

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. G008831

ELIZABETH JOHNSON, Employee	CLAIMANT
BERRYVILLE SCHOOL DISTRICT, Employer	RESPONDENT #1
ARKANSAS SCHOOL BOARDS ASSOCIATION WCT, Carrier	RESPONDENT #1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT #2

OPINION FILED SEPTEMBER 22, 2015

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by JASON M. HATFIELD, Attorney, Fayetteville, Arkansas.

Respondent #1 represented by CURTIS L. NEBBEN, Attorney, Fayetteville, Arkansas.

Respondent #2 represented by CHRISTY L. KING, Attorney, Little Rock, Arkansas; although not appearing at hearing.

STATEMENT OF THE CASE

On August 12, 2015, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on March 19, 2015, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The prior opinions in this matter are final.
3. In addition to other permanent partial disability benefits paid, Respondent #1 also paid benefits based on a 15% rating to the head.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Claimant's entitlement to permanent total disability benefits; or, alternatively, permanent partial disability for wage loss.

2. Payment of dental expenses and emergency room visit of September 29, 2012.
3. Attorney fee.

Subsequent to the pre-hearing conference the parties agreed to litigate other issues.

These issues are:

4. Benefits for facial disfigurement or scarring.
5. Whether the whole body impairment due to the brain injury should be 50% as assigned by Dr. Back.
6. Whether a whole body rating to the shoulder equals 13% as assigned by Dr. Knox.
7. The end of claimant's healing period.

The claimant contends that she is permanently totally disabled as a result of her compensable injuries. Specifically, claimant contends that her whole body impairment due to the brain injury should be 50% to the body as a whole as issued by Dr. Back or alternatively 40% to the body as a whole as issued by Dr. Whetstone as opposed to the 15% rating accepted by the respondent based upon the opinion of Dr. Halfaker. Claimant also contends that the correct impairment rating for the injury to her shoulder equals 13% to the body as a whole as assigned by Dr. Knox as opposed to the 1% rating accepted by the respondent. Claimant also contends that she is entitled to benefits for facial disfigurement; payment of an emergency room visit on September 29, 2012; and payment for dental treatment she received from Dr. Brooks.

Respondent #1 contends that the correct impairment rating for claimant's brain injury equals 15% to the body as a whole as assigned by Dr. Halfaker. Respondent contends that the opinions of Drs. Whetstone and Back are not based upon objective findings. Respondent also contends that the rating assigned by Dr. Knox in regard to claimant's shoulder injury is invalid. Respondent contends that claimant's facial disfigurement is de minimus and therefore she is not entitled to benefits. Respondent

also contends that the emergency room visit was not an emergency situation and did not arise out of claimant's compensable injury. Finally, respondent contends that the dental treatment claimant received from Dr. Brooks was unauthorized.

Respondent #2 contends that if the claimant is found to be permanently and totally disabled, the Trust Fund stands ready to commence weekly benefits in compliance with A.C.A. §11-9-502. Therefore, the Trust Fund has not controverted the claimant's entitlement to benefits.

At the time of the hearing the parties agreed to leave the record open for the submission of a video taken from the bus at the time of claimant's accident. The video would be submitted as Claimant's Exhibit #5. After the hearing, respondent sent claimant a video which was unplayable. In response, claimant filed a motion for an inference that the video would have been unfavorable to respondent's position. Subsequent to the filing of that motion, respondent has provided a playable video from the bus at the time of the accident and that video is contained in the record as Claimant's Exhibit 5.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on March 19, 2015, and contained in a pre-hearing order filed that same date, are hereby accepted as fact.
2. Claimant has met her burden of proving by a preponderance of the evidence that she is entitled to an award of \$3,500.00 for facial disfigurement pursuant to A.C.A. §11-9-524.

3. Claimant has met her burden of proving by a preponderance of the evidence that respondent is liable for payment of medical treatment received from the emergency room on September 29, 2012.

4. Claimant has met her burden of proving by a preponderance of the evidence that respondent is liable for payment of dental treatment provided by Dr. Brooks.

5. Claimant has met her burden of proving by a preponderance of the evidence that she suffered a permanent physical impairment in an amount equal to 13% to the body as a whole for the injury to her left shoulder.

6. Claimant has met her burden of proving by a preponderance of the evidence that her permanent physical impairment rating for her brain injury equals 50% to the body as a whole as assigned by Dr. Back.

7. Claimant has met her burden of proving by a preponderance of the evidence that she is permanently totally disabled.

8. Claimant's healing period ended on April 10, 2013.

9. Respondent #1 has controverted claimant's entitlement to permanent total disability benefits.

#### FACTUAL BACKGROUND

The claimant is a 55-year-old woman who graduated with a degree in education from U.C.A. in 1983. She was hired as a business teacher by respondent during the 1998-99 school year; teaching grades 9-12 in word processing, spreadsheet programming, PowerPoint, and general computer knowledge. She was also the sponsor of the school's FBLA program.

On October 1, 2010, the claimant was riding in a school bus taking students to an FBLA conference in Melbourne when the bus was involved in an accident and rolled over the side of a hill. Claimant testified that her first memory of the accident was waking up in

the hospital several days later. The medical records indicate that claimant was in acute care for 13 days and rehabilitation for 10 days.

The parties have stipulated that as a result of this accident claimant suffered compensable injuries to her left shoulder, cervical spine, and head. These injuries included a fracture at the C6-7 level, a left scapular fracture, a fracture to two ribs, facial fractures, and a closed head injury. While claimant was hospitalized she underwent surgery to repair the fracture at the C6-7 level.

Claimant's injuries included an injury to her left shoulder. Claimant's initial medical treatment for that condition came from Dr. Wilson who ordered an MRI scan and diagnosed her condition as adhesive capsulitis for which she recommended an injection and physical therapy. When claimant's condition did not improve, he performed a manipulation under anesthesia on March 23, 2011. Claimant continued to have complaints of pain after this procedure and she was eventually evaluated by Dr. Thomas Knox, an orthopedic surgeon in Harrison. Dr. Knox ordered an arthrogram which was denied by the respondent. Following a hearing on June 13, 2012, an order was filed on July 5, 2012, finding that the arthrogram was reasonable and necessary medical treatment. The arthrogram was performed and revealed a torn rotator cuff. Dr. Knox performed a surgical repair of the torn rotator cuff on September 21, 2012.

Claimant's primary treatment at the time of the hearing consisted of pain management treatment from Dr. Thurman. Respondent has accepted and is paying for this medical treatment.

Respondent has paid claimant permanent partial disability benefits based upon a 22% rating to the body as a whole for the injury to claimant's cervical spine. Respondent also paid claimant permanent partial disability benefits in an amount equal to 1% to the body as a whole for the injury to her left shoulder. Finally, respondent paid claimant permanent partial disability benefits in an amount equal to 15% to the body as a whole for

the injury to her head. Claimant has filed this claim contending that she is permanently totally disabled as a result of her injuries. She also seeks payment of various unpaid medical expenses and payment for scarring.

### ADJUDICATION

#### FACIAL DISFIGUREMENT OR SCARRING.

Claimant contends that she is entitled to an award of benefits for facial disfigurement resulting from her compensable injury. The statute governing such benefits is codified at A.C.A. §11-9-524(a) which states:

The Workers' Compensation Commission shall award compensation for serious and permanent facial or head disfigurement in a sum not to exceed three thousand five hundred dollars (\$3,500).

Medical records from St. John's Hospital dated October 8, 2010 discuss the extent of claimant's facial fractures.

Dr. Morrison consulted for facial fractures [.] Mildly depressed left mid zygomatic arch and nondisplaced posterior zygomatic arch fractures. Overlying mild edema, hemorrhage and a few small collections of air. Left lateral orbital wall fracture and a small connection of air adjacent to the lateral border of the left lateral rectus muscle. The left globe is intact. Mild left preseptal periorbital edema and hemorrhage. Left anterior and posterolateral maxillary sinus wall fractures and a hemorrhagic air-fluid level. Mild left mid maxillary subcutaneous edema, hemorrhage and several small collections of soft tissue air.

Treatment of claimant's facial lacerations and fractures did not require surgery, but did require the use of staples.

My observation of the claimant at the hearing revealed scarring present on the left side of her face as well as discoloration. This is also shown in a photo introduced on Page C-46 of Claimant's Exhibit 3.

Based upon the evidence presented, I find that claimant is entitled to an award of

\$3500.00 for facial disfigurement pursuant to A.C.A. §11-9-524.

PAYMENT OF EMERGENCY ROOM VISIT ON SEPTEMBER 29, 2012.

Claimant seeks payment for medical treatment she received from the emergency room on September 29, 2012. Claimant had undergone surgery by Dr. Knox to repair her torn rotator cuff on September 21, 2012. Testifying at the hearing was claimant's husband, Earl Johnson. He testified that after claimant's shoulder surgery she scratched her shoulder and some stitches came undone. After calling Dr. Knox's office he took claimant to the emergency room. The emergency room report of September 29, 2012 states that a wound repair was performed at that time.

A.C.A. §11-9-514(b) states:

Treatment or services furnished or prescribed by any physician other than the ones selected according to the foregoing, except emergency treatment, shall be at the claimant's expense.

After reviewing the evidence, I find that the treatment at the emergency room constituted emergency treatment and therefore respondent is liable for payment. The evidence indicates that claimant tore a stitch from the surgery which had been performed by Dr. Knox on her left shoulder just eight days earlier. According to the emergency room report, this wound was repaired at that time.

PAYMENT OF DENTAL EXPENSES BY DR. BROOKS.

Claimant's compensable injury included damage to her teeth; specifically, tooth #31. Claimant primarily received medical treatment for her dental problems from Dr. Poe whose report of December 20, 2010 indicates that tooth #31 was tender to cold/pressure. Dr. Poe opined that this tooth was fractured and needed extraction. Dr. Poe referred claimant to Dr. Arquitt, an oral surgeon, who extracted tooth #31 on December 30, 2010.

Subsequent reports from Dr. Poe indicate that claimant received an implant and

crown at the site of #31. On January 21, 2013, Dr. Poe determined that either the claimant's implant or crown was loose, and stated that claimant would need to see the dentist who performed the original work to evaluate her condition.

Apparently, claimant did not see Dr. Arquitt but instead received treatment from Dr. Brooks. According to Dr. Brooks' report dated August 19, 2014, claimant was referred to him by Dr. Poe for an evaluation of the claimant's implant and crown repair. Dr. Poe's medical records indicate that a new crown was fabricated for claimant and it is payment of this medical treatment which is at issue.

In addition to Dr. Brooks' notation that claimant was referred to him by Dr. Poe, I also note in Dr. Poe's report of September 4, 2014, that he stated that Dr. Brooks was redoing claimant's broken implant and crown.

Based upon the evidence presented, it appears that the treatment by Dr. Brooks was the result of a valid referral by claimant's authorized treating physician, Dr. Poe. Accordingly, I find that Dr. Brooks' medical treatment was reasonable and necessary and authorized treatment for claimant's compensable work-related injury. Therefore, respondent is liable for payment of Dr. Brooks' dental treatment.

#### SHOULDER RATING.

The respondent has accepted and paid permanent partial disability benefits based upon a 1% rating to the body as a whole for claimant's left shoulder injury as assigned by Dr. Corsolini in a report dated December 2, 2011. However, this rating by Dr. Corsolini was assigned before claimant was evaluated by Dr. Knox and a subsequent arthrogram revealed a torn rotator cuff which resulted in surgery to repair the tear by Dr. Knox on September 21, 2012.

In a report dated April 10, 2013, Dr. Knox assigned claimant an impairment rating based on the *Fourth Edition of the AMA Guides* in an amount equal to 13% to the body as a whole for her compensable left shoulder injury.

I find that Dr. Knox's opinion is credible and entitled to great weight. Based upon the opinion of Dr. Knox, I find that claimant has suffered a permanent physical impairment in an amount equal to 13% to the body as a whole for her left shoulder injury.

With respect to this issue, I note that respondent contends that the rating assigned by Dr. Knox is invalid. I disagree. The objective basis for Dr. Knox's opinion is set forth in his report of October 10, 2013 and is based upon the *Fourth Edition of the AMA Guides*.

#### BRAIN INJURY RATING.

The respondent has accepted and paid permanent partial disability benefits based on a 15% to the body as a whole rating assigned by Dr. Halfacre for the injury to claimant's head/brain.

Dr. Halfacre had neuropsychological testing performed in his office on March 20, 2012 and authored a report dated March 24, 2012, assigning claimant an impairment rating in an amount equal to 15% to the body as a whole. In addition, the parties also took the deposition of Dr. Halfacre on July 31, 2015.

Basically, it is Dr. Halfacre's opinion that while claimant's test results would indicate a moderate to severe impairment, that other test results such as the TOMM evaluation indicate that claimant's effort fluctuated during her assessment and therefore her impairment is not as great as the results would otherwise indicate. Accordingly, he opined that claimant had a permanent physical impairment rating in an amount equal to 15% to the body as a whole.

On May 11, 2015, respondent had claimant undergo an evaluation by Dr. Richard Back to determine her current cognitive status. Dr. Back is a clinical psychologist and neuropsychologist located in Fayetteville. Dr. Back administered a battery of tests and authored a report stating that in his opinion based upon claimant's test results and the *Fourth Edition of the AMA Guides*, that claimant had an impairment rating in an amount

equal to 50% to the body as a whole.

Dr. Back did not perform any tests for malingering, such as the TOMM relied upon by Dr. Halfacre. With regard to this testing, Dr. Back stated:

No tests for malingering, such as the Tomm, were administered. These tests are not effective when moderate to severe cognitive dysfunction is present. (Emphasis added.)

Claimant was also evaluated by Dr. Faitak, a clinical psychologist, at the request of claimant's case manager in 2011. In a report dated March 1, 2011, Dr. Faitak stated that claimant's validity scale suggested that claimant answered in a valid fashion.

Finally, respondent also had claimant evaluated by Dr. Whetstone, neuropsychologist, on August 19, 2011. Dr. Whetstone also noted that there was no evidence of malingering identified and stated:

Although some indication of variable effort and consistency of responding is noted, this is felt to be a reflection of the patient's frontal lobe dysfunction, and is not believed to have had a significant negative effect on the validity of the overall test results.

Dr. Whetstone went on to diagnose claimant's condition as a cognitive disorder due to traumatic brain injury as well as post-traumatic stress disorder and adjustment disorder. He assigned claimant a permanent physical impairment rating in an amount equal to 40% to the body as a whole.

Thus, claimant has undergone neuropsychological testing by four different physicians. Only Dr. Halfacre has opined that claimant's test results are invalid due to fluctuating effort. Dr. Faitak stated that claimant's validity scale suggested that she answered in a valid fashion. Two physicians, Drs. Whetstone and Back, have opined that validity testing is not effective given claimant's cognitive dysfunction and that it did not have a significant negative effect on the overall test results.

I find based upon the evidence presented that the opinion of Dr. Back is entitled to

greater weight than the opinion of Dr. Halfacre. First, Dr. Back's evaluation occurred on May 11, 2015, while Dr. Halfacre has not evaluated the claimant in more than three years since March 20, 2012. Furthermore, Dr. Back's opinion that tests such as the TOMM are not effective given the type of claimant's injury is also supported by the opinion of Dr. Whetstone.

Accordingly, based upon the opinion of Dr. Back, I find that claimant's impairment rating for her closed head injury equals 50% to the body as a whole.

In response to Dr. Back's opinion, respondent contends that Dr. Back's opinion is not valid because there was no validity scale and it was based entirely upon subjective evidence. I disagree. As previously noted, Dr. Back explained that a validity scale given claimant's injury would not be effective and that opinion is corroborated by the opinion of Dr. Whetstone. In addition, Dr. Back relied upon many of the same objective neurological tests relied upon by Dr. Halfacre in assessing claimant's cognitive impairment.

#### PERMANENT TOTAL DISABILITY BENEFITS.

Claimant contends that she is permanently totally disabled as a result of her compensable injuries. Permanent total disability is defined as the "inability, because of compensable injury or occupational disease, to earn any meaningful wages in the same or other employment." A.C.A. §11-9-519(e)(1). Furthermore, claimant has the burden of proving by a preponderance of the evidence that she has an inability to earn any meaningful wages in the same or other employment. A.C.A. §11-9-519(e)(2).

When considering claims for permanent disability in excess of the permanent physical impairment, the Commission may take into account various factors. These factors include the claimant's age, education, work experience, and all other matters reasonably expected to affect her future earning capacity. A.C.A. §11-9-522(b)(1).

After reviewing the relevant wage loss factors in this case, I find that claimant has met her burden of proving by a preponderance of the evidence that she is permanently

totally disabled as a result of her compensable injury.

First, I note that claimant has permanent physical impairment ratings equal to 22% to the body as a whole for her cervical spine injury, 13% to the body as a whole for her shoulder injury, and 50% to the body as a whole for her closed head injury.

For reasons previously discussed, I find that the opinion of Dr. Back is entitled to great weight. Dr. Back discussed his test results in his report of May 11, 2015. In that report he stated:

Mrs. Johnson was tested for over three hours, with her overall intellectual level in the mild range of mental retardation (1<sup>st</sup> percentile). This represents a significant decline from premorbid level of intelligence, 85<sup>th</sup> percentile, based on Department of Labor data for school teachers. Almost 30% of one sample of moderate-to-severe TBI patients exhibited cognitive decline over five years (Till et al., 2008). Her scores reflect marked to severe impairments, which at this point in time are permanent. Processing Speed is particularly impaired, evident even in social discourse. She is slow to respond to questions, slow in ambulation, and in speech production. Neuropsychological scores were also severely impaired for Delayed Memory, concentration, attention, fine motor speed, and verbal fluency.

Dr. Back went on to diagnose claimant's condition as a major neurocognitive disorder due to traumatic brain injury.

Significantly, I note that Dr. Back stated that claimant was slow to respond to questions and in speech production. This condition is noted in several medical records which have been submitted. For instance, following her compensable injury the claimant had to undergo extensive speech therapy. The initial evaluation report dated November 8, 2010 indicates that claimant had difficulty with auditory attention and severe difficulty with delayed recognition of words. Subsequent medical records indicate that claimant had difficulty formulating and communicating fluent responses with deficiencies increasing with changes in her emotional state. This is reflected in the report of January 21, 2011.

It is also important to note that I had the opportunity to observe claimant during her

testimony at both the hearing conducted on June 13, 2012, and again on August 12, 2015. I noted at the time of the hearing on August 12, 2015, that during claimant's testimony she rocked back and forth, she stuttered, and she paused between most of her words as if she knew what she wanted to say but could not speak the words.

I also note that claimant was evaluated by Tanya Rutherford Owen, a rehabilitation counselor and life care planner. Owen has a master's degree in counseling psychology and a Ph.D. in rehabilitation. In the course of her evaluation Owen reviewed various medical records and gave claimant various tests, including the Beck Depression Inventory and the Minnesota Clerical Test. Owen testified that the Minnesota Clerical Test indicates how an individual would do with clerical work with regard to timeliness and accuracy. According to Owen the claimant tested in the 1 percentile for females. Owen acknowledged that none of the tests she gave had a validity scale. However, Owen was asked her opinion as to whether or not she felt claimant gave her best effort.

Q. Did you feel that she was giving her best effort?

A. Yes. Can I answer why?

Q. Sure.

A. For example, with the Minnesota Clerical, I've - - I've watched people sort of look at me and look at the wall, and then, you know, maybe give an answer, and then, you know - - and I know they're working at a slower pace because they're looking around the room or they're looking at their phone. They're not doing what I'm asking them to do and I didn't observe any of that.

Q. How did she perform the test?

A.. Well, she didn't perform well, but, for example, the names portion of the test is easier than the numbers portion of the test for the vast majority of people; so therefore, you would expect someone to finish more of the items on the naming section than you would on the number section, and she did that. She - - she finished 26 on the numbers and 43 on the name. Somebody who is not maybe giving me a full effort will complete about the same number on the names as they do on the numbers. So, while that's not a built-in validity scale

from the Minnesota Clerical Test, that's something that over the years in giving that thing a thousand times, I've seen that. Now, two of the tests she did at home, the Job Search Attitude Inventory, but she completed all the problems and sent them back. As a matter of fact, I think she wrote some comments on the test.

After her evaluation, Owen authored a report and stated:

Taken in totality, in my opinion, someone with Mrs. Johnson's upper extremity limitations, limitations in stamina, severe levels of depression, cognitive problems, executive function limitations, difficulties with perpetual speed and accuracy and limitations in speech will be extremely difficult to place in the competitive labor market.

In addition to writing her report, the parties also took the deposition of Owen on May 14, 2015. Owen's testimony regarding claimant's ability to return to work is significant.

Q. What is that [belief that claimant will not be able to return to work] based on, ma'am?

A. Based on her perceptual speed and accuracy problems, based upon her speech problems, based upon her lack of stamina, based upon her ongoing cognitive limitations that appear to - - well, they are permanent. Now we're five years out of the labor market. We have upper extremity limitations. We have speech problems. We have processing problems. We have speed issues.

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A. I don't think the physical issues are the problem here.

Q. What do you believe the problems are?

A. Cognition, the memory problems, her perceptual speed and accuracy, her speech. People - - for me, I can more easily place someone in the labor market with a physical problem than I can with these kind of issues.

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Q. Your opinion in this situation is that Ms. Johnson will not return to competitive employment?

A. I think it is more likely than not that she will not.

Owen was then asked if she would recommend that any of the employers she identified hire the claimant. In response, Owen stated:

A. I think if the - - you know, if the school district could maybe find something for her to do because they know her and because she's been there, you know, maybe - - I think it would get her out of the house. I think it would make her feel better about herself. I think it would give her social contact. But as far as being a productive employee, I doubt she would be very productive even for them.

Q. So it would just be only for the benefit of Ms. Johnson, not for the benefit of the school district?

A. Right.

Finally, Owen testified:

A. Part of my problem with Ms. Johnson is I can't encourage her to - - I encourage people I work with to try to talk their way into an interview. You know, just go by, try to talk to the employer, you know, sell them on yourself, leave a resume, but the minute she opens her mouth, there is going to be a red flag.

Q. Why?

A. Because she is so slow. Her word - - what appears to be her word finding or, for whatever reason, her speech is halted. Her speech is slow. You know instantly there is something wrong.

Again, this comment by Owen corroborates other observations regarding claimant's speech patterns and the problems they would present in her becoming gainfully employed.

After consideration of the relevant wage loss factors in this case, I find that claimant has met her burden of proving by a preponderance of the evidence that she is permanently totally disabled. This finding is based in large part upon the opinion of Dr. Back who has opined that claimant has a 50% permanent physical impairment rating resulting from the closed head injury. In addition, I also note that claimant has a 22% rating to the body as a whole as a result of the injury to her cervical spine, and a 13% rating to the body as a

whole as a result of the injury to her left shoulder. Furthermore, according to Dr. Back's report, claimant's overall intellectual testing reveals a level in the mild range of mental retardation. Dr. Back's opinion, coupled with the opinion of Tanya Owen who I also find to be credible and entitled to great weight, as well as observations of the claimant and her ability to speak at the hearing itself, leads me to conclude that claimant is permanently totally disabled.

In reaching this decision, I note that the respondent submitted various videos into the record. My review of those videos shows claimant driving on several occasions. Claimant acknowledged at the hearing that she is able to drive locally in the Harrison area where she is familiar, but is unable to drive outside of that area. Much of the videos submitted consist of claimant sitting at a table in a restaurant eating with family.

#### END OF HEALING PERIOD.

The end of claimant's healing period has also been raised as an issue. Both the claimant and respondent #1 agree with respect to claimant's brain injury that claimant reached maximum medical improvement as of August 9, 2011. Both claimant and respondent #1 also agree that claimant reached the end of her healing period for her shoulder injury on April 10, 2013. The Trust Fund contends that claimant's healing period ended on May 27, 2014.

The medical records contain a report from Dr. Knox dated August 15, 2013, indicating that an MRI scan of claimant's left knee shows a tear of the medial meniscus following a fall caused by her disability and dizziness from her injury. Dr. Knox recommended an arthroscopic procedure which he performed on November 22, 2013.

As previously noted, the Fund contends that claimant's healing period ended on May 27, 2014. On that date Dr. Knox wrote a report but he did not address claimant's healing period but simply stated that an injection following claimant's surgery had helped her condition. He further noted that claimant should return for a recheck in six months.

With respect to the knee injury, I note that no impairment rating has been assigned. Based upon the evidence presented, I do not find that claimant's knee condition contributes to the finding of permanent total disability. Instead, the finding of permanent and total disability is based primarily upon neuropsychological, cervical, and shoulder injuries and their subsequent ratings and their affect upon the claimant's ability to return to work. Accordingly, I find that claimant's healing period ended on April 10, 2013, the date she reached maximum medical improvement for her compensable left shoulder injury.

#### AWARD

Claimant has met her burden of proving by a preponderance of the evidence that she is entitled to an award of \$3500.00 for facial disfigurement pursuant to A.C.A. §11-9-524. Claimant has also met her burden of proving by a preponderance of the evidence that respondent is liable for payment of medical benefits associated with an emergency room visit on September 29, 2012, and for payment of dental expenses provided by Dr. Brooks. Claimant's impairment rating for her compensable left shoulder injury equals 13% to the body as a whole and her permanent physical impairment rating for the injury to her head equals 50% to the body as a whole. Claimant has met her burden of proving by a preponderance of the evidence that she is permanently totally disabled. Claimant's healing period for her compensable injuries ended on April 10, 2013.

Respondent #1 has controverted claimant's entitlement to permanent total disability benefits. Respondent #2 has not controverted claimant's entitlement to benefits. Claimant's attorney is entitled to a controverted attorney's fee pursuant to A.C.A. §11-9-715 (Repl. 2012).

All sums herein accrued are payable in a lump sum without discount and this award shall bear interest at the maximum legal rate until paid.

Respondent #1 is ordered to pay the court reporter's charges for preparing the

hearing transcript in the amount of \$891.50.

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE