

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F306721

PATRICIA ADKINS, EMPLOYEE

CLAIMANT

**ST. VINCENT HEALTH SERVICE, INC.,
EMPLOYER**

RESPONDENT

**PREFERRED PROFESSIONAL INSURANCE CO.,
INSURANCE CARRIER**

RESPONDENT

OPINION AND ORDER FILED OCTOBER 11, 2006

Hearing before Administrative Law Judge Cynthia Estes Rogers on March 23, 2006, in Little Rock, Pulaski County, Arkansas.

Claimant appeared *pro se*.

Respondents represented by Mr. Walter Murray, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on the above-styled claim on March 23, 2006, before Administrative Law Judge Cynthia Estes Rogers, in Little Rock, Pulaski County, Arkansas. Subsequent to the hearing, the case was transferred to this Administrative Law Judge for all further proceedings, including the decision in this case. A Pre-hearing Order was entered in this case on February 27, 2006. The Pre-hearing Order set forth the stipulations offered by the parties and outlined the issues to be litigated and resolved at this hearing. A copy of the Pre-hearing Order was made Commission's Exhibit No. 1 to the hearing record. The following stipulations as submitted by the parties in the Pre-hearing Order and as amended on the record are hereby accepted:

1. The employer/employee relationship existed on July 15, 2001;
2. The claimant earned an average weekly wage of \$599.04.

By agreement of the parties, the issue to be litigated is:

1. Compensability of the claim.

2. If compensable, claimant's entitlement to temporary total disability benefits from July 15, 2001, until a date yet to be determined, and medical expenses.
3. Whether the claim is barred by the applicable statute of limitations.
4. All other issues were reserved.

The record consists of a one volume transcript of the March 23, 2006, hearing, consisting of the testimony of Patricia Adkins, and all documentary evidence consisting of Commission's Exhibit No. 1 (Pre-hearing Order), Claimant's Exhibit No. 1 (packet of medical reports and two videos), and Joint Exhibit No. 1 (packet of medical reports with index).

FACTUAL BACKGROUND

The claimant is 78 years of age (b. 10/13/27). She was employed by St. Vincent Hospital as an LPN since 1979. She testified that she fell into a wheelchair and injured herself on or about July 15, 2001, as she was re-entering a patient's room after retrieving supplies from her cart in the hallway. She reported the incident to the charge nurse, Margie, and to security personnel. She testified that she knew she was hurt and that her right knee felt stiff. She explained her right thigh and knee became very red within forty-eight hours. In addition, she testified that she injured her right hand, right shoulder, and rib cage. She testified that the pain in her hand developed within two weeks. She did not seek immediate medical treatment in the belief that she would get better. She first treated with Dr. Harold Hedges on July 12, 2001. She explained that she was not good at remembering dates and that her injury probably occurred in June of 2001. She explained that her medical treatment had been paid by her group health policy. On August 12, 2001, she was fired for insubordination when she refused to work on another floor. Although she filled out the notice with the security guard in 2001, the AR-C signed by her attorney

and dated August of 2003 was filed on September 25, 2003. She was never taken off work by her doctor. She was still able and willing to work after the injury. She worked a twelve-hour shift three times a week. She had surgery on her right hand in January of 2002. She had surgery on her knee in September of 2002. In April of 2003, she had surgery on her shoulder. She testified that she had not had any prior problems or treatment on her right knee, right hand, or right shoulder.

On cross-examination, she explained that she had five different surgeries. The first surgery was on January 9, 2002, for her trigger finger performed by Dr. Rhodes. She agreed that nothing in her records with Dr. Rhodes connected the surgery to a fall at St. Vincent's. Her second surgery on March 6, 2002, was a carpal tunnel release on the middle finger by Dr. Rhodes. Her third surgery on September 20, 2002, was for her right knee by Dr. Scott Bowen. Records reflect her first complaint about her knee with Dr. Bowen was December 18, 2001, and describes the claimant as "a very active 74-year-old nurse who is on her feet all the time and is actually doing some jogging almost daily." The fourth surgery was a rotator cuff procedure for her right shoulder on April 14, 2003, and was also performed by Dr. Bowen. Her fifth surgery was on May 14, 2004. She testified that she had previously injured her left wrist in 1992 when she fell on the floor at work. She did not recall telling Dr. Bowen that she jogged on a daily basis. She did not recall telling Dr. Rhodes in January of 2002 that she didn't have a specific trauma. She did not recall telling Dr. Rhodes, as reflected in his report dated February 12, 2002, that she had a greater-than-one-year history of numbness in her right hand which had progressively worsened without a specific traumatic event. She denied that she had told Dr. Rhodes about a four year history of a mass on the ulnar aspect of her right forearm that had progressively gotten larger. She agreed that there was no report relating her carpal tunnel difficulties to work or a specific injury. Although

her report of injury provides the date of injury as 7/2/01, she could not recall the date she was injured. She testified that she loved the job she was doing and that she could not locate the person that she believed caused her to have the injury. She explained that she hurt 24 hours a day for quite some time because of the fall which she did not cause and believes that she is due compensation for her fall. She was aware there was a time limit to file a claim and understood that she was okay based on a conversation with her attorney.

Medical records reflect that the claimant presented for treatment with Dr. Bowen on January 16, 2001, for injuries to her left wrist. On July 12, 2001, she presented to Dr. Hedges with complaints that she had run into a wheelchair which tripped her at work causing her to fall across the chair and bed rails. He noted that she had tenderness about the right lateral chest wall area. X-rays of the ribs showed no fracture of a rib. She was treated with aspirin and heat and released. On October 13, 2001, she returned to Dr. Hedges with pain in the right hand and wrist. On examination, he noted no decreased range of motion and no significant injury. He also noted that she has a second problem involving a trigger of the little finger on the right hand. He diagnosed her with probable carpal tunnel syndrome with the trigger finger and referred her to an orthopedist for further evaluation and treatment. On October 26, 2001, Dr. Hedges' notes reflect that the claimant returned for follow-up on her carpal tunnel syndrome of the right wrist and hand. He noted that she had been wearing a brace and she had more functionality, with less swelling and pain. He noted that she had some pain in the neck similar to a right neck syndrome for several days which had resolved itself. He further noted that she has some pain in the arm just below the right shoulder that comes and goes but does not keep her awake and does not limit motion. His notes further report that she had a chest wall injury for which he followed her for chest pain for several

months which had cleared. On December 3, 2001, he notes that she returned for examination and was prescribed pain medication for extreme leg pain in the right knee.

On December 18, 2001, Dr. Bowen examined the claimant for right knee pain. He notes that she may have aggravated her knee as a result of her "jogging almost daily." He diagnosed her with "(1) Patellofemoral arthritis and recent strain, right knee and (2) Synovitis, right knee." He gave her a large steroid injection to her right knee. He ordered her to continue the anti-inflammatory, home exercises and prescribed Skelaxin for a few days, noting that if symptoms persist, he would get her into physical therapy.

On January 7, 2002, she was examined by Dr. Rhodes with continuing complaints of triggering in her long and small finger and new complaints of triggering in the ring finger. He assessed her with stenosing tenosynovitis of the right long, ring, and small fingers. He scheduled her for a surgical release procedure of the A1 pulley of the right long, ring, and small fingers.

On January 8, 2002, she returned to Dr. Bowen complaining of right knee pain. He noted that x-rays showed minimal patellofemoral arthritis. He scheduled her for an MRI scan of the right knee and physical therapy.

On January 9, 2002, Dr. Rhodes performed the A1 pulley release surgical procedure on claimant's right long, ring, and small fingers at St. Vincent Medical Center. In his discharge summary, Dr. Rhodes' notes reflect that the patient's history reflects that she had noticed her right long and small fingers catching for the past two months, denied any specific traumatic event and states that it has progressively worsened. He further noted that her past medical history was "unremarkable." She was released with pain medication and scheduled for follow-up in ten days.

On January 14, 2002, claimant underwent an MRI on her right knee. The MRI indicated "Evidence for tear involving the posterior horn of the medial meniscus. There is also evidence for chondromalacia patella and a small joint effusion."

On January 17, 2002, she returned to Dr. Rhodes for follow-up on the surgery on her fingers. He noted that she "presents today without any complaints." He instructed her on scar massage, vitamin E therapy, and range of motion and strengthening exercises. On January 21, 2002, she returned to have the sutures removed. He noted that there was no triggering present and that sensation was intact throughout the ring, small, and long finger. He further noted that "She presents today without any complaints."

On January 29, 2002, the claimant returned to Dr. Bowen for review of the MRI results. He noted that she was doing much better with her right knee and that the Voltaren and therapy had made a difference. He diagnosed her with a posterior horn tear of the medial meniscus and directed her to continue the Voltaren and follow up with Dr. Hedges.

On February 12, 2002, she returned to Dr. Rhodes for treatment of her right hand which she reported had numbness for over a year that had progressively gotten worse. He noted that she did not recall "any specific traumatic event to the area." He also noted that she recalled a 4-year history of a mass on the ulnar aspect of her right forearm that is progressively getting larger. The physical examination resulted in a finding of a firm mobile nodule measuring 5 millimeters in diameter on the ulnar aspect of her right forearm at the mid-third area. The x-rays of the right wrist revealed no masses or fractures. He directed her to wear her braces she had previously worn and scheduled her for a nerve conduction study of the right upper extremity. On February 28, 2002, she returned to Dr. Rhodes. He

performed the nerve conduction study which revealed that she had right severe carpal tunnel syndrome. He scheduled her for right carpal tunnel release. On March 18, 2002, she returned for examination to Dr. Rhodes following right carpal tunnel release surgery on March 6, 2002. He removed the stitches in her right hand and released her for follow-up in two weeks with instructions on Vitamin E massage to the wound and work on grip strength.

On August 6, 2002, she returned for follow-up examination by Dr. Bowen. He noted that the claimant was now retired and was improving with her right knee but having increased pain with her right shoulder. He diagnosed her with Tendinitis, right shoulder impingement and mild arthritis and meniscus tear in the right knee. He gave her a large steroid injection to her right shoulder and resumed Voltaren with a gentle home exercise program for the shoulder. On September 10, 2002, she returned to Dr. Bowen with persistent medial joint line pain of her right knee and recurrent pain in her right shoulder at night. He noted that after conservative treatment, he believed the condition warranted arthroscopy of the right knee and an MRI scan to rule out a rotator cuff tear. On September 11, 2002, an MRI was performed on claimant's right shoulder. The MRI of her right shoulder revealed:

Full-thickness tear in the proximal 1/3 of the supraspinatus tendon. Although not definitive, there may be an injury to the biceps tendon as well. Small joint effusion. Moderate arthropathy of the AC joint. Type III acromion process. This may contribute to shoulder impingement.

On September 17, 2002, the claimant returned for evaluation and treatment with Dr. Bowen. He reported that the MRI showed that she had a rotator cuff tear and biceps subluxation or tear of the right shoulder. She indicated that her right knee was more of a problem. It was determined that any intervention of her right shoulder would be delayed until she recovered from an arthroscopy of her right knee since her anticipated recovery from the knee surgery would be two to three weeks as opposed to three months from shoulder surgery. On September 20,

2002, she underwent right knee arthroscopy with extensive partial medial meniscectomy, partial lateral meniscectomy, medial femoral condyle chondroplasty, and lateral femoral condyle chondroplasty procedures. On October 2, 2002, she returned for follow-up and reported a lot of relief from the procedure. On October 31, 2002, she returned for follow-up with Dr. Bowen. He noted that Adkins was doing well with her knee and that her right shoulder was more symptomatic. He gave her a large steroid injection and directed her to follow-up in three to four weeks. On December 3, 2002, the claimant returned to Dr. Bowen with some mild right shoulder pain. He noted that surgical intervention was not warranted, but if it worsened he would consider another steroid injection and possible surgery. On March 25, 2003, the claimant returned to Dr. Bowen. He noted that Ms. Adkins is doing well with her right knee and wrist, but had continued complaints of right shoulder pain. He gave her another steroid injection to the right shoulder and noted a plan for arthroscopic rotator cuff repair after she made arrangements for her infirmed husband at home. On April 14, 2003, the claimant underwent right shoulder arthroscopy with debridement of rotator cuff and biceps, arthroscopic anterior acromioplasty, and mini-open rotator cuff repair procedures. On April 23, 2003, the claimant returned for a ten day post-op evaluation. Clinic notes reflect that her shoulder was doing well and that she would begin physical therapy and discontinue use of the sling along with no lifting with right arm restrictions. On May 13, 2003, she returned for a one month post-op evaluation of her right shoulder scope and rotator cuff repair. He noted that she was doing well and would progress to a rotator cuff program. On June 17, 2003, the claimant returned for a two month post-op examination of her right shoulder. She was given Bextra for pain and scheduled for follow-up in one month with the plan to convert her to one time a

week maintenance physical therapy program. On September 23, 2003, she returned for her five month post-op evaluation and determined to be fully recovered.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The employer/employee/carrier relationship existed on July 15, 2001.
3. The claimant did not file her claim within the two year statute of limitations period set out in Ark. Code Ann. § 11-9-702 (a)(1)(A)(Repl. 2001).
4. Alternatively, claimant has failed to establish by a preponderance of the evidence the elements of a compensable injury under the Arkansas Workers' Compensation Act.

DISCUSSION

The claimant contends that on July 15, 2001, while in the course and scope of her employment, she fell into a wheel chair injuring her right hand, right knee, right shoulder and lower rib cage. Claimant seeks temporary total disability benefits from the date of injury to a date yet to be determined, as well as medical expenses. Respondents controvert the claim in its entirety and further contend the claim is barred by the applicable statute of limitations.

I. COMPENSABILITY

Ark. Code Ann. § 11-9-102(4)(A) defines "compensable injury":

- (i) (a)n accidental injury causing internal or external physical harm to the body or accidental injury to prosthetic appliances, including eyeglasses, contact lenses, or hearing aids, arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence;
- (ii) An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of

occurrence, if the injury is: (a) Caused by rapid repetitive motion . . .
(v) A hernia as set out in § 11-9-523.

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D)(Repl. 2002). Claimant's burden of proof shall be a preponderance of the evidence. Ark. Code Ann. § 11-9-102(4)(E)(i). If claimant fails to establish by a preponderance of the evidence any of the requirements for establishing the compensability of the injury alleged, she fails to establish the compensability of the claim, and compensation must be denied.

It is the exclusive function of the Commission to determine the credibility of the witnesses and the weight to be given their testimony. Johnson v. Riceland Foods, 47 Ark. App. 71, 884 S.W.2d 626 (1994). Furthermore, the Commission is not required to believe the testimony of the claimant or other witnesses, but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. Brotherton v. White River Area Agency, ___ Ark. App. ___, ___ S.W.3d ___ (Dec. 14, 2005); Morelock v. Kearney Company, 48 Ark. App. 227, 894 S.W.2d 603 (1995). The Commission may accept or reject medical opinions and determine their medical soundness and probative force. Id. It is important to note that the claimant's testimony is never considered uncontroverted. Lambert v. Gerber Products Co., 14 Ark. App. 88, 684 S.W.2d 842 (1985); Nix v. Wilson World Hotel, 46 Ark. App. 303, 879 S.W.2d 457 (1994).

II. STATUTE OF LIMITATIONS

Arkansas Code Annotated § 11-9-702(a)(1)(A) provides that a claim for compensation for disability on account of an injury shall be barred unless filed within two years of the compensable injury. Section 11-9-702(a)(1)(B) provides that the date of the compensable injury shall be defined as the date an injury is caused by an accident as set forth in Ark. Code Ann. § 11-9-102(5)(Repl. 1996). The 1993 amendment added the stipulation that a latent injury or condition shall not delay or

toll the limitations period. Ark. Code Ann. § 11-9-702(g)(1)(Repl. 1996); Cromwell v. University of Arkansas, 76 Ark. App. 5, 61 S.W.3d 864 (2001). It has long been held that the statute of limitations does not commence to run until the true extent of the injury manifests and causes an incapacity to earn wages sufficient to give rise to a claim for disability benefits. Hall's Cleaners v. Wortham, 311 Ark. 103, 842 S.W.2d 7 (1992). In Pina v. Wal-Mart Stores, Inc., ___ Ark. App. ___, at ___, ___ S.W.3d ___, at ___ (May 11, 2005), the Court of Appeals held that the statute of limitations in a carpal tunnel case begins to run when the scheduled injury becomes apparent to the claimant. See, Cottage Café, Inc. v. Collette, (CA 05-734, Ark. App. 2-1-2006) (Reversed and remanded for determination of when claimant became aware of injury).

The claimant in the instant case reported the accident involving the wheelchair on July 2, 2001. Medical records reflect that she sought treatment for the injuries associated with the fall on July 12, 2001. Claimant filed her workers' compensation claim on September 25, 2003. In the instant case, claimant's condition became apparent to her by at least July 12, 2001. Following the fall, the claimant was treated conservatively and was able to return to work without restrictions. I find that because the claimant did not file her claim for benefits arising from the July 2, 2001 accident until September of 2003, the claim is barred by the statute of limitations.

Claimant now contends that the later surgical procedures and treatment for injuries to her right hand, right knee, and right shoulder were a result of the fall. For the reasons set forth herein, I find that claimant has failed to prove by a preponderance of the evidence any causal connection between the fall at work in July of 2001 and the subsequent treatment for her right hand, knee, or shoulder.

III. CAUSATION

The employee must prove by a preponderance of the evidence that she sustained a compensable injury. In addition, a compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D). "Objective findings" are those findings which cannot come under voluntary control of the patient. Ark. Code Ann. § 11-9-102(16)(A)(i). In the present case, I find that the claimant does not establish a compensable injury by medical evidence supported by objective findings.

A review of the medical records offered in this case reflect there is no objective medical evidence that the claimant sustained any injury to her right hand, knee, or shoulder as a result of the work-related incident. Claimant first sought medical treatment for pain in her right hand and fingers on October 13, 2001. She was diagnosed with possible carpal tunnel syndrome and referred to an orthopedist, Dr. Rhodes, for evaluation and treatment. The claimant underwent the pulley release procedure on her fingers on January 9, 2002, and the carpal tunnel release procedure on March 6, 2002. In connection with her right hand, the doctor's notes reflect that the claimant "did not recall any specific traumatic event to the area."

On December 3, 2001, claimant first sought treatment for right knee pain. At that time, her doctor noted that she was a very active 74-year old and may have aggravated her knee during her daily jogging. On August 6, 2002, the claimant was treating with Dr. Bowen for her right knee problems when she complained of right shoulder pain. She underwent arthroscopy of her right knee on September 20, 2002, and rotator cuff repair for her right shoulder on April 14, 2003.

In the instant case, it has been established that an incident involving the claimant occurred at work. It is equally clear from the medical evidence that objective medical evidence established the claimant's need for surgery to her right

hand, knee, and shoulder. The primary dispute is whether claimant has established a causal connection between her on the job injury and the surgery and other medical treatment. In a workers' compensation case, a claimant must prove a causal connection between the work-related accident and the disabling injury. Stephenson v. Tyson Foods, Inc., 70 Ark. App. 265, 19 S.W.3d 36 (2000). This is not a case where the claimant must prove that the injury had to be the major cause of the need for the medical treatment in order for it to be covered by workers' compensation. That analysis is not applicable since this is a case involving a specific injury and request for medical treatment as opposed to a gradual onset injury or an award of permanent disability benefits. See, Farmland Ins. Co. v. DuBois, 54 Ark. App. 141, 145, 923 S.W.2d 883, 885 (1996). The determination of whether a causal connection exists is a question of fact for the Commission to determine. Jeter v. B.R. McGinty Mech., 62 Ark. App. 53, 968 S.W.2d 645 (1998).

In the instant case, the claimant was not diagnosed with carpal tunnel syndrome until October, knee problems until December, and shoulder problems until one year following the alleged incident at work, notwithstanding examination and treatment from several doctors. If a disability does not manifest itself until many months after the accident, so that reasonable men might disagree about the existence of a causal connection between the accident and the disability, the issue becomes one of fact upon which the Commission's conclusion is controlling. Kivett v. Redmond Co., 234 Ark. 855, 355 S.W.2d 172 (1961).

Claimant now contends that during her fall, she sustained injuries to her right hand, knee, and shoulder which necessitated surgery. However, claimant continued to work after the accident with no apparent problems to her hand, knee, or shoulder. In her own testimony, the claimant agreed that none of the medical records connect the carpal tunnel problems in her right hand with the alleged work-

related incident. Although in a report dated September 23, 2003, Dr. Bowen opines that the knee and shoulder surgeries were a result of injuries sustained at work while a nurse at St. Vincent Infirmary, there is nothing in the medical records to connect these injuries to the July 2, 2001 fall. In fact, Dr. Bowen states that the original injury was in approximately mid-June, 2002, at which time she injured both her right knee and right shoulder. The claimant testified that she was fired from her employment with St. Vincent's in August of 2001; however, Dr. Bowen's report of August 6, 2002, states that the claimant "is now retired." This opinion is also inconsistent with Dr. Bowen's own prior observation on December 18, 2001. In a letter to Dr. Hedges after evaluation of the claimant's knee, Dr. Bowen does not mention the July, 2001 fall but instead writes that the claimant "is actually doing some jogging almost daily and may have aggravated her knee as a result." It appears from my review of the medical reports that the opinions of Dr. Bowen are based on the subjective complaints of the claimant and are speculative at best. Conjecture and speculation, even if plausible, cannot take the place of proof. Ark. Dept. of Correction v. Glover, 35 Ark. App. 32, 812 S.W.2d 692 (1991); Dena Construction Co. v. Herndon, 264 Ark. 791, 575 S.W.2d 155 (1970); Arkansas Methodist Hospital v. Adams, 43 Ark. App. 1, 858 S.W.2d 125 (1993).

Medical opinions addressing compensability must be stated within a reasonable degree of medical certainty. Ark. Code Ann. § 11-9-102(16)(B)(Repl. 1996). The Arkansas Court of Appeals has held:

the plethora of possible causes for work-related injuries includes many that can be established by a common-sense observation and deduction. To require medical proof of causation in every case appears out of line with the general policy of economy and efficiency contained within the workers' compensation law. To be sure, there will be circumstances where medical evidence will be necessary to establish that a particular injury resulted from a work-related incident - but not in every case. We find the Court of Appeal's reasoning in *Millican* and *Tilley* persuasive. We therefore adopt the holding in *Millican* that objective medical evidence is necessary to establish the

existence and extent of an injury, but is not essential to establish the causal relationship between the injury and the work-related incident (emphasis added).

Freeman v. Con-Agra Frozen Foods, 70 Ark. App. 306, 27 S.W.3d 762 (2000), quoting Wal-Mart Stores, Inc. v. VanWagner, 337 Ark. 443, 990 S.W.2d 522 (1999). See Stephens Truck Lines v. Millican, 58 Ark. App. 275, 950 S.W.2d 472 (1997) and Aeroquip, Inc. v. Tilley, 59 Ark. App. 163, 954 S.W.2d 305 (1997).

Based on this reasoning, Freeman, summed up the current state of the law as such:

Medical evidence is not ordinarily required to prove causation, i.e., a connection between the injury and the claimant's employment, but if an unnecessary medical opinion is offered on that issue, the opinion must be stated with a reasonable degree of medical certainty.

Freeman, supra, citing Wal-Mart Stores, Inc. v. Van Wagner, 337 Ark. 443, 990 S.W.2d 522 (1999).

The law is clear that medical opinions based upon "could", "may", "possibly", and "can" lack the definitiveness required by Ark. Code Ann. §11-9-102(16)(B)(Supp.1999) which requires that medical opinions be stated within a reasonable degree of medical certainty. Scott v. Middleton Drywall, 2005 AWCC 22 (Feb. 9, 1005) ("probably did" found insufficient to prove causation); Frances v. Gaylord Container Corporation, 341 Ark. 527, 20 S.W.3d 280 (2000) (overruling prior Court of Appeals decision and holding that "could" was insufficient to satisfy standard); Crudup v. Regal Ware, Inc. , 3341 Ark. 804, 20 S.W.3d 760 (2001) ("theoretical possibility" did not meet standard of proof); Freeman v. Con-Agra Frozen Foods, 344 Ark. 296, 40 S.W.3d 760 (2001) (to pass muster, opinion must be more than speculation and go beyond possibilities).

In the instant case, even if the claim as to the injuries to the right hand, right knee and right shoulder are not barred by the statute of limitations, I find that claimant has failed to prove by a preponderance of the evidence that she sustained

compensable injuries to her right hand, knee, or shoulder as a result of the work-related accident which is the basis for this claim.

ORDER

For the reasons discussed herein, this claim must be, and hereby is, respectfully denied.

IT IS SO ORDERED.

HONORABLE BARBARA WEBB
Administrative Law Judge