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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE FULL COMMISSION
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

APPELLATE CASE NUMBER: 2025-002058

Sonya Parks, Claimant and Appellant,

v.

Cintas Corporation, Employer and Respondent,

and

Farmington Casualty Company and
LM Insurance Corporation, Carrier and Respondents.

FINAL INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

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2. Whether the Commission erred as a matter of law and fact in finding that Claimant did not sustain a compensable aggravation of her left shoulder condition despite uncontroverted medical evidence from the authorized treating physician establishing causation to a reasonable degree of medical certainty.

3. Whether the Commission erred in rejecting Claimant's repetitive trauma claim by misapplying S.C. Code Ann. § 42-1-172 and disregarding medical and lay evidence demonstrating cumulative trauma to Claimant's shoulders arising from decades of repetitive, strenuous work duties.

4. Whether the Commission erred in finding that Claimant reached maximum medical improvement on October 31, 2023, despite ongoing treatment needs, worsening bilateral shoulder pathology, and medical opinions indicating continued impairment and need for care.

5. Whether the Commission erred in denying compensation for injuries to Claimant's arms, hands, neck, and psychological condition by ignoring or improperly discounting record evidence supporting compensability.

6. Whether the Commission erred in disregarding unrefuted vocational evidence establishing that Claimant is permanently and totally disabled and unable to engage in gainful employment.

7. Whether the Commission erred in awarding Defendants a credit for overpayment of temporary total disability benefits beginning January 5, 2024, rather than from the actual date of maximum medical improvement, or in the alternative, in awarding any credit where disability continued.

STATEMENT OF THE CASE AND FACTS

This is an appeal against the Decision and Order of the Full Commission. (See Full Commission Decision and Order, September 24, 2025). The Claimant Sonya Parks ("Claimant" or "Ms. Parks") is a 54-year-old single woman who worked for Cintas Corporation ("Employer" or "Cintas") since July 31, 2000, as a Folder in the folding department. (R. pp. 506, 439). Ms. Parks' job duties involved repetitive and strenuous lifting of totes filled with laundry, gripping, grabbing, and handling garments overhead. (R. p. 227).

On or about September 2, 2021, while lifting a heavy tote full of laundry at work, Ms. Parks experienced sharp pain in her right shoulder and right bicep. (Id; R. p. 77). Prior to this, on April 1, 2021, Ms. Parks had seen Dr. Stephen G. Phill ("Dr. Phill"), MD of Prisma Health Steadman Hawkins Clinic of the Carolinas-Patewood for left shoulder pain. She elected for left shoulder arthroscopy. However, Ms. Parks' underlying left shoulder issue did not have any effect on her current work duties and responsibilities, as she was able to continue working full-time and full duty for Cintas without significant problems or limitations. Between April 2021 to September 2021, Ms. Parks was working full duty and had no activity or physical restrictions. Specifically, at the time of injury, Ms. Parks' left shoulder was non-disabling, and she performed the essential duties of her job with Cintas. (R. pp. 460-461).

After the September 2, 2021, lifting injury, Ms. Parks experienced worsening bilateral shoulder pain due to the repetitive demands of her job. Ms. Parks started experiencing worsening pain in her left shoulder from this heavy lifting injury because the essential functions of her job duties with Cintas required heavy lifting, loading, and packing laundry with her arms and shoulders. (R. pp. 178-179). The everyday intensive lifting, loading, and packing of laundry at Cintas caused her bilateral shoulder pains to worsen, particularly after the September 2, 2021, work-related lifting accident. Ms. Parks continued to work her intensive repetitive job duties until

October 9, 2022, the last day of her injurious exposure. (R. p. 214). The defendant-employer Cintas admitted Ms. Parks sustained acute right shoulder and right arm injuries on September 2, 2021, from lifting a heavy tote of laundry at work. At the hearing, the defendant-employer witnesses from Cintas, as Mr. Gerrit Geukes Kurtycz ("Mr. Kurtycz") and Mr. Joseph Brent Privatte ("Mr. Privatte"), admitted under oath that the essential functions of Sonya Parks' job duties are repetitive lifting, pulling, grabbing, and handling heavy totes and garments at work as a Folder. (R. pp. 208-209).

After her admitted work-related lifting injuries, Ms. Parks underwent a right shoulder MRI for her right shoulder on September 23, 2021. The MRI impression states: 1) Cuff tendinopathy and peritendinobursitis. Regions of interstitial and articular surface partial-thickness tearing mid to distal supraspinatus and less so infraspinatus, occupying between 50-75% of the depth. Full-thickness perforation with scarring obscuring full-thickness component enterodistally may be contributory. Bursitis present; 2) Outlet-related cuff impingement secondary to AC joint hypertrophy and a lateral down-sloping hypertrophied type 2 acromion. AC arthrosis present; and 3) Frayed worn posterior superior labrum. No acute or displaced labral tear. (PHB Commission, p. 91; APA 5).

On September 30, 2021, Ms. Parks visited Dr. Phill with an acute traumatic incomplete tear of her right rotator cuff from September 2, 2021, work-related lifting injuries. (PHB Commission, pp. 36-47; APA 3). Ms. Parks followed up again with Dr. Phill on October 7, 2021, with now a traumatic complete tear of the left rotator cuff. (PHB Commission, pp. 48-54; APA 3).

On March 2, 2022, Sonya Parks had a follow-up right shoulder MRI for her admitted right shoulder injuries at Innervision of Greenville. Ms. Parks' right shoulder showed the impression: 1) Large reactive joint effusion and fluid in the subacromial subdeltoid bursa; 2) Full-thickness

segmental tear supraspinatus tendon with high-grade interstitial tear of the remainder of the tendon; 3) Moderate to high-grade myotendinous tear of the myotendinous junction of the infraspinatus tendon. Low to moderate grade insertional tear at the footprint; 4) High-grade tear of the superior decussating fibers of the subscapularis tendon. Moderate to high-grade interstitial tear of the more proximal tendon; 5) Evidence suggesting a SLAP injury; 6) No detached labral tear; 7) Bony hypertrophy undersurface the AC joint with reactive osteitis; and 8) Findings likely acute on chronic. (PHB Commission, pp. 92-93; APA 5). Because of Ms. Parks' now symptomatic left and right shoulder pains and injuries, Dr. Phill opined in a special medical questionnaire on July 4, 2022, that Ms. Parks suffered an acute traumatic right shoulder and worsening left shoulder injuries causally and directly related to her September 2, 2021, work-related lifting of a tub full of heavy laundry off a table at work with Cintas of Greenville. (PHB Commission, pp. 64-68; APA 3).

Ms. Parks also reported a distinct incident on June 15, 2022, when her left arm popped while lifting a heavy coverall. On June 15, 2022, while Ms. Parks was folding and lifting garments, she tried to reach too high to pull a heavy coverall out of one of the bins in the cleanroom. R. 129. During this time, Ms. Parks' left arm popped, and she experienced acute and aggravating pain in her left shoulder because the garments were very heavy, and she lifted them extremely high. R. 129; R. 33 (R. p. 520). After this incident, Ms. Parks had a tightening and worsening feeling in her left shoulder and arm that did not exist before June 15, 2022. R. 34 (Hearing Tr. 26:2-4).

Ms. Parks' coworkers informed the quality manager Linda Saniewski ("Ms. Saniewski") and brought her to the scene. R. 34 (Hearing Tr. 26:6-11; R. p. 515). Ms. Saniewski notified the production manager Tanner Burton ("Mr. Burton") about the incident, and he sent Ms. Parks home. R. 129; R. 34; R 368 (Hearing Tr. 26:16-19; (R. p. 517). On June 16, 2022, Ms. Parks did not report to work. On June 17, 2022, Ms. Parks informed the HR Manager Kami Phillips ("HR") that

her left shoulder and left arm was still sore. She also requested Human Resources to set up a doctor's appointment for her. R. 369 (R. p. 517). On June 17, 2022, Ms. Parks went to the authorized treating physician Occupational Health Doctor Joel Anderson Smithwick, M.D. ("Dr. Smithwick"). R. 370 (R. p. 517). Dr. Smithwick recommended light duty to Ms. Parks and advised that she see the orthopedic doctor Stephen Geoffrey Pill M.D. ("Dr. Pill") for MRI. R. 370 (R. p. 517). However, Dr. Pill was unavailable, and she could not see him. R. 370, 371 (R. pp. 517-518). Ms. Parks still worked on light duty, and Dr. Smithwick restricted her from doing overhead lifting and working only by her waist side. R 373 (R. p. 518).

Ms. Parks underwent right shoulder surgery with Dr. Phill on October 10, 2022. (PHB Commission, pp. 86-89; APA 4). Later, Dr. Phill ordered a left shoulder MRI for Ms. Parks' worsening left shoulder pain and injuries on March 17, 2023, at Innervision. The MRI impression indicates: 1) Complete tears of the distal aspects of the supraspinatus and infraspinatus tendons with significant tendon retraction. Severe atrophy of the supraspinatus and infraspinatus muscle bellies; 2) Moderate AC joint arthropathy and narrowing of the superior outlet, and Posterior and inferior labral tears. (PHB Commission, pp. 95-96; APA 5). On February 29, 2024, the Prisma Health Progress Notes by Dr. Phill noted: "I do feel that the right shoulder injury is affected and aggravated the left shoulder. The left shoulder requires surgery because of lifting injury sustained back in 2021 on September 2." (PHB Commission, p. 81; APA 3).

On March 27, 2024, Dr. Phill confirmed his July 4, 2022, and his February 29, 2024, medical opinion at his deposition under oath to a reasonable degree of medical certainty that Ms. Parks sustained acute right shoulder injuries and worsening left shoulder injuries due to her repetitive lifting and her September 2, 2021 lifting of a heavy tote of garments at work. (R. p. 441). In the initial Form-14B submitted on November 14, 2023, Dr. Phill indicated that Ms. Parks had

no retained hardware and needed no future medical treatment. However, on April 16, 2024, Ms. Parks submitted a revised Form 14B, reflecting that her right and left shoulder were affected, and she had retained hardware in the form of suture anchors from the rotator cuff repair. (PHB Commission, p. 116; APA 8).

Throughout her continued employment, Ms. Parks' left and right shoulder conditions worsened. She also developed pain in her arms, hands, neck, and psychological distress, all of which she attributed to the cumulative physical demands of her work. On November 1, 2021, she aggravated her condition while performing repetitive jerking motions. Despite injections and conservative care, her pain persisted. (Hearing Tr., pp. 9–13).

On February 4, 2025, the Single Commissioner issued an Order finding that Ms. Parks sustained a compensable injury to her right shoulder only, with a 12% impairment rating and 21% permanent partial disability. The Commissioner found that she reached maximum medical improvement (MMI) on October 31, 2023. Defendants were granted a credit for overpayment of benefits from January 5, 2024. The Commissioner rejected Ms. Parks' claims regarding aggravation of her left shoulder injury, arms, hands, neck, and psychological injury, and denied the repetitive trauma claim, finding insufficient medical evidence under S.C. Code Ann. § 42-1-172.

Ms. Parks appealed the single commissioner's order claiming that she suffered additional compensable injuries to her left shoulder, arms, hands, neck and psyche and she has not reached MMI. Ms. Parks also claimed that she was permanently and totally disabled. The Full Commission ("Commission" or "Full Commission") held a hearing on August 26, 2025. On September 24, 2025, the Full Commission issued its Decision and Order, which affirmed the Single Commissioner's ruling in its entirety, without independent findings or analysis.

This appeal follows.

STANDARD OF REVIEW

Section 1-23-380 of the Administrative Procedures Act ("APA") governs judicial review of the Appellate Panel's decision by the court of appeals. *Davis v. S.C. Dep't of Corr*., 444 S.C. 138, 151, 906 S.E.2d 569, 576 (2024). It provides that "[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review . . . Except as otherwise provided by law, an appeal is to the court of appeals." *Id*. (quoting S.C. Code Ann. §1-23-380).

"An appellate court's review is limited to the determination of whether the Commission's decision is supported by substantial evidence or is controlled by an error of law." *Clemmons v. Lowe's Home Ctrs., Inc.-Harbison*, 420 S.C. 282, 287, 803 S.E.2d 268, 270 (2017) (citing *Grant v. Grant Textiles*, 372 S.C. 196, 201, 641 S.E.2d 869, 871 (2007)).

Under the South Carolina Administrative Procedures Act ("APA"), "an appellate court may reverse or modify the decision of the agency if substantial rights of the appealing party have been prejudiced because the administrative findings, inferences, conclusions, or decisions are affected by an error of law or are not supported by substantial evidence in the record." *Davis*, 444 S.C. at 149 (citing S.C. Code Ann. §1-23-380(5)). "'The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact.'" Id. (quoting S.C. Code Ann. § 1-23-380(5)).

"[H]owever, the Court may reverse or modify a decision of the Commission if it is affected by an error of law or is clearly erroneous in view of the substantial evidence on the record as a whole." *Clemmons*, 420 S.C. at 287 (citing S.C. Code Ann. §1-23-380(5)). "While the findings of an administrative agency are presumed correct, they may be set aside if they are unsupported by

substantial evidence." *Id*. (citing *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 519, 466 S.E.2d 357, 359 (1996)). Substantial evidence is "not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action.'" *Id*. (citing *Adams v. Texfi Indus*., 341 S.C. 401, 404, 535 S.E.2d 124, 125 (2000))

Like any other finder of fact, the Commission may not rest its findings on speculation or guesswork. *Tiller v. Nat'l Health Care Ctr. of Sumter*, 334 S.C. 333, 339, 513 S.E.2d 843, 845 (1999) ("Workers' compensation awards must not be based on surmise, conjecture or speculation."). Instead, the Commission must anchor its ruling on evidence substantial enough to provide a reasonable basis for its findings. *Hutson v. S.C. State Ports Auth*., 399 S.C. 381, 387, 732 S.E.2d 500, 503 (2012).

The Court may reverse the Commission's decision if its findings are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; the result of an error of law; or arbitrary, capricious, or an abuse of discretion resulting in prejudice to Claimants' substantial rights. South Carolina Code Annotated §1-23-380(5).

ARGUMENT

I. The Full Commission Erred by Failing to Conduct an Independent and Meaningful Review of The Single Commissioner's Decision, Which Requires Reversal or Remand

"[T]the guiding principal undergirding [South Carolina's] workers' compensation system [is] that the Act is to be liberally construed in favor of the claimant." *Hutson.*, 399 S.C. at 387 (citing *Carter v. Penney Tire & Recapping Co.*., 261 S.C. 341, 349, 200 S.E.2d 64, 67 (1973)). "The Administrative Procedures Act applies to appeals from decisions of the Commission." *Pack v. S.C.*

DOT, 381 S.C. 526, 532, 673 S.E.2d 461, 464 (Ct. App. 2009) (citing *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 134-35, 276 S.E.2d 304, 306 (1981)). "The [Appellate Panel of the South Carolina Workers' Compensation] Commission is the ultimate fact finder in Workers' Compensation cases and is not bound by the Single Commissioner's findings of fact." *Id*. (citing *Etheredge v. Monsanto Co*., 349 S.C. 451, 454, 562 S.E.2d 679, 681 (Ct. App. 2002)).

"Pursuant to S.C. Code Ann. § 42-17-50 (Supp. 2007), the Commission shall weigh the evidence as presented at the initial hearing and, if good grounds are shown, make its own findings of fact and reach its own conclusions of law consistent or inconsistent with those of the Single Commissioner." *Id*. at 535. "[A]lthough it is logical for the Commission to give weight to the Single Commissioner's opinion, the Commission may disagree with his findings based on the credibility of witnesses." *Id*. (citing *Green v. Raybestos-Manhattan, Inc*., 250 S.C. 58, 64, 156 S.E.2d 318, 321 (1967)).

"The findings of the Commission are presumed correct and will be set aside only if unsupported by substantial evidence." *Id*. at 532 (citing *Lark*, 276 S.C. at 135, 276 S.E.2d at 306.) "'Substantial evidence' . . . is evidence that, considering the record, would allow reasonable minds to reach the conclusion the administrative agency reached [or must have reached] in order to justify its action." *Id*. (citing *Taylor v. S.C. Dep't of Motor Vehicles*, 368 S.C. 33, 36, 627 S.E.2d 751, 752 (Ct. App. 2006); see *Clemmons*, 420 S.C. at 287).

The South Carolina Court of Appeals has made clear that the Full Commission must conduct a thorough and reasoned review of contested findings and provide sufficient explanation to allow judicial review. See *Frame v. Resort Servs.*, 357 S.C. 520, 531, 593 S.E.2d 491, 497 (Ct. App. 2004) (citing *Parsons v. Georgetown Steel*, 318 S.C. 63, 66, 456 S.E.2d 366, 368 (1995)) "The

findings of fact made by the Full Commission must be sufficiently detailed to enable the reviewing court to determine whether the evidence supports the findings.")

The Full Commission is statutorily required to conduct a de novo review of the record and independently evaluate the evidence and legal issues raised on appeal from the Single Commissioner. While the Commission may affirm a single commissioner's order, it may not do so by merely adopting the findings wholesale without addressing the alleged errors.

Here, the Full Commission's decision repeats nearly verbatim the Single Commissioner's Findings of Fact and Conclusions of Law without engaging in a substantive analysis of the legal and factual errors raised in Claimant's appeal. No material difference exists between the two decisions beyond minor stylistic changes (e.g., use of "we" instead of "I"), and there is no indication that the Full Commission exercised its own judgment to resolve the contested evidentiary or legal issues presented in the record.

Critically, the Full Commission offers no additional independent reasoning or legal analysis. Claimant raised ten distinct issues in the appeal to the Full Commission, challenging the weighing of medical evidence, the denial of compensability for the left shoulder and other injuries, aggravation of a pre-existing condition, repetitive trauma, vocational disability, or the misapplication of statutory standards, Maximum Medical Improvement and the calculation of the TTD credit. The Full Commission did not address or even reference these issues in its decision, instead simply affirmed the Single Commissioner's conclusions wholesale. This is particularly concerning given the presence of competent medical testimony from Dr. Pill that Claimant's left shoulder condition was aggravated by the September 2, 2021, injury and would require additional treatment. Likewise, a vocational evaluation concluded that Claimant was unable to return to

gainful employment, directly contradicting any implied functional recovery by the MMI date of October 31, 2023.

Thus, the Full Commission failed to meaningfully review contested issues, instead merely rubber-stamped the findings of the Single Commissioner. Full Commission's decision is erroneous in view of the evidence on the whole record. The Commission did not meet its obligation to independently assess the credibility of evidence, apply correct legal standards, and explain its reasoning. Full Commission's failure to engage in independent review constitutes error of law under the APA, prejudices Claimant's substantial rights, and independently warrants reversal or remand. See S.C. Code Ann. § 1-23-380(5); see *Hutson*., supra.

II. The Full Commission Erred in Finding That Claimant Failed to Prove Aggravation of Her Pre-Existing Left Shoulder Condition

South Carolina law is clear that an aggravation of a pre-existing condition is compensable when proven by a preponderance of the evidence, including medical evidence. S.C. Code Ann. §42-9-35. "A work-related accident which aggravates or accelerates a pre-existing condition, infirmity, or disease is compensable." *Hargrove v. Titan Textile Co*., 360 S.C. 276, 295, 599 S.E.2d 604, 614 (Ct. App. 2004) (citation omitted). "A condition is compensable unless it is due solely to the natural progression of a pre-existing condition." *Id*. "Aggravation of a pre-existing condition is compensable where disability is continued for a longer time, even though no disability would normally have resulted from the injury alone, or even if the aggravation would have caused no injury to an employee who was not afflicted with the condition." Id. Further, "[a]n injured employee 'who has a permanent physical impairment or preexisting condition' may receive benefits for a subsequent work-related disability if he establishes by a preponderance of the evidence that 'the subsequent injury aggravated the preexisting condition or permanent physical

impairment.'" *Burnette v. City of Greenville*, 401 S.C. 417, 427, 737 S.E.2d 200, 205-06 (Ct. App. 2012) (quoting South Carolina Code Annotated §42-9-35).

"When a pre-existing condition or disease is accelerated or aggravated by injury or accident arising out of and in the course of the employment, the resulting disability is a compensable injury." *Hargrove*, 360 S.C. at 295 (internal quotation and citation omitted). See also *Sturkie v. Ballenger Corp*., 268 S.C. 536, 541, 235 S.E.2d 120, 122 (1977) (exacerbation of pre-existing injury resulting from or during the course of employment is compensable). In the context of aggravation of a pre-existing condition, "[t]he claimant's right to compensation for aggravation of a pre-existing condition arises when the claimant has a dormant condition that becomes disabling because of the aggravating injury." *Murphy v. Owens Corning*, 393 S.C. 77, 86, 710 S.E.2d 454, 458 (Ct. App. 2011) (citing *Anderson v. Baptist Med. Ctr*., 343 S.C. 487, 493, 541 S.E.2d 526, 528 (2001); See *Hargrove,* 360 S.C. at 295 (Under South Carolina law, a condition need not be symptom-free to be considered dormant for purposes of compensability; rather, the inquiry is whether the condition was non-disabling prior to the work injury).

An employee can establish with a preponderance of evidence, including medical evidence that "the subsequent injury aggravated the preexisting condition or permanent physical impairment; or . . . the preexisting condition or the permanent physical impairment aggravates the subsequent injury." S.C. Code Ann. §42-9-35(A). See *Burnette*, 401 S.C. at 427. "A determination of whether a claimant's condition was accelerated or aggravated by an accidental injury is a factual matter for the Appellate Panel." *Hargrove*, 360 S.C. at 295.

Here, though Claimant met the above burden, the Commission found that the left shoulder condition was not compensable, disregarding extensive evidence to the contrary. In the present case, the Claimant had a known rotator cuff tear in her left shoulder from a prior work injury in

2019. Despite that condition, she returned to full duty, performed without restrictions, and was managing her symptoms such that her left shoulder was non-disabling at the time of her September 2, 2021 injury. Her duties at Cintas included repetitive lifting, pulling, and handling of heavy laundry totes—a fact confirmed under oath by employer representatives. (R. pp. 208- 209).

On September 2, 2021, while lifting a tote full of laundry, Claimant experienced a sharp pain in her right shoulder and bicep and thereafter reported worsening left shoulder pain. The increased reliance on her left arm following her right shoulder injury contributed to the deterioration of her left shoulder condition. This is supported by the treating orthopedic specialist, Dr. Phill, who testified that the lifting incident aggravated her left shoulder. (R. p. 424; PHB Commission, p. 81; APA 3). Claimant presented extensive medical evidence from Dr. Phill, who repeatedly opined—most notably in his July 4, 2022, medical questionnaire, February 29, 2024, progress note, and March 27, 2024, deposition—that Claimant's September 2, 2021, work-related lifting accident aggravated and worsened her pre-existing left shoulder condition, ultimately necessitating surgery.

Subsequent diagnostic imaging confirmed this progression. An MRI of the left shoulder on March 17, 2023, revealed complete tears of the supraspinatus and infraspinatus tendons, severe atrophy, moderate AC joint arthropathy, and labral pathology—findings that were not present in earlier evaluations. (PHB Commission, pp. 95–96; APA 5). On February 29, 2024, Claimant was continuing to have problems in her right shoulder, and her left shoulder and Dr. Phill stated it in his own business notes in his own medical records. (Full Commission Hrg. Tr. P.11). These findings objectively demonstrate worsening of the prior condition and were relied upon by Dr. Phill when he updated his Form 14B and reiterated, under oath, that the work injury and repetitive job duties materially contributed to the need for surgical repair.

The connection between Claimant's work activities and the progression of her condition is further supported by the repetitive and strenuous nature of her job duties. The South Carolina Supreme Court has long recognized that aggravation of a condition due to repetitive work activities may constitute a compensable injury. See *Sturkie*, 268 S.C. at 541. Here, the combination of the acute lifting incident on September 2, 2021, and the prolonged use of her left shoulder for compensatory movement, thereafter, contributed to the worsening of her condition in a manner that satisfies the compensability threshold.

Although Dr. Phill acknowledged that Claimant had a prior left shoulder injury, he unequivocally stated to a reasonable degree of medical certainty that the work accident and repetitive job duties worsened the condition, accelerated its progression, and materially changed Claimant's functional status. Prior to the accident, Claimant worked full duty without restrictions; afterward, her left shoulder became disabling. Dr. Phill noted that Claimant's left shoulder condition was aggravated because she relied on it to compensate for her injured right shoulder. (PHB Commission, p. 81; APA 3). The Full Commission erred by selectively relying on isolated deposition language suggesting the aggravation was "loose," while disregarding Dr. Phill's consistent and repeated opinions of causation.

Dr. Phill's clinical records, comparative MRIs, and testimony all demonstrate a clear medical progression and causation consistent with the legal standard under Hargrove and Sturkie. This is not a case of mere soreness or subjective complaint, but of objective anatomical changes, deteriorating function, and a causally linked aggravation of a previously stable condition resulting from work-related activity.

Further, the Commission did not consider the holdings in the case *Hargrove, supra,* which was almost similar to Claimant's case. Here, Claimant's co-employee, Mr. Privatte testified that

Ms. Parks complained about problems with her shoulders only after September 2, 2021 work-related injury. This incident caused a sharp pain in her right shoulder and right bicep and worsened the pain in her left shoulder. (R. p. 424). This meets the criteria outlined in *Hargrove*, where an injury that aggravates or accelerates a pre-existing condition is compensable.

Additionally, the Commission did not consider the June 15, 2022, incident in which Claimant felt a pop in her left arm while lifting a heavy garment, which was a compensable aggravation of her existing condition. The testimony of coworkers and the response of supervisors (immediate removal from work, report to HR, and referral to medical treatment) corroborate that the event was work-related and caused increased symptoms. Here, there was objective symptom exacerbation, documented reporting, and light-duty restrictions imposed by Dr. Smithwick, yet the Commission ignored this sequence in violation of the substantial evidence rule. This determination is clearly erroneous and fails under the APA's review standards. Thus, commission erred in ignoring the June 15, 2022, injury as an aggravation of claimant's left shoulder condition. Legitimate work incidents cannot be dismissed absent contrary evidence.

Furthermore, the Full Commission misapplied the law governing dormant conditions and objective worsening and erred in concluding that Claimant failed to prove her left shoulder condition was dormant or objectively worsened. The evidence demonstrated that, prior to September 2, 2021, Claimant continued to work full time, full duty, and without restrictions, despite a known left shoulder condition. Following the work accident and continued repetitive trauma, Claimant experienced increased pain, functional decline, and objective MRI-confirmed progression of tearing and muscle atrophy. Thus, Claimant's left shoulder condition was materially worsened following the September 2, 2021, injury, even though it preexisted. The preexisting condition was not disabling before the accident, which makes the condition in fact dormant. See,

Murphy and *Hargrove*. The Full Commission's contrary conclusion reflects a misapplication of law and an unreasonable view of the evidence. The Commission erroneously relied on the non-dormant nature of the injury as grounds for denial.

Therefore, the denial of compensation for the aggravation of Claimant's left shoulder is unsupported by substantial evidence and contrary to the controlling legal standards governing aggravation of pre-existing conditions in South Carolina. Reversal on this ground is warranted.

III. The Full Commission Erred in Denying the Repetitive Trauma Claim Under S.C. Code Ann. § 42-1-172

"[C]ompensability of a repetitive trauma injury requires a specific finding of fact, made by the greater weight of the evidence, of a direct causal relationship, established by medical evidence, between the injury and a repetitive act occurring in the course of the regular duties of employment." *Brooks v. Benore Logistics Sys.*, 437 S.C. 376, 381, 879 S.E.2d 1, 3 (Ct. App. 2022) (citing *Murphy*, 393 S.C. at 85). "It is self-evident that, to receive compensation for a repetitive trauma injury, a claimant must first prove his or her job is *repetitive*." *Brooks v. Benore Logistics Sys.,* 442 S.C. 462, 477-78, 900 S.E.2d 436 (2024) (original emphasis).

Under §42-1-172, a claimant must show that "(1) the nature of the claimant's work is repetitive; and (2) as a result of that repetitive employment, and as established by a preponderance of the evidence, there is a causal link between the repetitive work and the claimant's injury." *Id*. at 478. "Section 42-1-172 requires causation of a repetitive trauma injury to be proven by 'medical evidence,' which is defined as 'expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material *that is offered by a licensed and qualified medical physician*.'" *Id*. at 481 (quoting S.C. Code Ann. §42-1-172(B)-(D) (emphasis in original). "While the Commission may refuse to accept even uncontradicted medical evidence, it must base its refusal on a valid reason supported by competent evidence in the record. Otherwise, the refusal

is arbitrary and capricious and warrants reversal." *Brooks,* 437 S.C. 384-85 (citing *Baker v. Graniteville Co.*, 197 S.C. 21, 28, 14 S.E.2d 367, 370 (1941)).

South Carolina Code Annotated §42-1-172 governs the admissibility of medical evidence in a workers' compensation claim involving a repetitive trauma injury. *Michau v. Cty*., 396 S.C. 589, 594, 723 S.E.2d 805, 807 (2012). The plain reading of the statute requires that "'opinion or testimony' must be 'stated to a reasonable degree of medical certainty.'" *Id*. at 595 (quoting South Carolina Code Annotated §42-1-172). Further, "nothing in section 42-1-172 prohibits claimants from establishing the repetitious nature of their jobs via their own lay testimony." *Brooks v. Benore Logistics Sys*., 442 S.C. at 480.

In the present case, the Full Commission's conclusion that Claimant failed to meet the requirements of S.C. Code Ann. § 42-1-172 misapplies the standard for repetitive trauma claims. As stated above, this statute requires proof of (1) a causal connection between the repetitive nature of the work and the injury and (2) a determination of the last date of injurious exposure.

Claimant presented compelling evidence through multiple medical records, MRI findings, and credible expert testimony that her bilateral shoulder, arm, and neck conditions were caused or aggravated by repetitive job functions, including lifting heavy totes, repetitive overhead motions, and intensive arm use. Claimant's treating physician, Dr. Phill, explicitly attributed the left and right shoulder injuries to the cumulative effects of her work, and vocational testimony confirmed her job duties were highly repetitive and physically demanding. Dr. Phill opined that Claimant's bilateral shoulder injuries were caused and worsened by the cumulative effects of repetitive work activities, with October 9, 2022, constituting her last date of injurious exposure. This satisfies the statutory requirements of § 42-1-172. The Full Commission's conclusion that Claimant failed to

present medical evidence of causation ignores this testimony and improperly elevates form over substance, resulting in a decision unsupported by substantial evidence.

Moreover, Claimant's last date of injurious exposure—October 9, 2022—was clearly established and consistent with both factual and medical evidence. The Commission's dismissal of the repetitive trauma claim is unsupported by substantial evidence and fails to reasonably engage with uncontroverted medical opinions, thereby violating *Clemmons* and the standards under *Hutson* and *Davis*.

Claimant also established a compensable repetitive trauma claim. Here, Claimant and multiple Cintas employees testified about her daily tasks, which involved repeated lifting of heavy totes and overhead movements using both arms. (R. pp. 208-209). These testimonies establish the repetitive character of her work, which supports the foundation upon which medical experts assess causation. The record contains uncontroverted evidence that Claimant's job required years of repetitive overhead lifting, pulling, gripping, and handling heavy totes and garments. Employer witnesses admitted these duties were essential functions of Claimant's job.

The Commission disregarded the evidence despite the clear medical evidence and other relevant evidence on record without providing a valid reason for rejecting it, which amounts to an error of law and fact. The Full Commission's strict interpretation is inconsistent with both legislative intent and judicial guidance.

IV. The Full Commission Erred in Finding Claimant Reached Maximum Medical Improvement

"Maximum medical improvement is a factual determination by the Commission." *Curiel v. Envtl. Mgmt. Servs.*, 376 S.C. 23, 29, 655 S.E.2d 482, 485 (2007). Likewise, "[m]aximum medical improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion there is no further medical care or treatment which will lessen the degree of

impairment." *Gadson v. Mikasa Corp.*, 368 S.C. 214, 222, 628 S.E.2d 262, 267 (Ct. App. 2006). "[T]he fact a claimant has reached maximum medical improvement does not preclude a finding the claimant still may require additional medical care or treatment." *Dodge v. Bruccoli, Clark, Layman, Inc.*, 334 S.C. 574, 581, 514 S.E.2d 593, 596 (Ct. App. 1999).

It has been held that a "claimant's receipt of prescriptive medicines after he had reached maximum medical improvement constituted substantial evidence from which the commissioner could conclude the medication helped to temporarily alleviate the claimant's remaining symptoms, but his medical condition would not further improve." *Id*. A finding that a claimant "had reached maximum medical improvement did not subsume the period of disability within the context of section 42-15-60." *Id*. at 582.

In the present case, the record does not support the Full Commission's MMI finding that Claimant had reached maximum medical improvement (MMI) as of October 31, 2023. The Full Commission's MMI finding is internally inconsistent and unsupported by the record. Substantial evidence shows she required continued medical treatment and had not yet reached a stable condition in either shoulder or her cervical region. Although Dr. Phill initially indicated MMI in a November 2023 Form 14B, he later revised that opinion, to reflect ongoing medical needs, including prescription medication, physical therapy, and the presence of retained surgical hardware from the right shoulder surgery. These indicators are inconsistent with a clinically stabilized condition. (PHB Commission, p. 116; APA 8). Diagnostic findings, functional limitations, and follow-up notes from treating physician Dr. Phill indicate that additional care remained necessary beyond that date, both for the right shoulder and for the deteriorating left shoulder, which had progressed to complete tendon ruptures and significant muscle atrophy.

Thus, the revised Form 14B, considered in full alongside the contemporaneous treatment records and diagnostic results, reflects an evolving condition that had not reached true MMI by October 31, 2023. A formal listing of that date is not determinative when the treating physician concurrently documents ongoing clinical need. The factual record indicates that Claimant's right shoulder remained symptomatic and required management for surgical hardware, while her left shoulder had deteriorated further, creating a combined clinical picture incompatible with a legitimate finding of maximum medical improvement.

Dr. Phill had testified that the Claimant would require continued care for hardware maintenance, physical therapy, and surgical consideration for the left shoulder. (R. pp. 432, 434, 458, 463-464). This testimony was not contradicted by any other medical source and aligns with the objective MRI findings and treatment trajectory. Claimant was also prescribed ongoing medication and continued to report symptoms that had not plateaued.

Moreover, Claimant's left shoulder remained untreated surgically and continued to worsen. The MRI dated March 17, 2023, revealed complete tears, tendon retraction, and severe atrophy—none of which had been addressed prior to the MMI designation. These progressive findings further undermine any assertion that her overall condition had reached a point of maximal recovery or medical stability. The Full Commission erred by relying on an outdated form while disregarding subsequent medical evidence.

Therefore, the conclusion that Claimant reached MMI as of October 31, 2023, is not supported by substantial evidence and should be reversed or remanded for a new determination based on the full medical record.

V. The Commission Erred in Denying Compensation for Injuries to Claimant's Arms, Hands, Neck, and Psychological Condition

"Expert medical testimony is designed to aid the Commission in coming to the correct conclusion . . . ." *Tiller*., 334 S.C. at 340. S.C. Code Ann. §42-9-35(C) defines medical evidence as "expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed health care provider . . . ." *Id*. "[W]hile medical testimony is entitled to great respect, the fact finder [can] disregard it [only] if there is other competent evidence in the record." *Brailey v. Michelin N. Am. Inc*., 438 S.C. 77, 88, 882 S.E.2d 172, 178 (Ct. App. 2022).

Here, the Full Commission summarily ordered that Claimant is not entitled to awards or treatment for her arms, hands, neck, or psyche. The Commission made a significant error by disregarding the expert medical testimony that supported Claimant's claim for repetitive trauma injuries to her left and right shoulders, arms, and hands.

In this case, substantial, unrebutted medical and testimonial evidence supports that Claimant experienced radiating pain and functional impairment in her upper extremities—specifically her arms and hands—as well as symptoms involving her neck and psychological health, all arising from or exacerbated by her work-related injuries. For over two decades, Claimant's position at Cintas required repetitive lifting, pulling, and overhead work with totes of garments. The nature of these tasks caused cumulative stress and as supported by medical opinion, contributed directly to the deterioration of her shoulder function and related structures.

Dr. Phill's testimony was key in establishing that Claimant's repetitive lifting and handling heavy totes over her 20-year tenure at Cintas directly led to the worsening of her shoulder, arm, and hand conditions. In particular, the clinical records and deposition testimony of Dr. Phill document progressive shoulder deterioration accompanied by upper extremity pain and weakness.

He confirmed that Claimant exhibited radiating symptoms into both arms and hands, attributable to her bilateral shoulder pathology. (R. pp. 424, 457-458).

Dr. Phill further explained that compensatory overuse and functional decline in one shoulder caused strain and symptoms in the opposite upper extremity. The left shoulder developed a "massive tear," and the right remained compromised post-surgery, resulting in bilateral dysfunction. These clinical findings are medically consistent with radiating or referred symptoms and are relevant in assessing the full extent of Claimant's disability and treatment needs.

Despite the clarity of Dr. Phill's medical findings, the Commission failed to give appropriate weight to this expert medical testimony and instead minimized its significance. The Commission's order summarily denied compensation or treatment for these areas without addressing this interconnected evidence. The record does not contain competing expert testimony or alternative causation findings. The omission of any substantive evaluation of Claimant's upper extremity symptoms, despite the treating physician's testimony and supporting records, renders the Commission's conclusion unsupported by substantial evidence.

Similarly, the record reflects that Claimant reported chronic pain and emotional distress arising from her physical limitations and inability to work, yet the Commission failed to consider whether a psychological overlay existed as a compensable consequence of the accepted injuries. The absence of any analysis regarding these secondary effects reflects a failure to account for the cumulative impact of Claimant's condition on her overall health and function.

Because the record contains competent, unrefuted evidence that Claimant experienced pain, weakness, and functional impairment extending beyond the right shoulder to include both arms, hands, and neck—as well as psychological distress—the Commission erred in denying compensation for these conditions without adequate findings. This exclusion prejudiced

Claimant's substantial rights and requires reversal or remand for proper evaluation under the evidentiary record.

VI. The Full Commission Erred in Disregarding Uncontroverted Vocational Evidence Establishing Permanent and Total Disability

"'[A] reviewing court 'may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are . . . affected by other error of law [or] clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record.'" *Frampton v. S.C. Dep't of Nat. Res*., 432 S.C. 247, 256, 851 S.E.2d 714, 719 (Ct. App. 2020) (quoting S.C. Code Ann. § 1-23-380(5)). "While the Commission may refuse to accept even uncontradicted medical evidence, it must base its refusal on a valid reason supported by competent evidence in the record. Otherwise, the refusal is arbitrary and capricious and warrants reversal." *Brooks v. Benore Logistics Sys.*, 437 S.C. at 384 (citing *Baker*, 197 S.C. at 28-29).

Further, when the medical evidence on record "is not contradicted and constitutes substantial evidence [it] supports a reversal of the Commission's order." *Brailey*, 438 S.C. at 91.

"'The findings of fact of the Appellate Panel must be sufficiently detailed to enable the reviewing court to determine (1) whether the law has been properly applied to those findings and (2) whether the findings are supported by the evidence.'" *Id*. at 89 (quoting *Sanders v. Wal-Mart Stores, Inc*., 379 S.C. 554, 559-60, 666 S.E.2d 297, 300 (Ct. App. 2008)).

In the present case, the Claimant submitted a comprehensive vocational evaluation dated January 29, 2024, concluding that she is incapable of performing any full-time, gainful employment. The evaluation, supported by her physical restrictions, chronic pain, age, education, and work history, specifically determined that Claimant could not sustain even sedentary

employment. (PHB Commission, p. 127; APA 9). This vocational opinion was uncontroverted in the record.

The physical restrictions upon which this evaluation was based were issued by the authorized treating physician and reflected permanent limitations that Cintas could not accommodate. Testimony from employer representatives Mr. Kurtycz and Mr. Privatte confirmed the essential functions of Claimant's job involved repetitive and physically demanding tasks, which could not be modified to fit her restrictions. (R. pp. 170, 208-209).

Despite the weight of this evidence, the Commission failed to make any findings regarding permanent and total disability or to address the vocational evaluation at all. This omission is legally significant. Under the South Carolina Administrative Procedures Act, an agency may not disregard competent, material, and unrebutted evidence without explanation. The failure to consider this vocational assessment, or to provide findings that explain its rejection, renders the decision arbitrary and capricious and constitutes reversible error under S.C. Code Ann. §1-23-380(5).

Further, the record plainly supports a finding of permanent and total disability, and there is no countervailing vocational evidence. The Commission's silence on this issue, in the face of unopposed expert analysis and corroborating employer testimony, is both a legal and factual error requiring reversal and remand for proper evaluation.

VII. The Full Commission Erred in Awarding Defendants a Credit for Alleged Overpayment of TTD Benefits

[T]he fact a claimant has reached maximum medical improvement does not preclude a finding the claimant may still require additional medical care or treatment.'" *Hall v. United Rentals, Inc*., 371 S.C. 69, 82, 636 S.E.2d 876, 883-84 (Ct. App. 2006)(quoting *Dodge*, 334 S.C. at 581). Therefore, "'an employer may be liable for a claimant's future medical treatment if it tends to lessen the claimant's period of disability despite the fact the claimant has returned to work and

has reached [MMI].'" *Id*. at 82-83 (quoting *Lee v. Harborside Cafe*, 350 S.C. 74, 81, 564 S.E.2d 354, 358 (Ct. App. 2002)). "[A] finding of MMI does not necessarily establish that the claimant is no longer disabled; unless the Appellate Panel finds disability has ended, it is presumed to continue." *Id*. at 83.

In the present case, even assuming arguendo that MMI occurred on October 31, 2023, the Full Commission improperly awarded Defendants a credit beginning January 5, 2024—the date Defendants filed a Form 21. The core question is not whether credit for alleged overpayment should run from October 31, 2023, the date of maximum medical improvement, or January 5, 2024, the date of the Form 21. Rather, the threshold inquiry is whether the Defendants were entitled to any credit at all. Under South Carolina law, and particularly under the reasoning of *Swinton v. S.C. Dep't of Mental Health*, 314 S.C. 202, 442 S.E.2d 215 (Ct. App. 1994), a credit for "overpayment" is impermissible where the record demonstrates that the Claimant continued to suffer disability and required ongoing medical treatment beyond the date of MMI. Appellees cannot claim a credit for overpayment of benefits unless they prove that Claimant is no longer disabled after reaching MMI for her right shoulder.

Maximum medical improvement is not a legal determination that disability has ceased. An employee may reach MMI and yet remain permanently disabled, partially disabled, or in need of future medical care. Section 42-9-210 permits credit only for payments that are "not due and payable." Payments made to a worker who continues to suffer disabling conditions and who requires additional medical care cannot be deemed "not due." To hold otherwise would improperly penalize injured workers who remain disabled beyond the point of maximum medical improvement.

According to the medical record, including the testimony of the treating orthopedic specialist, the Claimant remained disabled beyond the asserted MMI date. She did not regain the capacity to perform unrestricted work and continued to require clinical care, including ongoing therapy and surgical evaluation for her left shoulder. These facts preclude a finding that she was no longer disabled during the relevant period. Payments made during a time of continuing disability and medical necessity are, by definition, not overpayments under §42-9-210. Without a supported finding of the cessation of disability, the statutory requirements for a credit are not satisfied.

Therefore, the award of credit for alleged overpayment of temporary total disability benefits lacks evidentiary support and misapplies the governing legal standard. Benefits paid during a period of active disability and ongoing treatments should be presumed due and payable. The award of credit for alleged overpayment of TTD benefits to the Defendants should be reversed in its entirety as the record affirmatively establishes the Claimant's continuing disability.

CONCLUSION

For the foregoing reasons, the Appellant requests the Court to reverse the Decision and Order of the Full Commission.

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