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APPELLATE PANEL
DECISION AND ORDER
OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO.: 1705542

REGINALD COBB,

EMPLOYEE,

CLAIMANT/APPELLANT,

-vs-

FOX MUSIC HOUSE, INC.,

EMPLOYER,

AND

ACCIDENT FUND GENERAL
INSURANCE COMPANY,

CARRIER,

DEFENDANTS/RESPONDENTS.

HEARING:

Appellate Panel Review held virtually in Columbia, South Carolina on July 20, 2020, per notices timely and properly served upon all parties of interest.

APPEARANCES:

Jason G. Soper, Esquire of Charleston, South Carolina, appeared on behalf of the Claimant/Appellant.

Vincent C. Northcutt, Esquire, of Mount Pleasant, South Carolina, appearing on behalf of the Defendants/Respondents.

COMMISSIONERS:

The Honorable Susan S. Barden, the Honorable Melody L. James, and the Honorable R. Michael Campbell, II

FILED:

November 16, 2020

STATEMENT OF THE CASE

This matter came before an Appellate Panel of the South Carolina Workers' Compensation Commission ("the Commission") consisting of Commissioners Susan S. Barden, Melody L. James, and R. Michael Campbell, II ("the Appellate Panel") on July 20, 2020. The purpose of the Hearing on July 20, 2020, was to review the findings contained in the Decision and Order issued by Commissioner Avery B. Wilkerson ("the Single Commissioner") on March 2, 2020 ("the Decision and Order"), following a Hearing that occurred on November 4, 2019, in Georgetown, South Carolina, pursuant to a Form 50 (Employee's Request for Hearing) filed by the Claimant's attorney on May 9, 2019; a Form 51 (Employer's Answer to Request for Hearing) filed by the Defendants' attorney on June 7, 2019; and a Reset Notice of Hearing issued by the Commission on October 21, 2019.

This claim involves an accepted injury to the Claimant's left little finger (also known as the fourth finger under the Act), which occurred as the result of an accident arising out of and in the course of his employment with Fox Music House, Inc. on March 16, 2017. However, the Claimant also alleges he sustained injuries to his hands, shoulders, upper arms, head, and neck as the result of the accident of March 16, 2017, which the Defendants deny. At the Hearing before the Single Commissioner on November 4, 2019, all parties and their representatives appeared at the Hearing and presented evidence.

The primary issues before the Single Commissioner at the Hearing on November 4, 2019, were: (1) the nature and extent of the causally related and compensable injuries the Claimant sustained while in the course and scope of his employment with Fox Music House, Inc. on March 16, 2017; (2) whether the Claimant needs or is entitled to additional medical benefits and/or treatment for any of his injuries under S.C. Code Ann. § 42-16-60 and *Dodge v. Bruccoli, Clark*,

Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct. App. 1999); (3) the extent of the Claimant's entitlement to permanent partial disability benefits under either S.C. Code Ann. § 42-9-20 or § 42-9-30; and (4) the Claimant's entitlement to additional temporary total or partial disability compensation benefits for the period from through July 13, 2017 through the present.

After considering the testimony of the Claimant, the arguments of the parties, the applicable law, and the APA Submissions, the Single Commissioner issued a Decision and Order on March 2, 2020, which contained the following Findings of Fact and are listed hereinafter verbatim:

FINDINGS OF FACT OF THE SINGLE COMMISSIONER

1. The Claimant sustained an admitted injury to his left little finger as the result of an accident that occurred in the course and scope of his employment with Fox Music House, Inc. on March 16, 2017. (Hr'g Tr. P. 13).
2. The Claimant turned fifty-two (52) years old on November 7, 2019. (Hr'g. Tr. P. 20).
3. The Claimant attended 12th grade, but did not graduate from high school or obtain a GED. (Hr'g. Tr. P. 20 – 21).
4. The Claimant's employment history includes working as a welder, a forklift operator, a machine operator, construction work, roofing, and landscaping, making his performance generally labor-based. (Hr'g Tr. P. 22:10-24).
5. The accident of March 16, 2017, occurred when the Claimant accidentally got his fingers caught in the lift gate of his work truck. (Hr'g Tr. P. 23:8-15).

6. The parties have agreed that the Claimant sustained causally related and compensable injury to his left little (fourth) finger as the result of the work accident of March 16, 2017. (Hr'g Tr. P. 12-13).

7. The Defendants have admitted responsibility for the medical bills associated with causally related medical treatment for the left little (fourth) finger that the Claimant underwent in the Emergency Room at Bon Secours Saint Francis on March 16, 2017, and under the direction of Dr. Muirhead between March 16, 2017, and August 24, 2017, when Dr. Muirhead placed the Claimant at maximum medical improvement for his left little (fourth) finger injury. (Hr'g. Tr. P. 18; Defendants' APA 5).

8. The parties have agreed that the Claimant is entitled to temporary total disability compensation benefits for the period of March 16, 2017 through July 13, 2017, when the Claimant was released to return to work at full duty by William R. Muirhead, M.D. (Hr'g Tr. P. 12 – 13).

9. The parties have agreed to an Average Weekly Wage of **Two Hundred Twenty-Six and 53/100 (\$226.53) Dollars**, with a corresponding Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**. (Defendant's Exhibit C, Hr'g Tr. P. 4).

10. The Claimant was evaluated and treated by William Muirhead, M.D. a hand and upper extremity specialist, who released the Claimant to return to work at a full duty status as of July 13, 2017. (Defendants' APA 5, P. 197-200).

11. I find that the Claimant reached maximum medical improvement for his accepted left little (fourth) finger injury on August 24, 2017. (Defendants' APA 5, Pgs. 201 – 205).

12. On August 24, 2017, Dr. Muirhead determined that the Claimant had reached maximum medical improvement and completed a South Carolina Workers' Compensation Commission Form 14B (Physician's Statement), wherein he assigned the Claimant an impairment

rating of fourteen percent (14%) to the left little finger, which corresponds to an impairment rating of one percent (1%) to the left hand pursuant to the AMA Guides, 5TH Ed. (Defendants' APA 5, P. 201-205).

13. I find that the Claimant does not require any additional medical treatment for his left little finger injury per the opinions provided by Dr. Muirhead, and the Claimant did not request additional treatment for his left little finger injury at the Hearing. (Defendants' APA 5, P. 201-205).

14. The Claimant admits he did not have any problems with his neck, shoulders, or back until April 2018, and he did not seek any medical treatment for these body parts until July 9, 2018, when he reported to the Emergency Room at Roper Hospital. (Hr'g. Tr. P. 34; Defendants' APA 2, Pgs. 84-113).

15. At the time he presented to Roper Hospital on July 9, 2018, the Claimant reported that he had been having neck and shoulder pain radiating into his right upper extremity for three months. (Defendants' APA 2, P. 84).

16. The Claimant presented to his primary care physician, Jeanne Lumpkin, M.D., on July 27, 2018. (Hr'g. Tr. P. 28; Defendants' APA 7, pgs. 211 – 237). Again, the Claimant reported that he had been experiencing neck pain that began three months prior and radiated into his shoulder and arm. (Defendants' APA 7, P. 212). At Dr. Lumpkin's recommendation, the Claimant underwent an MRI of his cervical spine and a cervical epidural steroid injection. (Defendants' APA 7, P. 237).

17. On December 6, 2018, he was evaluated by Christopher Schafer, P.A., the Physician's Assistant to Brian Cuddy, M.D., a neurosurgeon. He was referred for cervical epidural steroid injections and physical therapy. (Defendants' APA 6, P. 207 – 208). At the December 6,

2018 visit, the Claimant reported that he had a chronic history of axial neck pain and right radicular arm pain that started in 1999 as the result of a work injury involving a fall from scaffolding and that he was doing well until April 2018, when his symptoms returned. (Defendants' APA 6, P. 207).

18. The Claimant was evaluated by Dr. Cuddy on January 14, 2019, at which time Dr. Cuddy indicated that he would not recommend any surgical intervention for the Claimant's neck or radicular complaints, and instead recommended an evaluation with James Keffer, D.O., who is board certified in physical medicine and rehabilitation. (Defendants' APA 6, P. 209-210).

19. On May 1, 2017, the Claimant, by and through his attorney of record, filed a Form 50 (Notice of Claim) alleging injuries to only his fingers and hand. (Hr'g Tr. P. 35: 12-25; Defendants' Trial Ex. 1, Pgs. 477 - 479).

20. On April 2, 2018, the Claimant's attorney of record filed a Form 50 (Employee's Request for Hearing) again alleging injuries to only his fingers and hand. (Hr'g Tr. P. 36:1-18; Defendants' Exhibit B, Pgs. 265 - 268).

21. On May 8, 2018, the Claimant filed another Form 50 (Employee's Request for Hearing), on which the November 4, 2019 Hearing was set, alleging injuries to additional body parts including his fingers, hands, shoulders, upper arms, neck, and head.

22. At the Hearing, the Claimant's attorney indicated that the Claimant is only seeking treatment for his neck, back, and shoulders. (Hr'g. Tr. P. 5-6).

23. The Claimant receives Social Security Disability Insurance on a monthly basis based on his bipolar disorder. (Defendants' Ex. F). On or around September 27, 2017, he contacted the South Carolina Vocational Rehabilitation Department to "get back in the work forum" and was referred by the South Carolina Vocational Rehabilitation Department for a

Psychological Evaluation by Cashton B. Spivey, Ph.D. (Hr'g. Tr. P. 25-27, 39; Defendants' Ex. D, P. 278-281).

24. After undergoing a Psychological Evaluation with Cashton B. Spivey, Ph.D. on October 24, 2017, the Claimant began working at the South Carolina Vocational Rehabilitation Department and was paid on a weekly basis for roughly thirty hours of work from January 2018, through July 2018 (Defendants' Ex. D, P. 278-281; Hr'g. Tr. P. 25-27, 39, 42).

25. At the Hearing, the Claimant admitted that his neck and shoulders were not bothering him at the time he was evaluated by Dr. Spivey on October 24, 2017. (Hr'g. Tr. P. 42).

26. The Claimant admitted that he did not experience pain in his neck, shoulders, or arm(s) until he began working at the South Carolina Vocational Rehabilitation Department. (Hr'g. Tr. P. 22). The Claimant testified that "everything was going well" until April 2018 when he "started feeling the sharp pain" that did not go away. (Hr'g. Tr. P. 25:18-23).

27. Around April 2018, the Claimant reported to his Supervisor at the South Carolina Vocational Rehabilitation Department that his neck and shoulder were hurting and "wouldn't stop hurting." (Hr'g. Tr. P. 44).

28. The Claimant continued working at the South Carolina Vocational Rehabilitation Department and completed the course in which he was enrolled before seeking medical treatment for his neck on July 9, 2018 at Roper Hospital. (Hr'g. Tr. P. 26 -28; Defendants' APA 2, Pgs. 83-113).

29. The Claimant also admitted that by July 2018, the pain that had started in April 2018, was getting worse. (Hr'g. Tr. P. 47:11-22; Defendants' APA 7, Pg. 212).

30. The "Case Notes" received from the South Carolina Vocational Rehabilitation Department indicate that the Claimant reported to the Employees at the South Carolina Vocational

Rehabilitation Department that he did not want to focus on looking for work around July 2018, as he had reinjured his shoulder from a work related incident from years ago. (Defendants' Ex. D, P. 289).

31. The Claimant was evaluated by Steven C. Poletti, M.D. at Southeastern Spine Institute on March 20, 2019 for an Independent Medical Evaluation arranged by his attorney. (Claimant's APA 1). There is no evidence in Dr. Poletti's Report that the Claimant told Dr. Poletti that his neck, shoulder, or arm symptoms did not develop until April 2018. Rather, Dr. Poletti notes that the Claimant developed these symptoms shortly after the work accident of March 16, 2017. (Claimant's APA 1). The opinions provided by Dr. Poletti, who did not evaluate the Claimant until over 12 months after the work accident of March 16, 2017; are entirely based on the history provided by the Claimant to Dr. Poletti.

32. Based upon the temporal medical evidence and the Claimant's own testimony, I find that the Claimant sustained an intervening accident causing issues with his neck, back, and shoulders while training at the South Carolina Vocational Rehabilitation Department around April 2018.

33. Based upon the greater weight of the evidence, I find that the Claimant sustained a causally related and compensable injury solely to his left little (fourth) finger only as the result of the work accident of March 16, 2017.

The Single Commissioner's Decision and Order also included the following Rulings of Law, which are listed verbatim:

RULINGS OF LAW OF THE SINGLE COMMISSIONER

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered employee, and under S.C. Code Ann. § 42-1-140, the Employer was a covered Employer at the time in question.

2. Under S.C. Code Ann. § 42-1-40, the Claimant's Average Weekly Wage is **Two Hundred Twenty-Six and 53/100 (\$226.53) Dollars**, with a corresponding Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**.

3. Under S.C. Code Ann. § 42-1-160, the Claimant sustained an admitted injury to his left little (fourth) finger as the result of an accident arising out of and in the course of his employment with the Employer on March 16, 2017.

4. Under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant reached maximum medical improvement for his left little (fourth) finger injury on August 24, 2017.

5. Under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant sustained thirty percent (30%) permanent partial disability to his left little (fourth) finger.

6. Under S.C. Code Ann. § 42-15-60, the Claimant is not entitled to any additional medical care and/or treatment secondary to the left little (fourth) finger injury he sustained on March 16, 2017.

7. Under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant did not sustain any compensable injuries by accident to his neck (cervical spine), back, arms and/or shoulders as the result of the accident of March 16, 2017, as I find that the Claimant's sustained an intervening accident while working and/or training at the South Carolina Vocational Rehabilitation Department, which caused issues with his neck, back, arms, and shoulders.

8. Under S.C. Code Ann. § 42-15-60, the Claimant is not entitled to any medical care and/or treatment, past, present, and/or in the future with respect to the alleged injuries to his neck, back, arms, and shoulders.

9. Under S.C. Code Ann. § 42-9-30(5), § 42-1-120, and § 42-3-180, I find the Claimant is entitled to a lump sum permanent partial disability compensation award representing thirty percent (30%) permanent loss of use of his left little (fourth) finger, which results in an award of permanent partial disability compensation benefits to the Claimant in the amount of **Nine Hundred Six and 12/100 (\$906.12) Dollars.**

10. Under S.C. Code Ann. § 42-9-10, § 42-9-20, § 42-9-210, § 42-9-260, and Regulations 67-502 through 510, the Claimant is entitled to temporary total disability compensation benefits for the period from March 16, 2017 through July 13, 2017, a total of 17.14286 weeks, at the Compensation Rate of Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**, which amounts to **Two Thousand Five Hundred Eighty-Eight and 91/100 (\$2,588.91) Dollars.**

11. I find that the Claimant is entitled to a total permanent partial disability compensation award of **Nine Hundred Six and 12/100 (\$906.12) Dollars** and temporary total disability compensation benefits in the amount of **Two Thousand Five Hundred Eighty-Eight and 91/100 (\$2,588.91) Dollars**, for a total award of **Three Thousand Four Hundred Ninety-Five and 03/100 (\$3,495.03) Dollars.**

Within the statutory period, the Claimant's attorney filed a Form 30 (Request for Commission Review) setting forth the Claimant's grounds for review, and copies of the Claimant's attorney's Form 30 were furnished to all interested parties prior to an oral argument conducted before the Appellate Panel of the South Carolina Workers' Compensation Commission on July 20, 2020. By appeal, the Claimant submitted the following five (5) specific grounds for review¹:

1. Whether the hearing commissioner erred in finding as fact that the opinions provided by Dr. Poletti are entirely based on the history provided by the Claimant to Dr. Poletti. (Finding of Fact 31)

¹ The Claimant's attorney's grounds for review are quoted verbatim herein from the Form 30.

2. Whether the hearing commissioner erred in finding as fact that Claimant sustained an intervening accident causing injury to his neck, back and shoulder while training for South Carolina Vocational Rehab in April 2018 when such is against the greater weight and preponderance of the substantial evidence and/or based on error of law. (Finding of Fact 32)
3. Whether the hearing commissioner erred in finding as fact that Claimant sustained causally related injury to his finger only when such is against the greater weight and preponderance of the substantial evidence and/or based on error of law. (Finding of Fact 33)
4. Whether the hearing commissioner erred in his ruling that under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant did not sustain any compensable injuries by accident to his neck (cervical spine), back arms and/or shoulder as the result of the accident on March 16, 2017. Furthermore, whether the hearing commissioner erred in ruling that Claimant sustained an intervening accident while working and/or training at the South Carolina Vocational Rehabilitation Department. (Ruling of Law 7) and (Order 6)
5. Whether the hearing commissioner erred in his ruling that under S.C. Code Ann. § 42-15-60, the Claimant is not entitled to any medical care and/or treatment, past, present, and/or in the future with respect to the alleged injuries to his neck, back, arms, and shoulders. (Ruling of Law 8) and (Order 7)

Both parties submitted briefs outlining their positions prior to oral arguments, which were presented before the Appellate Panel at the Hearing on July 20, 2020. All proffered testimony has been taken.

STANDARD OF REVIEW

S.C. Code Ann. § 42-17-50 governs appeals from the Single Commissioner to the Full Commission. “The Full Commission may review an award of the Single Commissioner and make its own findings of fact and conclusions of law.” *Brayboy v. Clark Heating Company, Inc.*, 306 S.C. 56, 58, 409 S.E.2d 767, 768 (1991); S.C. Code Ann. § 42-17-50. “The final determination of

witness credibility and the weight to be accorded evidence is reserved to the Commission.” *Ross v. American Red Cross*, 298 S.C. 490, 492, 381 S.E.2d 728, 730 (1989). Where there are conflicts in the evidence over a factual issue, the findings of the Commission are conclusive. *See Etheredge v. Monsanto Co.*, 349 S.C. 451, 562 S.E.2d 679 (Ct.App. 2002).

After careful review and study of the record in its entirety and the arguments of the parties during oral arguments and in their respective briefs, the Appellate Panel affirms in full the Decision and Order issued by the Single Commissioner on March 2, 2020, and makes the following findings of fact and conclusions of law:

FINDINGS OF FACT OF THE APPELLATE PANEL

1. The Claimant sustained an admitted injury to his left little finger as the result of an accident that occurred in the course and scope of his employment with Fox Music House, Inc. on March 16, 2017. (Hr’g Tr. P. 13).
2. The Claimant turned fifty-two (52) years old on November 7, 2019. (Hr’g. Tr. P. 20).
3. The Claimant attended 12th grade, but did not graduate from high school or obtain a GED. (Hr’g. Tr. P. 20 – 21).
4. The Claimant’s employment history includes working as a welder, a forklift operator, a machine operator, construction work, roofing, and landscaping, making his performance generally labor-based. (Hr’g Tr. P. 22:10-24).
5. The accident of March 16, 2017, occurred when the Claimant accidentally got his fingers caught in the lift gate of his work truck. (Hr’g Tr. P. 23:8-15).

6. The parties have agreed that the Claimant sustained causally related and compensable injury to his left little (fourth) finger as the result of the work accident of March 16, 2017. (Hr'g Tr. P. 12-13).

7. The Defendants have admitted responsibility for the medical bills associated with causally related medical treatment for the left little (fourth) finger that the Claimant underwent in the Emergency Room at Bon Secours Saint Francis on March 16, 2017, and under the direction of Dr. Muirhead between March 16, 2017, and August 24, 2017, when Dr. Muirhead placed the Claimant at maximum medical improvement for his left little (fourth) finger injury. (Hr'g. Tr. P. 18; Defendants' APA 5).

8. The parties have agreed that the Claimant is entitled to temporary total disability compensation benefits for the period of March 16, 2017 through July 13, 2017, when the Claimant was released to return to work at full duty by William R. Muirhead, M.D. (Hr'g Tr. P. 12 – 13).

9. The parties have agreed to an Average Weekly Wage of **Two Hundred Twenty-Six and 53/100 (\$226.53) Dollars**, with a corresponding Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**. (Defendant's Exhibit C, Hr'g Tr. P. 4).

10. The Claimant was evaluated and treated by William Muirhead, M.D. a hand and upper extremity specialist, who released the Claimant to return to work at a full duty status as of July 13, 2017. (Defendants' APA 5, P. 197-200).

11. We find that the Claimant reached maximum medical improvement for his accepted left little (fourth) finger injury on August 24, 2017. (Defendants' APA 5, Pgs. 201 – 205).

12. On August 24, 2017, Dr. Muirhead determined that the Claimant had reached maximum medical improvement and completed a completed a South Carolina Workers' Compensation Commission Form 14B (Physician's Statement), wherein he assigned the Claimant

an impairment rating of fourteen percent (14%) to the left little finger, which corresponds to an impairment rating of one percent (1%) to the left hand pursuant to the AMA Guides, 5TH Ed. (Defendants' APA 5, P. 201-205).

13. We find that the Claimant does not require any additional medical treatment for his left little finger injury per the opinions provided by Dr. Muirhead, and the Claimant did not request additional treatment for his left little finger injury at the Hearing. (Defendants' APA 5, P. 201-205).

14. The Claimant admits he did not have any problems with his neck, shoulders, or back until April 2018, and he did not seek any medical treatment for these body parts until July 9, 2018, when he reported to the Emergency Room at Roper Hospital. (Hr'g. Tr. P. 34; Defendants' APA 2, Pgs. 84-113).

15. At the time he presented to Roper Hospital on July 9, 2018, the Claimant reported that he had been having neck and shoulder pain radiating into his right upper extremity for three months. (Defendants' APA 2, P. 84).

16. The Claimant presented to his primary care physician, Jeanne Lumpkin, M.D., on July 27, 2018. (Hr'g. Tr. P. 28; Defendants' APA 7, pgs. 211 – 237). Again, the Claimant reported that he had been experiencing neck pain that began three months prior and radiated into his shoulder and arm. (Defendants' APA 7, P. 212). At Dr. Lumpkin's recommendation, the Claimant underwent an MRI of his cervical spine and a cervical epidural steroid injection. (Defendants' APA 7, P. 237).

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2018 visit, the Claimant reported that he had a chronic history of axial neck pain and right radicular arm pain that started in 1999 as the result of a work injury involving a fall from scaffolding and that he was doing well until April 2018, when his symptoms returned. (Defendants' APA 6, P. 207).

18. The Claimant was evaluated by Dr. Cuddy on January 14, 2019, at which time Dr. Cuddy indicated that he would not recommend any surgical intervention for the Claimant's neck or radicular complaints, and instead recommended an evaluation with James Keffer, D.O., who is board certified in physical medicine and rehabilitation. (Defendants' APA 6, P. 209-210).

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21. On May 8, 2018, the Claimant filed another Form 50 (Employee's Request for Hearing), on which the November 4, 2019 Hearing was set, alleging injuries to additional body parts including his fingers, hands, shoulders, upper arms, neck, and head.

22. At the Hearing, the Claimant's attorney indicated that the Claimant is only seeking treatment for his neck, back, and shoulders. (Hr'g. Tr. P. 5-6).

23. The Claimant receives Social Security Disability Insurance on a monthly basis based on his bipolar disorder. (Defendants' Ex. F). On or around September 27, 2017, he contacted the South Carolina Vocational Rehabilitation Department to "get back in the work forum" and was referred by the South Carolina Vocational Rehabilitation Department for a

Psychological Evaluation by Cashton B. Spivey, Ph.D. (Hr'g. Tr. P. 25-27, 39; Defendants' Ex. D, P. 278-281).

24. After undergoing a Psychological Evaluation with Cashton B. Spivey, Ph.D. on October 24, 2017, the Claimant began working at the South Carolina Vocational Rehabilitation Department and was paid on a weekly basis for roughly thirty hours of work from January 2018, through July 2018 (Defendants' Ex. D, P. 278-281; Hr'g. Tr. P. 25-27, 39, 42).

25. At the Hearing, the Claimant admitted that his neck and shoulders were not bothering him at the time he was evaluated by Dr. Spivey on October 24, 2017. (Hr'g. Tr. P. 42).

26. The Claimant admitted that he did not experience pain in his neck, shoulders, or arm(s) until he began working at the South Carolina Vocational Rehabilitation Department. (Hr'g. Tr. P. 22). The Claimant testified that "everything was going well" until April 2018 when he "started feeling the sharp pain" that did not go away. (Hr'g. Tr. P. 25:18-23).

27. Around April 2018, the Claimant reported to his Supervisor at the South Carolina Vocational Rehabilitation Department that his neck and shoulder were hurting and "wouldn't stop hurting." (Hr'g. Tr. P. 44).

28. The Claimant continued working at the South Carolina Vocational Rehabilitation Department and completed the course in which he was enrolled before seeking medical treatment for his neck on July 9, 2018 at Roper Hospital. (Hr'g. Tr. P. 26 -28; Defendants' APA 2, Pgs. 83-113).

29. The Claimant also admitted that by July 2018, the pain that had started in April 2018, was getting worse. (Hr'g. Tr. P. 47:11-22; Defendants' APA 7, Pg. 212).

30. The "Case Notes" received from the South Carolina Vocational Rehabilitation Department indicate that the Claimant reported to the Employees at the South Carolina Vocational

Rehabilitation Department that he did not want to focus on looking for work around July 2018, as he had reinjured his shoulder from a work related incident from years ago. (Defendants' Ex. D, P. 289).

31. The Claimant was evaluated by Steven C. Poletti, M.D. at Southeastern Spine Institute on March 20, 2019 for an Independent Medical Evaluation arranged by his attorney. (Claimant's APA 1). There is no evidence in Dr. Poletti's Report that the Claimant told Dr. Poletti that his neck, shoulder, or arm symptoms did not develop until April 2018. Rather, Dr. Poletti notes that the Claimant developed these symptoms shortly after the work accident of March 16, 2017. (Claimant's APA 1). The opinions provided by Dr. Poletti, who did not evaluate the Claimant until over 12 months after the work accident of March 16, 2017, are entirely based on the history provided by the Claimant to Dr. Poletti.

32. Based upon the temporal medical evidence and the Claimant's own testimony, we find that the Claimant sustained an intervening accident causing issues with his neck, back, and shoulders while training at the South Carolina Vocational Rehabilitation Department around April 2018.

33. Based upon the greater weight of the evidence, we find that the Claimant sustained a causally related and compensable injury solely to his left little (fourth) finger only as the result of the work accident of March 16, 2017.

RULINGS OF LAW OF THE APPELLATE PANEL

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered employee, and under S.C. Code Ann. § 42-1-140, the Employer was a covered Employer at the time in question.

2. Under S.C. Code Ann. § 42-1-40, the Claimant's Average Weekly Wage is **Two Hundred Twenty-Six and 53/100 (\$226.53) Dollars**, with a corresponding Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**.

3. Under S.C. Code Ann. § 42-1-160, the Claimant sustained an admitted injury to his left little (fourth) finger as the result of an accident arising out of and in the course of his employment with the Employer on March 16, 2017.

4. Under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant reached maximum medical improvement for his left little (fourth) finger injury on August 24, 2017.

5. Under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant sustained thirty percent (30%) permanent partial disability to his left little (fourth) finger.

6. Under S.C. Code Ann. § 42-15-60, the Claimant is not entitled to any additional medical care and/or treatment secondary to the left little (fourth) finger injury he sustained on March 16, 2017.

7. Under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant did not sustain any compensable injuries by accident to his neck (cervical spine), back, arms and/or shoulders as the result of the accident of March 16, 2017, as we find that the Claimant's sustained an intervening accident while working and/or training at the South Carolina Vocational Rehabilitation Department, which caused issues with his neck, back, arms, and shoulders.

8. Under S.C. Code Ann. § 42-15-60, the Claimant is not entitled to any medical care and/or treatment, past, present, and/or in the future with respect to the alleged injuries to his neck, back, arms, and shoulders.

9. Under S.C. Code Ann. § 42-9-30(5), § 42-1-120, and § 42-3-180, we find the Claimant is entitled to a lump sum permanent partial disability compensation award representing thirty percent (30%) permanent loss of use of his left little (fourth) finger, which results in an award of permanent partial disability compensation benefits to the Claimant in the amount of **Nine Hundred Six and 12/100 (\$906.12) Dollars.**

10. Under S.C. Code Ann. § 42-9-10, § 42-9-20, § 42-9-210, § 42-9-260, and Regulations 67-502 through 510, the Claimant is entitled to temporary total disability compensation benefits for the period from March 16, 2017 through July 13, 2017, a total of 17.14286 weeks, at the Compensation Rate of Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**, which amounts to **Two Thousand Five Hundred Eighty-Eight and 91/100 (\$2,588.91) Dollars.**

11. We find that the Claimant is entitled to a total permanent partial disability compensation award of **Nine Hundred Six and 12/100 (\$906.12) Dollars** and temporary total disability compensation benefits in the amount of **Two Thousand Five Hundred Eighty-Eight and 91/100 (\$2,588.91) Dollars**, for a total award of **Three Thousand Four Hundred Ninety-Five and 03/100 (\$3,495.03) Dollars.**

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the Decision and Order of the Single Commissioner filed in the above-captioned matter on March 2, 2020, is affirmed in full by the Appellate Panel of the South Carolina Workers' Compensation Commission.

IT IS FURTHER ORDERED that the Claimant established his entitlement to permanent partial disability compensation benefits with regard to his left little (fourth) finger in accordance with S.C. Code Ann. § 42-9-30(5).

IT IS FURTHER ORDERED that the Claimant is therefore entitled to a lump sum award pursuant to S.C. Code Ann. § 42-9-30(5) representing **thirty percent (30%) permanent loss of use of his left little (fourth) finger**, which results in a net award of permanent partial disability compensation benefits to the Claimant in the sum total amount of **Nine Hundred Six and 12/100 (\$906.12) Dollars.**

IT IS FURTHER ORDERED that the Claimant is entitled to temporary total disability compensation benefits in the amount of is entitled to temporary total disability compensation benefits for the period from March 16, 2017, through July 13, 2017, a total of seventeen (17) weeks and one (1) day, at the Compensation Rate of Compensation Rate of **One Hundred Fifty-One and 02/100 (\$151.02) Dollars**, which amounts to **Two Thousand Five Hundred Eighty-Eight and 91/100 (\$2,588.91) Dollars.**

IT IS FURTHER ORDERED that the total award of permanent partial disability compensation benefits and temporary total disability compensation benefits to be paid to the Claimant amount to **Three Thousand Four Hundred Ninety-Five and 03/100 (\$3,495.03) Dollars.**

IT IS FURTHER ORDERED that the Claimant is not entitled to any additional medical care and/or treatment for his left little (fourth) finger.

IT IS FURTHER ORDERED that under S.C. Code Ann. § 42-1-160, § 42-15-60, and § 42-1-120, the Claimant did not sustain any compensable injuries by accident to his neck (cervical spine), back, arms, or shoulders as the result of the accident of March 16, 2017, as we find that the Claimant's sustained an intervening accident while working and/or training at South Carolina Vocational Rehabilitation Department, which caused issues with his neck, back, arms, and shoulders.

