right and left wrists; but he has failed to prove this constitutes objective evidence of a "compensable injury" as the Act specifically defines this term of art.

4. The claimant has met his burden of proof in demonstrating his second job at HFP more likely than not was "rapid and repetitive" in nature. However, it is unclear from the claimant's testimony versus what he reported on the Form AR-N and the respondents' incident report, versus what he reported to the HFP nurses as reflected in their records whether the claimant alleges he was injured in a single lifting incident, or while performing rapid, repetitive activity.

5. The claimant clearly has failed to meet his burden of proof that he sustained a "gradual onset" compensable injury(ies) as the Act defines this term, to either or both of his left and/or right wrist(s). Specifically, the claimant has failed to prove his job at HFP was the "major cause" of his disability or need for medical treatment. Indeed, the preponderance of the credible evidence of record reveals the "major cause" – and more likely than not, the *sole cause* – of the claimant's August 2019 surgery (which resulted in no proven "disability") was not rapid, repetitive motion, but was his extremely rare congenital condition of lunatotriquetral carpal coalition: the permanent fusion of two (2) or more of the carpal bones that is present *in utero* by the tenth week of fetal development. The

undisputed medical evidence conclusively demonstrates the claimant was *symptomatic*, with essentially the same symptoms he was alleging during the time he was employed at HFP, at least as of February 6, 2017, some five (5) months *before* he even went to work for the respondents the first time in July of 2017.

6. Since he has failed to meet his burden of proof in establishing a compensable gradual onset injury pursuant to the Act, the claimant is not entitled to medical or indemnity benefits. In addition, the claimant failed to prove he was ever disabled as a result of any alleged work-related injury at HFP, as he represented he was not disabled when he applied for, was awarded, and drew STD benefits and, thereafter, went back to work for two (2) separate companies as a truck driver both before and after his August 2019 surgery without his physician(s) ever taking him off work.

Therefore, for all the aforementioned reasons I find this claim should be, and hereby is, denied and dismissed. If they have not already done so, the respondents shall pay the court reporters' invoice within then (10) days of their receipt of this opinion and order.

IT IS SO ORDERED.

Mike Pickens
Administrative Law Judge

MP/mp