

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H403567

DINA YUGEN, Employee	CLAIMANT
PINNACLE CAR SERVICE, INC., Employer	RESPONDENT
BROADSPIRE, Carrier	RESPONDENT

OPINION FILED JANUARY 12, 2026

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

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

Respondents represented by JASON M. RYBURN, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On October 14, 2025, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on March 10, 2025, and a Pre-hearing Order was filed on March 13, 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 May 21, 2024.
3. The respondents have controverted the claim in its entirety.
4. The claimant's weekly compensation rates will be determined at a later date.

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

1. Whether Claimant sustained a compensable injury to her neck on or about May 21, 2024.
2. Whether Claimant is entitled to medical treatment for her neck injuries.
3. Respondents request sanctions under ACA §11-9-717 in that Claimant failed to appear for a scheduled deposition.

The claimant's contentions are as follows:

“Claimant contends she is entitled to medical treatment for her neck and left shoulder. Claimant reserves all other issues.”

The respondents' contentions are as follows:

“The claimant did not suffer a compensable injury. Sanctions (including costs, fees, and dismissal) should be imposed upon the claimant because she failed to appear for a duly noticed deposition and Respondents incurred costs and attorney's fees as a result. Claimant's treatment thus far was not related, reasonable, or necessary. Claimant suffers from preexisting injuries and conditions which were not caused or affected by the alleged work injury.”

The claimant in this matter is a 53-year-old female who alleges to have sustained a compensable injury to her cervical spine on or about May 21, 2024. The claimant was employed with the respondent as a driver. The claimant drove motorcoaches, minicoaches, Cadillacs and Suburbans for the respondent. In direct examination, the claimant gave the following testimony about the incident in which she alleges her compensable cervical spine injury to have occurred and her reporting of that injury.

Q And what happened on May 21st in 2024?

A It was track – it was the last track meet at the U of A, and I had University of Arkansas, the Razorback men's track team, and I went to the shop to get the bus ready, and I did a pre-trip, and I hurt myself on the luggage bay door, the first luggage bay door.

Q And how did you hurt yourself on the luggage bay door?

A When I lifted the handle, normally the bus – the bay door kind of just swings out. It has shocks and so I lifted it, and it was heavy, and I lifted it and had to swing my wrist around to kind of get under it so I can use my weight and lift it up into the locked position.

Q Are those doors supposed to just raise automatically when you unlock them, or how does that work?

A No, you unlock them and then the springs or the shocks assist, and you just kind of guide it up and then put it in the locked position.

Q And so was that system not working that day?

A No.

Q And how much force would you say it took you to pick that up?

A I don't know how much force, but I had to bend down and get under it to lift it.

Q Did it feel difficult?

A Well, yeah. I knew it was broke, and I hurt my wrist, my elbow. I just had lots of shooting pain come up. And then from my shoulder to my neck just start sharp, stabbing pains. And at that time, I called Julian.

Q And who is Julian?

A He was my direct manager, the team leader.

Q And what did you tell Julian?

A I told him, "The bay is broke and I need another bus."

Q Did you tell him that you had hurt yourself?

A I did.

Q And what did he say?

A He said, “We don’t have another bus and we don’t have another person.”

Q So did you continue working?

A I did. I continued my pre-trip. I wrote it up on my pre-trip, and I took off to go get the track team, and I had to lift it up again. So every time I went to a destination, I’d have to open up that luggage bay and do the same process.

Q And how long did you continue working before you saw a doctor?

A The track meet lasted a few days, so five, six, seven days, because the last day when I was done, they asked me to take over because someone ran out of hours, and so I worked till midnight that night.

Q So in these days that you worked after the injury, did your symptoms progress?

A Yes. I told Julian I was putting a hot towel on my neck and shoulders once I would get up into my room for the evening.

Q And why were you continuing to work during this time?

A Because they had no replacement driver and no replacement bus.

The claimant was asked on direct examination about whether the respondent sent her for medical treatment. She testified that she was told she could go to a doctor of her own choosing. The claimant was seen at Mercy Clinic in Bentonville, Arkansas, by APRN Albert Prince on May 28, 2024. Following is a portion of that medical record:

Musculoskeletal: Positive for arthralgias, joint swelling and myalgias.

Was lifting a luggage door on last Tuesday with her job, has had a left neck pain since then. Had had all of her joints hurt, pain getting out of bed, felt like needles. No other family members have been ill. Has not been tested for autoimmune problems in the past as this has not happened like this before.

Cervical back: Normal range of motion.

Comments: Edema of both lower extremities which is pretibial. Has swelling of the joints of her hands and wrists. Has some mild swelling and tenderness of the upper trapezius especially on the left side. There is decreased range of motion of the cervical spine in all planes.

I have discussed with her that we did not get approval from her employer for evaluation of Worker's Comp prior to this visit. She needs to follow-up with her employer regarding the symptoms in her neck.

The claimant was seen at Conservative Care Occupational Health in Springdale on May 31, 2024, by PAC Daniel Nicholas. Following is a portion of that medical record:

PATIENT DESCRIPTION OF ACCIDENT

Patient states that she lifted a luggage door and suddenly felt pain in her neck. Patient states that the pain is radiating down to her left shoulder, left wrist and into her shoulder blade. Patient was seen at a Walk-in clinic and ER and was given Prednisone.

CHIEF COMPLAINT

Neck injury.

HISTORY OF PRESENT ILLNESS

Diana's primary problem is pain located in the neck. She describes it as aching, stiff, numb, sharp, burning. She considers it to be moderate. The problem began on 5/21/2024. Dina says that it seems to be constant. She has noticed that it is made worse by moving.

COMMENTS ON HISTORY OF PRESENT ILLNESS

This is the first time I have seen Dina for this problem. She was injured 10 days ago at work. She continued working in pian. She got much worse 5 days ago. She was seen at two different clinics and started prednisone taper 3 days ago. Her swelling is improving, but her pain is not.

ASSESSMENT

I have no explanation for her systemic swelling that occurred 5 days ago. I agree with the treatment of steroids and they seem to be reducing her swelling.

Number and Complexity of Problems Addressed: 1 acute complicated injury.

Rationale: the injury is extensive, Evaluation of body systems that are not directly part of the injured organ, Treatment options are multiple.

TREATMENT PLAN

She will finish her steroid pack. She will start physical therapy for this problem.

CONSULTATION/REFERRAL REQUEST

Physical therapy.

MEDICAL CAUSATION

The cause of this problem appears to be related to work activities.

RECOMMENDED WORK STATUS

Dina's recommended work status is Restricted Duty.

Return to work plan discussed with patient and communicated to the employer.

The claimant was referred to physical therapy at that time.

On January 24, 2025, the claimant was seen at Mercy Clinic Primary Care by APRN Paul Prince. Following is a portion of that medical record:

Cervical back: Normal range of motion.

Comments; Decreased vocal spine range of motion in all planes. Has muscle spasms of both upper trapezius, and posterior cervicals, as well as levator scapulae on the left. Decreased range of motion of the wrist. Is unable to fully supinate and pronate her left arm. Has weakness of the left hand and wrist following an ulnar distribution.

The claimant was again seen by APRN Prince on March 11, 2025. At that time, an MRI of the claimant's cervical spine was ordered. Following are portions of that medical record:

History of Present Illness

The patient is a 52-year-old female who presents for follow-up on her neck, shoulder, and wrist pain.

She reports persistent pain in her neck, shoulder, and wrist, which has not shown significant improvement despite ongoing physical therapy. The pain originated from an injury sustained at the end of May 2024, and she sought medical attention in June 2024. She was seen here on 01/24/2025. She has retained some mobility in her fingers, but the pain radiates from her shoulder to her neck. She has not yet consulted with Dr. Johnson for an EMG due to insurance constraints requiring completion of physical therapy first. She has approximately 4 to 5 more physical therapy sessions remaining. Her workers' compensation claim has been denied, and she is currently managing her medical bills through a payment plan. She is doing home program at home. She does not have a pacemaker, is not pregnant, has no recent brain aneurysm clips or vascular stents, and does not have a known piece of metal in her eye. She has been taking gabapentin at night but reports no noticeable relief. She has not attempted to take it during the day due to potential drowsiness. Her physical therapy includes manual traction, which she finds beneficial, and assisted exercises. She also uses a TENS unit and heat application but is uncertain of their effectiveness.

1. Cervicalgia.

She reports persistent pain in her shoulder and neck, radiating down to her shoulder blade, with limited progress from physical therapy. The pain is described as radiating from the shoulder to the neck and down the shoulder blade. An MRI of the cervical spine from 2018 showed some abnormalities. An MRI of the cervical spine will be ordered to further evaluate her condition. A referral to neurosurgery will be made, contingent upon the completion of the MRI. She is advised to contact Dr. Johnson's office to schedule an EMG. The current dose of gabapentin will be continued, and she is encouraged to take it during the day on weekends to assess its impact on her daily activities, particularly driving. If tolerated, the dose may be increased. She is also advised to consider purchasing a TENS unit for home use and bring it to physical therapy for optimal placement and usage. Physical therapy will be reordered to continue working with her.

The claimant underwent an MRI of the cervical spine on April 2, 2025. Following are the findings and impressions from that MRI as read by Dr. Jay Hedgecock:

IMPRESSION:

2 mm anterior subluxation of C5 and C6

Multilevel degenerative disc disease, canal stenosis. Neural foraminal encroachment as described above, most advanced at C4-C5.

FINDINGS:

2 mm anterior subluxation of C5 and C6 is identified. There is straightening of the normal cervical lordotic curve. Disc desiccation is seen at each level the cervical spine without significant reduction of vertical disc space height. The craniocervical junction is normal. The cervical cord is of normal caliber and signal characteristics throughout its length.

C2-C3: Normal level

C3-C4: Normal level. Left neural foraminal narrowing due to posterior projecting osteophytes.

C4-C5: Diffuse posterior annular disc bulge and marginal osteophytic ridging. There is effacement of ventral and dorsal CSF spaces, marked cord flattening and mild canal stenosis. The neural foramina are mildly narrowed bilaterally due to posterior projecting osteophytes.

C5-C6: Mild canal stenosis secondary to a diffuse posterior annular disc bulge. There is a small superimposed central disc protrusion. There is effacement of the ventral CSF space, mild cord flattening and mild canal stenosis. The neural foramina are patent bilaterally.

C6-C7: Normal level.

C7-T1: Normal level.

On April 8, 2025, the claimant was seen by Nurse Practitioner Kaitlyn Terrell at Mercy

Rogers Neurosurgery. Following is a portion of that medical record:

HISTORY OF PRESENT ILLNESS:

Dina “Michelle” is a 52-year-old female presented to the neurosurgery clinic today for evaluation of symptoms. Patient reports that this is a result of an injury in May 2024. She has worked and lifted a broken luggage off a charter bus and immediately felt pain. She states that since that time symptoms

have been consistent. She states that she has left-sided neck pain that radiates down into the left chest and into the axilla as well as down the back of the left side of the neck into the left shoulder entire shoulder and then also down the left shoulder blade to below this. She states that in the arm it radiates down into the tricep and down the internal arm and out the thumb and pointer finger. She states most the pain is into the thumb joint. At first she was unable to close her fist on the left side as the pinky and ring finger would not move correctly. She states that she is also starting to have some tenseness and pain in her anterior neck. She also has static white noise in her head at all times. She states she does have a little bit of right sided neck pain with left greater than right. Patient reports that the pain is burning, sharp/stabbing, with numbness and tingling. She states that the pain is a jabbing pain along with stiffness and tense. She reports on average pain is 5-6 out of 10. She states that massage makes the pain better while sleeping/working makes it worse. She does report she continues to have weakness in the left arm. She is left hand dominant. She states she is dropping objects as well as has difficulty with opening objects. She does report a decrease in fine motor skills and decrease in handwriting. She does report a decrease in grip but thinks that this is related to thumb. She is not unsteady on her feet. Patient has been working with physical therapy and has completed 7 sessions at this time and has completed another round by Dr. Injury. She has tried chiropractic and massage therapy which provide temporary relief. She does not take any medications. She denies Any contacts. Patient has any bladder or bowel continence any saddle anesthesia. Patient has a past medical history of insomnia, restless leg syndrome, asthma.

ASSESSMENT AND PLAN:

Ms. Yugen is a 60-year-old female presents the neurosurgery clinic today for evaluation of cervical radiculopathy and injury at work. I recommend patient be sent to pain management for possible epidural steroid injections. I am also going to send patient for cervical flexion-extension x-rays today in office. Due to weakness in the left hand and get nerve conduction studies EMG/NVS for further evaluation. Patient will follow-up in approximately 12 weeks. Patient verbalized understanding all questions were answered. Patient knows she may contact our office for any questions, concerns, worsening symptoms.

1. Cervical radiculopathy (Primary)
AMB REFERRAL TO PAIN CLINIC

AMB REFERRAL TO NEUROSURGERY
XR CERVICAL SOINE 4 OR 5 VIEWS: Future

2. Weakness of left arm
AMB REFERRAL TO NEUROSURGERY

Dr. Adam Green with Mercy Interventional Pain Clinic saw the claimant on April 30, 2025, and performed an C6-7 cervical epidural steroid injection on the claimant with thoroscopic guidance of his needle placement.

The claimant was then seen by CNP Brandi Flecter at Mercy Interventional Pain Clinic.

Following is a portion of that medical record:

HISTORY OF PRESENT ILLNESS:

Dina Michelle Yugen is 52 y.o. female who presents for follow-up management of neck pain. She had C6/7 interlaminar ESI and she reports 50% relief, improved quality of life, and improved level of functioning since having these procedures.

Pain is located in neck, left shoulder and radiates into LUE to her hand. Pain is rated (using a Visual Analog Scale) 5-10 at worse, 2/10 at best, & 3/10 usually. Pain is characterized as cramping, sharp/stabbing, and changes with severity but is always present. Pain is aggravated by standing and exercise. Pain is alleviated by sitting, standing, heat, and touch/massage.

Plan:

XR left shoulder

Discussed left shoulder inj vs ESI after review of imaging

Continue with OTR meds PRN – Tylenol, ibuprofen, Aspercreme with lidocaine, Voltaren gel

Continue HEP

Counseling

The claimant was again seen at Mercy Interventional Pain Clinic by APN Madhari Patel.

Following is a portion of that medical record:

CHIEF COMPLAINT: Neck pain and left shoulder pain

HISTORY OF PRESENT ILLNESS:

Dina Michelle Yugen is a 52 y.o. female who presents for follow-up management of neck pain and left shoulder pain.

Patient is s/p Left Glenohumeral Joint Injection with Steroid, Left Acromioclavicular Joint Corticosteroid Injections and reports 50% improvement in pain and function for a few weeks then pain returned to baseline.

Pain is rated (using a Visual Analog Scale) 8/10 at worse, 2/10 at best, & 4/10 usually. Pain is characterized as cramping, numbness, tingling/pins and needles, and changes with severity but is always present. Pain is aggravated by any movement and changing positions. Pain is alleviated by heat and touch/massage.

She continues to report neck and shoulder pain, can travel to her elbow. Feels tight/stiff in her neck, like her tongue gets stuck, her jaw is stiff, she has been seeing PT and getting dry needling which helps. She saw neurosurgery 08/20/25.

Plan:

Patient has tried and failed 3 months of conservative treatment including PT, OTC and prescription medications and injections and continues to experience shoulder pain.

MRI left shoulder without contrast, consider ortho referral thereafter.

Consider repeat CESI

Continue to OTC meds PRN – Tylenol, ibuprofen, Aspercreme with lidocaine, Voltaren gel.

Continue HEP.

The respondent in this matter has filed a Motion to Supplement the Record and the claimant has responded to that motion and the respondent then replied. The respondent as stated in his motion has moved to place additional medical records in record of this case after the conclusion of the hearing in this matter. After review of the motions submitted by both parties, I find the addition of these medical records to be appropriate due to the respondent's attempts prior to the hearing to collect them and the confusion of the claimant's name change.

In order to address adequately this matter under A.C.A. § 11-9-705(a)(1) (Repl. 2012) (Commission must “conduct the hearing . . . in a manner which best ascertains the rights of the parties”), I have blue-backed to the record documents from the Commission’s file on the claim, consisting of 50 pages. In accordance with *Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549, these documents have been served on the parties in conjunction with this opinion. I note that those medical records preexist the claimant’s alleged compensable cervical spine injury of May 21, 2024.

The claimant has asked the Commission to determine if she sustained a compensable neck or cervical spine injury on or about May 21, 2024.

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 has certainly had neck or cervical issues that predate her May 21, 2024, alleged injury date. The claimant gave testimony as such and medical records in evidence support her prior neck or cervical spine difficulties. The claimant must be able to prove by a preponderance of the evidence the existence of objective medical findings regarding the injury to her neck or cervical spine she alleges. In the claimant’s May 28, 2024, medical record by APRN Prince he declines to treat her for her alleged work injury, stating, “I have discussed with her that we did not get approval from her employer for evaluation of workers’ comp prior to this visit.

She needs to follow-up with her employer regarding the symptoms in her neck.” However, in the Assessment and Plan section of that same medical record, APRN Prince does note, “Neck muscle spasm.” The claimant’s cervical MRI of April 2, 2025, reports several objective findings including a C4-C5 annular disc bulge and a C5-C6 diffused posterior annular disc bulge.

The claimant is able to prove the existence of objective medical findings. The claimant must also prove a causal connection between the incident she alleges and the objective medical findings. The claimant testified that she was lifting a malfunctioning side compartment on the exterior of the bus she was to drive when she injured her neck or cervical spine. While the claimant does have a history of prior difficulties in that area of her body, reports to medical providers have been consistent with her testimony and the objective medical evidence submitted in this record. I find that the claimant is able to prove a causal connection between her objective medical findings and the incident she alleges.

The claimant has asked the Commission to determine if she is entitled to medical treatment for her compensable neck or cervical spine injury.

Employers must promptly provide medical services which are reasonably necessary in connection with the compensable injuries, A.C.A. §11-9-508(a). However, injured employees have the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). What constitutes reasonable and necessary medical treatment is a fact question for the Commission, and the resolution of this issue depends upon the sufficiency of the evidence. *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 924 S.W.2d 790 (1996).

I have reviewed the medical evidence in this matter and find that the medical treatment and evaluation of the claimant’s neck or cervical spine submitted and accepted into the record in

this matter dated after May 21, 2024, is reasonable and necessary medical treatment for her compensable neck or cervical spine injury.

The respondent has asked the Commission to sanction the claimant under A.C.A. §11-9-717(b) in that the respondent alleges the claimant has failed to appear for a scheduled deposition. The respondent's motion is found at Respondents' Exhibit 2, pages 1-3. The claimant's response to that motion is found at Claimant's Exhibit 4, page 1-3. The respondent's reply in support of their motion is found at Respondents' Exhibit 2, pages 5-8.

A.C.A. §11-9-717(b) states:

Appropriate sanctions, including the amount of reasonable expenses and attorney's fees, may also be imposed against a party or its attorney which, without good cause shown, fails to appear for a hearing, deposition, or any other matter scheduled by the commission or administrative law judge, or frivolously joins another party.

This is a singular incident which the claimant states she was unaware of the deposition until she received a phone call about the deposition on that very day. In fact, the claimant was working that day driving a bus for a soccer team in Pensacola, Florida. After review of the evidence in this matter, I have determined that the respondent's motion for sanctions under A.C.A. §11-9-717(b) should be denied.

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 her 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 March 10, 2025, and contained in a Pre-hearing Order filed March 13, 2025, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that she sustained a compensable injury to her neck or cervical spine on or about May 21, 2024.

3. The claimant has proven by a preponderance of the evidence that she entitled to reasonable and necessary medical treatment for her neck or cervical spine injury.

4. The respondent's request for sanctions under A.C.A. §11-9-717(b) in that the claimant failed to appear for a scheduled deposition is hereby denied.

5. The respondent's motion to submit additional medical evidence is hereby granted.

ORDER

The respondents shall pay the reasonable and necessary medical expenses associated with the claimant's May 21, 2024, neck or cervical spine injury, that is to include medical treatment and evaluation for that injury.

Pursuant to A.C.A. §11-9-715(a)(1)(B)(ii), attorney fees are awarded "only on the amount of compensation for indemnity benefits controverted and awarded." Here, no indemnity benefits were controverted and awarded; therefore, no attorney fee has been awarded. Instead, claimant's attorney is free to voluntarily contract with the medical providers pursuant to A.C.A. §11-9-715(a)(4).

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**