STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
TALLAHASSEE DISTRICT OFFICE

Scott Beck,
Employee/Claimant,

vs.

City of Tallahassee Police Department/City of Tallahassee,
Employer/Carrier/Servicing Agent.
_____/

OJCC Case No. 22-014355TSS

Accident date: 04/18/2022

Judge: Timothy S. Stanton

FINAL COMPENSATION ORDER

THIS CAUSE came on for a Final Hearing before the undersigned Judge of Compensation Claims (JCC) on November 14, 2023. Kristine Callagy, Esquire, appeared for Claimant. Christopher J. DuBois, Esquire, appeared for the Employer/Carrier (E/C). The petition for benefits (PFB) e-filed on June 15, 2023, and September 23, 2023, was the subject of this Final Hearing. The appendix lists all live witnesses, exhibits, documents, and objections. The Final Hearing was held in Tallahassee.

Claims

PFB filed June 15, 2022[1]

1. Authorization, payment, and scheduling of medical care and treatment with a cardiologist or appropriate physician to treat Claimant's disabling arterial and cardiovascular hypertension and/or heart disease.

2. Compensability of disabling arterial and cardiovascular hypertension and/or heart

[1] Claimant with his claims for temporary total disability benefits and temporary partial disability benefits.

disease.

3. Penalties, interest, costs, and attorney fees.

PFB filed September 23, 2022

1. Payment of permanent impairment benefits starting from May 16, 2022, to present continuing, based on the impairment rating assigned by Dr. Chernobelsky.

2. Penalties, interest, costs, and attorney fees.

Defenses

1. The alleged need for medical intervention is unrelated to any employer accident or activities.

2. There is no compensable condition.

3. Claimant's alleged impairment rating is unrelated to the work accident, activities, or condition.

4. No penalties, interest, costs, or attorney fees are due by the E/C.

Stipulations

The parties stipulated that:

1. The average weekly wage (AWW) is $2,391.84, with a corresponding maximum compensation rate (CR) of $1,099.00.

2. Claimant had successfully passed the pre-employment physical without evidence of hypertension.

3. Claimant is a member of the protected class as a law enforcement officer.

Findings of Fact and Conclusions of Law

In making my findings of fact and conclusions of law, I have considered and weighed the

evidence presented to me. I have observed and assessed the candor and demeanor of the witnesses who testified in person before me, and I have resolved the conflicts in the testimony. I have not written a detailed summary of all the facts and evidence presented. *See* § 440.25(4)(e), Fla. Stat.; *Garcia v. Fence Masters, Inc.*, 16 So. 3d 200 (Fla. 1st DCA 2009) (holding that a compensation order need only contain findings of the ultimate material facts necessary to support the award, rather than a recitation of all evidence presented). Although I may not reference or detail each item of evidence presented by the parties, I have carefully considered all the evidence and exhibits in the context of the arguments of counsel and the appropriate statutory authority and case law in making these findings of fact and conclusions of law.

1. The undersigned JCC has jurisdiction over the parties and the subject matter.

2. Any and all issues raised through the PFBs that are the subject matter of the Final Hearing, unless jurisdiction is expressly reserved, which were not tried at the hearing or dismissed at trial, are presumed resolved; or, in the alternative, considered abandoned by Claimant and are therefore denied and dismissed with prejudice unless jurisdiction was reserved for later determination of specific issues. *See Scotty's Hardware v. Northcutt*, 883 So. 2d 859 (Fla.1st DCA 2004); *Betancourt v. Sears Roebuck & Co.*, 693 So. 2d 680 (Fla. 1st DCA 1997).

3. The evidence closed on November 14, 2023, following which the parties made closing argument.

4. The stipulations of the parties in the Uniform Pretrial Stipulation filed on October 26, 2023, are accepted and adopted.

5. Claimant testified that he was hired by the employer on July 21, 1997. He is a

police sergeant with duties that include the supervision of five employees, administrative duties, responding to high priority calls, and performing a full range of road patrol duties.

6. Claimant testified that in April 2021, he was diagnosed with hypertension by his unauthorized primary care doctor, Dr. Wilson. Dr. Wilson referred Claimant to Dr. Barry, a cardiologist.[2] Dr. Barry remains Claimant's unauthorized cardiologist. Claimant also testified that he was placed on medication for his hypertension.

7. Claimant testified that while working on April 18, 2022, he experienced a shortness of breath, a fast heartbeat, and a general feeling of anxiousness. Based on his symptoms, Claimant reported to the fire station located at the airport to be examined. While at the fire station, Claimant's blood pressure and oxygen levels were checked. Based on the test results, Claimant was not allowed to leave the fire station due to his exceedingly high blood pressure. An ambulance was called by the fire station staff, and Claimant was transported to Tallahassee Memorial Hospital (TMH).

8. While at TMH, Claimant was placed on oxygen, provided aspirin, and underwent various tests. He was not admitted into the hospital as an in-patient, but he spent approximately five hours in the hospital. Upon his release from TMH, Claimant understood he was to remain on his blood pressure medication and follow up with his primary care doctor.

9. Claimant testified that he did not return to work after his release from the hospital on April 18, 2022. He testified that he also stayed out of work on April 19, 2022, but he returned to work on April 20, 2022. He was paid personal sick time.

10. Dr. Nocero, the E/C's independent medical examiner (IME), testified that he is a

[2] Phonetic spelling.

cardiologist. He testified that he performed a records review examination of Claimant on July 12, 2022, and not a physical examination. Based on Dr. Nocero's examination of the medical records, he testified that Claimant had been diagnosed with hypertension. He also testified that Claimant's calcium score was extremely low which meant that he probably did not have any clinically significant coronary artery disease.

11. Dr. Nocero testified that when Claimant experienced chest pain and elevated blood pressure on April 18, 2022, Claimant was correct in reporting to the emergency room. He testified that Claimant had an EKG and his troponin levels evaluated, both of which were normal, and Claimant was released from TMH.

12. Dr. Nocero testified that Claimant's blood pressure was not emergent on April 18, 2022. However, he agreed that the EMS blood pressure readings of Claimant on April 18, 2022, were 170 over 117, 169 over 105, 149 over 95 and 162 over 105. He also agreed that Claimant could not perform his essential job activities as a police officer while he was at TMH. Dr. Nocero agreed that it would not have been safe for Claimant to perform his job duties with his elevated blood pressure, as Claimant would have been at risk for a stroke or other complications.

13. Concerning work restrictions, he testified that his review of the medical records did not show that Claimant was placed on any work restrictions from TMH personnel. However, he testified that according to the American College of Occupational and Environmental Medicine (ACOEM) Guidelines for diastolic readings, that work restrictions should be placed for any diastolic readings over 110. He also testified that Claimant's diastolic reading was over 110 on April 18, 2022. He agreed Claimant would have been disabled on April 18, 2022, until his blood

pressure was reduced, but he did not agree Claimant was fully disabled as his blood pressure was coming down in the hospital.

14. Dr. Nocero testified that he diagnosed Claimant with essential hypertension.

15. Concerning a permanent impairment rating (PIR), Dr. Nocero assigned Claimant a 0-percent PIR, as he placed Claimant in a Class One rating, due to Claimant having a normal blood pressure reading on April 19, 2023. He testified that since Claimant's blood pressure was only elevated on April 18, 2022, it was normal on April 19, 2022, and he did not have repeated high blood pressure readings, that he was assigned a 0-percent PIR. He also placed Claimant at maximum medical improvement (MMI) on May 16, 2022.

16. He testified that he interpreted the 1996 Florida Uniform Impairment Rating Schedule to require a person to become sicker to increase in class. He did not observe that Claimant worsened in his condition. He also testified that if a person's hypertension is well controlled, a very low PIR will be assigned. However, he questioned the 1996 Florida Uniform Impairment Rating Schedule for accuracy because of the age of the guidelines.

17. Dr. Nocero testified that he did not dispute the echocardiogram reading of Claimant for left ventricular hypertrophy (LVH). He testified that Claimant's echocardiogram had some evidence of LVH, with the enlargement of his left ventricle, but then testified that an echocardiogram does not have a 100-percent specificity or sensitivity for determining LVH.

18. Dr. Nocero described LVH as an increase in the width of the left ventricular posterior wall and the interventricular septum. He testified that if the LVH is myocardium, which he was not 100 percent sure was the case of Claimant, it is usually because of hypertension that is not controlled. But he then testified that Claimant does not have myocardium based on the

echocardiogram. He also testified that Claimant's LVH enlargement may be caused by fat.

19. Dr. Nocero testified that he thought Claimant had a cardiac MRI performed, but if he did, Dr. Nocero did not review it.

20. Dr. Nocero testified that Claimant should treat with a cardiologist and be prescribed hypertension medication.

21. Dr. Chernobelsky, Claimant's IME, testified that he is a cardiologist. It appears Dr. Chernobelsky performed a records review examination of Claimant and not a physical examination. His IME report is dated September 23, 2022.

22. He testified that the medical records and test results show that Claimant had a very extensive history of hypertension and treatment for hypertension.

23. Based on the records and tests results, Dr. Chernobelsky diagnosed Claimant with essential hypertension. However, he explained that he used the term "essential" hypertension since the term "cardiovascular" hypertension is a rarely used term. He also testified that Claimant's hypertension was a disease of the cardiovascular system. He testified that he could not identify any non-work-related cause for Claimant's hypertension.

24. Concerning the April 18, 2022, incident, Dr. Chernobelsky testified that EMS personnel measured Claimant's blood pressure at 170 over 117 at 11:47, 169 over 105 at 11:58, 149 over 95 at 12:07, and 162 over 105 at 12:17. He testified that Claimant's blood pressure was 160 over 115 at 12:44 at TMH. He testified that Claimant had an EKG performed by both EMS personnel and at TMH.

25. Dr. Chernobelsky testified that based on Claimant's elevated blood pressure, Claimant could not perform his duties as a police officer while he had the elevated blood

pressure, including while he was at TMH, based on the ACOEM Guidelines. Dr. Chernobelsky testified that Claimant was disabled, meaning that he could not perform his job duties on April 18, 2022.

26. Dr. Chernobelsky testified that Claimant was at MMI on May 16, 2022, as Claimant's blood pressure was well controlled on that date per Dr. Barry. He assigned Claimant a 30-percent PIR. He based the PIR on Claimant's hypertension and presence of LVH, which he testified was related to his hypertension. Based on his diagnosis, he placed Claimant in Class Three of the 1996 Florida Uniform Impairment Rating Schedule. He testified that he assigned the lowest PIR value in Class Three, which is 30 percent.

27. Dr. Chernobelsky described LVH as an enlargement or thickening of the heart muscle. He testified that both a cardiac MRI or an echocardiogram are the most sensitive and specific tests to diagnose LVH. He testified that Claimant had a cardiac MRI which showed that Claimant had LVH, along with several echocardiograms which also showed LVH.

28. Dr. Chernobelsky testified that Claimant will require regular visits to a cardiologist or primary care doctor for his hypertension. The treatment should include medication, dietary restrictions, blood pressure monitoring, lab work, and echocardiograms.

29. Dr. Perloff was appointed as the expert medical advisor (EMA). He was asked to answer two questions: (1) What is the appropriate PIR for Claimant's hypertension based on the 1996 Florida Uniform Impairment Rating Schedule, and (2) Did Claimant sustain a disability, partial or total, on or after the date of accident of April 18, 2022, as the result of this hypertension? The two answers to these questions carry the presumption of correctness per section 440.13(9)(c), Florida Statutes.

30. Dr. Perloff testified that he performed a physical examination of Claimant on April 26, 2023. He testified that he reviewed medical records and test results, took a history from Claimant, and performed a physical examination of Claimant.

31. Dr. Perloff testified that he diagnosed Claimant with hypertension. He disagreed with Dr. Chernobelsky that Claimant's LVH was related to his hypertension.

32. Dr. Perloff testified that Claimant was disabled on April 18, 2022, due to his elevated blood pressure. He testified that Claimant's blood pressure was measured by EMS personnel at 170 over 117 and measured at TMH at 160 over 115. He testified that he used the ACOEM Guidelines for law enforcement to render his disability opinion. He testified that the ACOEM Guidelines recommend work restrictions for a patient who has a systolic reading of 180 or above or a diastolic reading of 110 or above. He testified that Claimant met the ACOEM Guidelines requirements for work restrictions based on his elevated blood pressure on April 18, 2022. He testified that it would have been inappropriate for Claimant to be at full duty on April 18, 2022. He explained that police officers are required to perform physical activities, such as defend themselves and the public, which ACOEM Guidelines document.

33. Concerning the PIR, Dr. Perloff assigned Claimant a 3-percent PIR within a Class One rating for Claimant's hypertension. He disagreed with Dr. Chernobelsky that Claimant's LVH was related to his hypertension. Therefore, he did not rate the LVH. Dr. Perloff testified that the 1996 Florida Uniform Impairment Rating Schedule does not provide any guidance on where to place patients in Class One. Based on his expertise, Dr. Perloff assigned Claimant a 3-percent PIR. He also placed Claimant at MMI on May 16, 2022.

34. Tricia Scott testified that she is the payroll supervisor for the employer. She

testified that her records show that Claimant worked a full shift on April 18, 2022. The records also showed that Claimant was out sick for April 19, 2022, and was paid sick time.

35. Dorothy Grimes testified that she is the Administrator Supervisor for the employer. She testified that Claimant was hired on July 21, 1997, after successfully completing his pre-employment physical.

36. Corliss Hill testified that she is the adjuster on Claimant's file. She testified that Claimant's AWW was $2,391.84, with a maximum CR of $1,099.00. Ms. Hill testified that Claimant missed some work time on April 18, 2022, and all of April 19, 2022.

Presumption and Compensability

37. Claimant argued that his hypertension is a compensable injury under section 112.18, Florida Statutes. Under section 112.18, Claimant's hypertension is presumed compensable if he meets the four following factors:

a. He is a member of the protected class (firefighters, law enforcement officers, and correctional officers);

b. He suffers from a protected condition (hypertension, heart disease, or tuberculosis);

c. He underwent and passed a pre-employment physical without any evidence of the condition claimed; and,

d. His condition resulted in a partial or total disability.

38. The E/C agreed that Claimant is a member of the protected class as a police officer and that he successfully passed a pre-employment physical without any evidence of hypertension. Therefore, to determine whether Claimant is entitled to the presumption under section 112.18, I will examine whether his condition is a protected condition and whether he

suffered a partial or total disability as a result of that condition.

39. Concerning whether Claimant suffers from a protected condition, Dr. Perloff diagnosed Claimant with hypertension, Dr. Nocero diagnosed Claimant with essential hypertension, and Dr. Chernobelsky diagnosed Claimant with essential hypertension.

40. However, Dr. Chernobelsky further explained that he used the term "essential" hypertension since the term "cardiovascular" hypertension is a rarely used term. He also testified that Claimant's hypertension is a disease of the cardiovascular system. I accept Dr. Chernobelsky's explanation and opinion that Claimant's hypertension is a disease of the cardiovascular system. Therefore, I find that Claimant's hypertension meets the definition of cardiovascular hypertension, a covered condition under section 112.18.

41. This holding is supported in *Williams v. City of Orlando*, 89 So. 3d 302 (Fla. 1st DCA 2012). In *Williams*, the claimant was diagnosed with essential hypertension. However, evidence was presented that the claimant's "essential" hypertension also included "arterial" hypertension. As held in *Williams*, "*Bivens* does not hold that, as a matter of law, "essential" hypertension is not covered by section 112.18. To the contrary, *Bivens*, which also involved a claimant diagnosed with "essential" hypertension, was decided on the ground there was simply "no record evidence that the JCC could rely on" - an absence of evidence – to support a finding that the hypertension was arterial or cardiovascular." *Id.* at 303. Here, as discussed above, I find that Claimant has provided sufficient evidence that his hypertension includes cardiovascular hypertension.

42. To the extent Dr. Nocero's diagnosis that Claimant suffers from essential hypertension creates any conflict between his opinion and that of Dr. Chernobelsky's, I reject

Dr. Nocero's opinion. I find that Dr. Nocero did not address whether his use of the term "essential" hypertension included a disease of the cardiovascular system. I also find that Dr. Perloff's diagnosis of hypertension does not conflict with Dr. Chernobelsky's diagnosis, as Dr. Perloff used the general term of "hypertension" without any qualifying language.

43. I next turn to whether Claimant suffered a partial or total disability from the event on April 18, 2022.

44. Disability occurs when an employee is incapacitated from performing his work. *Bivens v. City of Lakeland*, 993 So. 2d 1100, 1103 (Fla. 1st DCA 2008) ("Effective date of disablement . . . occurred when the claimant was 'precluded from working because of his disease'"). A claimant does not need to suffer actual wage loss. *Id.* ("A finding of disability 'hinges on the employee's ability to earn income, not . . . whether the employee has experienced wage-loss."').

45. Here, I find that Claimant is a credible witness. I observed Claimant's candor and demeanor during the Final Hearing, including his testimony, and I found no signs of deception, embellishment, or dishonesty.

46. I accept Claimant's testimony and I find that he experienced a shortness of breath, a fast heartbeat, and a general feeling of anxiousness on April 18, 2022, while he was working for the employer. I find that he reported to the fire station located at the airport to be examined. I find that at the fire station, Claimant's blood pressure and oxygen levels were checked, and that Claimant was not allowed to leave the fire station due to exceedingly high blood pressure. I find that an ambulance was called by the fire station staff, and Claimant was transported to TMH.

47. I find that Claimant did not report to the fire station and TMH to diagnose

whether he had hypertension. I find that he had a long-standing history of the diagnosis of hypertension and treatment of hypertension. I find that on April 18, 2022, he was still under the care of a doctor and taking blood pressure medication.

48. I find that Claimant reported to the fire station and TMH to treat his condition of highly elevated blood pressure.

49. I further find that on April 18, 2022, Claimant's blood pressure was 170 over 117 at 11:47, 169 over 105 at 11:58, 149 over 95 at 12:07, and 162 over 105 at 12:17, and while at TMH, his blood pressure was 160 over 115 at 12:44. I find that Claimant was eventually released by TMH on April 18, 2022.

50. Dr. Perloff's opinions, as the EMA, are presumed correct unless clear and convincing evidence suggest otherwise. § 440.13(9)(c), Fla. Stat. In *McKesson Drug Co. v. Williams*, 706 So. 2d 352, 353 (Fla. 1st DCA 1998), the court defined clear and convincing evidence as "Such evidence must be of such quality and character so as to produce in the mind of the JCC a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established."

51. I do not find clear and convincing evidence to reject Dr. Perloff's opinion that Claimant was disabled on April 18, 2022. Therefore, I accept Dr. Perloff's opinion that Claimant was disabled on April 18, 2022, due to his elevated blood pressure. I accept his testimony that Claimant met the criteria in the ACOEM Guidelines that Claimant should have had work restrictions because of Claimant's elevated blood pressure on April 18, 2022. I accept his opinion that it would have been inappropriate for Claimant to be at full duty on April 18, 2022. Therefore, I find that Claimant was at least partially disabled as a result of his hypertension on

April 18, 2022, and that he could not return to work as a police officer.

52. Furthermore, both Dr. Chernobelsky and Dr. Nocero agreed that Claimant was at least partially disabled as a result of his hypertension on April 18, 2022. Both doctors also referenced the ACOEM Guidelines.

53. Concerning any argument that Claimant was not placed on work restrictions by the personnel at TMH on April 18, 2022, and therefore, he was not disabled, I reject such argument. There is no evidence that the doctors at TMH knew of the ACOEM Guidelines or used it as a reference on April 18, 2022. Nor is there any evidence that the doctors at TMH even addressed the issue of work restrictions. Finally, even if the doctors at TMH did address work restrictions, I find those doctors were unauthorized doctors, and I cannot use any medial opinions from unauthorized doctors. §440.13(5)(e), Fla. Stat. I find that the setting of work restrictions or work status is a medical opinion.

54. I also reject any argument that the retroactive setting of work restrictions is speculative. *Feacher v. Total Emp. Leasing*, 61 So. 3d 1236 (Fla. 1st DCA 2011)(a physician may retroactively determine work restrictions). Furthermore, Dr. Perloff sufficiently explained his rationale for placing Claimant on a disability status for April 18, 2022, and I find that his explanation is well-reasoned and logical.

55. Therefore, I find there is no clear and convincing evidence to reject Dr. Perloff's opinion that Claimant was disabled on April 18, 2022.

56. Accordingly, based on the above, I find that Claimant has proven that he is entitled to the presumption under section 112.18 that his hypertension is a compensable work injury.

57. Furthermore, I find that the E/C did not present any, or sufficient, evidence to rebut the presumption.

58. Therefore, I find that Claimant's hypertension is a compensable work injury.

Impairment Benefits

59. Claimant argued that he is entitled to impairment benefits based on Dr. Chernobelsky's PIR of 30 percent. The E/C argued that Claimant is not entitled to any impairment benefits based on Dr. Nocero's PIR of 0 percent.

60. As discussed above, Dr. Perloff was appointed as the EMA to answer two questions. One of the questions concerned the conflict between Dr. Chernobelsky's and Dr. Nocero's PIR.

61. Dr. Perloff testified that he assigned Claimant a 3-percent PIR for his hypertension based on the 1996 Florida Uniform Impairment Rating Schedule. He testified that he placed Claimant in a Class One rating, and within that rating, he determined that 3 percent was appropriate.

62. While considerable questioning was posed to Dr. Perloff by the E/C concerning his method for utilizing the 1996 Florida Uniform Impairment Rating Schedule, and the E/C argued that I should reject Dr. Perloff's PIR opinion, I decline to do so.

63. After spending significant time reviewing Dr. Perloff's explanation of his method of utilizing the 1996 Florida Uniform Impairment Rating Schedule to assign Claimant a 3-percent PIR for his hypertension, I find that clear and convincing evidence does not exist to reject Dr. Perloff's opinion. I find that his explanation of his method of assigning the 3-percent PIR supports his opinion. I also find that both Dr. Chernobelsky and Dr. Nocero both expressed

concern with the 1996 Florida Uniform Impairment Rating Schedule. However, I find that Dr. Perloff did utilize the 1996 Florida Uniform Impairment Rating Schedule in assigning Claimant's 3-percent PIR.

64. Therefore, I accept Dr. Perloff's opinion, and I find that Claimant has a 3-percent PIR for his hypertension. I also accept Dr. Perloff's, Dr. Chernobelsky's, and Dr. Nocero's opinion that Claimant reached MMI on May 16, 2022.

65. Therefore, I find that Claimant is entitled to impairment benefits, based on a 3-percent PIR, effective on October 7, 2022.[3] I also find that Claimant is entitled to penalties and interest for the late payment of impairment benefits.

WHEREFORE, it is ORDERED AND ADJUDGED:

1. The claim for authorization, payment, and scheduling of medical care and treatment with a cardiologist or appropriate physician to treat Claimant's disabling arterial and cardiovascular hypertension and/or heart disease is granted. The E/C shall authorize a cardiologist to treat Claimant's hypertension.

2. The claim for the compensability of disabling arterial and cardiovascular hypertension and/or heart disease is granted, in part. Claimant's hypertension is a compensable work injury.

3. The claim for payment of permanent impairment benefits starting from May 16, 2022, to present and continuing, based on the impairment rating assigned by Dr. Chernobelsky, is granted, in part. The E/C shall pay Claimant impairment benefits based on a

[3] Fourteen days from the September 23, 2022, PFB, the date it appears was the first notice to the E/C of a PIR. *See* §440.15(3)(a), Fla. Stat.

3-percent PIR, effective on October 7, 2022,[4] in accordance with section 440.15(3).

4. The claim for penalties and interest is granted. The E/C shall pay penalties and interest of the impairment benefits from October 7, 2022.[5]

5. The claim for attorney fees and costs is granted. Jurisdiction is reserved to determine the amount of the attorney fees and costs, if the parties cannot agree.

DONE AND SERVED this day of December 1, 2023, in Jacksonville, Duval County, Florida.

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[4] *See* footnote 3.
[5] *See* footnote 3.

APPENDIX

Judge's Exhibits:

1. PFB filed on June 15, 2022. (DN 1).
2. Response to the PFB filed September 8, 2022. (DN 7).
3. PFB filed on September 23, 2022. (DN 16).
4. Response to the PFB filed on October 4, 2022. (DN 16).
5. Pretrial Stipulation filed on October 26, 2022. (DN 22).
6. Notice of Conflict filed on December 6, 2022. (DN 23).
7. E/C's Motion for an EMA filed on January 11, 2023. (DN 44).
8. Evidentiary order on an EMA filed on January 12, 2023. (DN 45).
9. EMA report filed on May 1, 2023. (DN 56).
10. Claimant's trial memorandum, argument only, filed on November 13, 2023. (DN 74).
11. E/C's trial memorandum, argument only, filed on November 13, 2023. (DN 76).

Joint Exhibits:

None.

Claimant's Exhibits:

1. Dr. Chernobelsky's deposition, with exhibits, filed on January 5, 2023. (DN 28-41).
2. Dr. Perloff's deposition, with exhibits, filed on November 13, 2023. (DN 71).
3. Cortis Hill's deposition, with exhibits, filed on November 13, 2023. (DN 70).
4. Tricia Scott's deposition, with exhibits, filed on November 13, 2023. (DN 43, 68).
5. Dorothy Grimes' deposition filed on November 13, 2023. (DN 69).
6. Pre-employment physical filed on November 13, 2023. (DN 73). The E/C objected on relevance. The objection is overruled.
7. Wage statement filed on November 13, 2023. (DN 72). The E/C objected on relevance. The objection is overruled.

E/C's Exhibits:

1. Dr. Nocero's deposition, with exhibits, filed on November 13, 2023. (DN 75).

Live witnesses:

1. Claimant.