STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
WEST PALM BEACH DISTRICT OFFICE

Eric Carlson,
Employee/Claimant,

vs.

Indian River County Sheriff's Office/Davies Claims North America, Inc.,
Employer/Carrier/Servicing Agent.
_____/

OJCC Case No. 25-026111BKC

Accident date: 09/23/2025

Judge: Barbara K. Case

FINAL COMPENSATION ORDER

THIS MATTER came before the undersigned Judge of Compensation Claims on October 28th, 2026, to adjudicate the Petition(s) for Benefits (PFB) filed on October 27, 2025.[1] Attorney Kristine Callagy, represented the Claimant. Attorney Karen J. Cullen represented the Employer/Carrier.

CLAIMS AND DEFENSES

Claims

1. Compensability of coronary artery disease pursuant to Florida Statute §112.18(1) and compensability of hypertension pursuant to hindrance to recovery theory;
2. Authorization of a cardiologist for treatment of coronary artery disease;
3. Authorization of a cardiologist for treatment of hypertension pursuant to hindrance to recovery theory;
4. Costs and attorney fees.

Defenses

1. Claim denied in its entirety as Claimant has not established the elements of the presumption under Section 112.18, Florida Statutes and/or presumption has been rebutted.
2. Costs and attorney's fees not due and owing.

[1] The undersigned reserved jurisdiction over the PFB(s) filed on April 16, 2025.

WITNESSES

Claimant:

Eric Carlson, Claimant

Employer/Carrier:

None

FINDINGS OF FACT AND CONCLUSION OF LAW

A list of all of the documents offered and entered into evidence is contained in the Appendix to this Order, which includes any objections and rulings.

In making my findings of fact, I have taken the time to carefully review and consider all of the evidence presented to me, including the documentary evidence, deposition testimony, and live testimony. While I do not recite in explicit detail each piece of evidence/testimony, I have attempted to resolve any and all conflicts in the testimony and evidence. Objections raised in the depositions, not specifically ruled upon in this order are overruled, or where not relied upon by the undersigned in her ultimate findings of facts.

The stipulations of the parties outlined in the Uniform Pretrial Stipulation filed on March 4, 2026, are accepted and adopted herein. I find that the venue is proper in Indian River County, and that I have jurisdiction over the subject matter and the parties. Based upon the stipulations of the parties, the evidence presented and review of the pertinent law, I make findings of ultimate facts and conclusions of law as outlined herein.

This case involves an Indian River County Sheriff's deputy, employed for over 20 years, who developed hypertension and coronary artery disease (CAD). Many of the facts are not in dispute. He was hired by Indian River Sheriff's Office (Indian River) as a certified Law Enforcement Officer in late 1999, after completing a pre-employment physical that was negative for any health issues, including heart disease or hypertension. During his career he served on the S.W.A.T. team and worked road patrol. Currently, the Claimant is a school law enforcement officer and works a regular schedule, Monday through Friday from 7:30am to 3:30pm. He also does overtime work at Cleveland Clinic.

About three or four years ago, the Claimant began seeing Dr. Celano, a cardiologist, through his personal health insurance, related to hypertension. When the Claimant began to develop shortness of breath and fatigue, Dr. Celano ordered a nuclear stress test, which was abnormal. As a result, Dr. Celano ordered and performed a cardiac catheterization that showed 45% blockage or stenosis in the mid LAD.[2] Following the catheterization, the Claimant was told to take time off and so he used three vacation days to recover and then resumed his normal work schedule and duties.

The Employer/Carrier accepted the claim under the 120-day pay and investigate option. They authorized an evaluation with Dr. Howard Tee, Board Certified Cardiologist, who evaluated the Claimant on November 20, 2025. He opined the Claimant suffers from CAD, which he confirmed is heart disease. He found the Claimant's hypertension was stable with medication and placed him at MMI as of November 20, 2025, with no restrictions. Dr. Tee assigned a 7 percent for the CAD and 7 percent for hypertension. Upon receipt and review of Dr. Tee's report, the Carrier issued a denial of the claim within the 120-day deadline. [3]

The Claimant secured an IME with Dr. Steven Borzak, a non-invasive cardiologist, who treats patients in his office and at the hospital. Dr. Borzak reviewed over 1000 pages of records, including treatment from the Claimant's cardiologist, Dr. Celano, the Cleveland clinic, and Dr. Tee, as well as the Claimant's pre-employment physical examination. Dr. Borzak confirmed the Claimant did not have any evidence of heart disease or hypertension on the pre-employment physical, but after he began work as a Sheriff's deputy, he developed hypertension, chronic kidney disease, carotid disease and CAD. He further confirmed that CAD is considered heart disease. According to Dr. Borzak, prior to the cardiac catheterization in September 2025, the Claimant had vascular surgery and was identified as someone who had arterial disease, atherosclerosis.

[2] See Deposition of Dr. Tee, p. 7-8 [DN38]
[3] The Claimant did not dispute the Employer/Carrier's timely denial in accordance with section 440.20(4).

He had an increased likelihood to have CAD.[4] On June 26, 2025, the Claimant underwent a stress test that was abnormal coupled with complaints of shortness of breath and chest discomfort on August 26, 2025, which led to the cardiac catheterization. Dr. Borzak also confirmed that the catheterization was related to the heart disease. Dr. Borzak testified that the Claimant underwent cardiac catheterization as both diagnostic and to treat his heart disease. He was given restrictions by the treating doctor, which Dr. Borzak agreed were medically necessary and related to the Claimant's CAD. Although the Claimant did not require stents, he does require additional treatment in the form of medication management and likely future stress tests as well as the possibility for future catheterization. Dr. Borzak did not assign restrictions or place the Claimant at MMI.

Compensability under 112.18

The Claimant seeks compensability of his CAD diagnosis and authorization of a cardiologist for further evaluation and treatment as work related pursuant to Chapter 112 Florida Statutes. The statute, also known as the Heart /Lung Bill extends a presumption of occupational cause, to fire fighters and police officers, for certain heart and lung conditions. Section 112.18(1)(a) states:

> Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter or any *law enforcement officer*, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), or (3) caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death *shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence*. However, any such firefighter, law enforcement officer, correctional officer, or correctional probation officer must have successfully passed a physical examination upon entering into any such service as a firefighter, law enforcement officer, correctional officer, or correctional probation officer, which examination failed to reveal any evidence of any such condition. (Emphasis added.)

[4] See Deposition of Dr. Borzak, p. 12 [DN28]

A claimant is entitled to the presumption of compensability under 112.18(1)(a), if he establishes four essential elements:

1. The claimant is a member of a protected class (police officer, firefighter, or correction officer as defined in Chapter 112).
2. The claimant has a protected condition (tuberculosis, heart disease, or hypertension.)
3. The claimant passed a pre-employment physical that failed to reveal any evidence of the covered conditions.
4. The condition resulted in partial or total disability or death.

Here, the facts are largely not in dispute, in that, the parties agree that the Claimant has satisfied elements 1, 2, and 3. The dispute here focuses on whether the Claimant has established that his heart disease, the CAD, resulted in partial or total disability, so as to satisfy the fourth element.

The Claimant relies on testimony from both Dr. Tee and Dr. Borzak to support the position that the Claimant was disabled during and briefly after the heart catheterization, which was due to the CAD condition. The Employer/Carrier argued that because the procedure did not lead to a stent being placed, it was diagnostic only. As such, the Employer/Carrier contend that although the Claimant was off for three days following the procedure, he was not disabled because of the heart disease. The parties relied primarily on two distinct cases, *Bivens*[5] and *Battle*[6] to support there respective positions as outlined below. However, the court in *Friesen v. Highway Patrol,* 364 So. 3d 1051, (Fla. 1st DCA 2023) analyzed both of those cases along with the plethora of other cases that discuss the requirement to establish the disability requirement of the presumption in Chapter 112. As Judge Thomas observed, the "caselaw in occupational disease claims is uniquely tethered to the specific facts of the case. That said, a deep dive into satisfaction of 'disablement' under section 440.151(3) reveals nothing less than murky and unsettled precedent. Clarification, long overdue, is needed for context and uniform statutory

[5] *Bivens v. City of Lakeland*, 993 So. 2d 1100 (Fla. 1st DCA 2008).
[6] *City of Jacksonville Fire and Rescue Department v. Battle*, 148 So. 3d 795, 796–97 (Fla. 1st DCA 2014),

application." *Friesen v. Highway Patrol,* 364 So. 3d at 1056. The court provided a comprehensive analysis of the history and case law surrounding the meaning of disability and what is needed for a Claimant to establish disability to enjoy the benefits of section 112.18(1)(a). The court specifically addressed and distinguished *Bivens* and *Battle*.

In *Bivens*, a 2008 case, the claimant, a fire fighter, was employed with the City of Lakeland, and sought compensability of hypertension and microvascular angina (MVA). When the parties' IMEs disagreed, the JCC appointed and EMA who diagnosed the Claimant with essential hypertension and MVA. The JCC found essential hypertension was not a covered condition (the DCA agreed). The JCC also found the MVA qualified the claimant for the presumption because he also satisfied the disability requirement. The DCA disagreed with the JCC's finding of disability and reversed. The court held that the definition of disability mandated the disability must be because of the injury and "found no evidence that Bivens' MVA affected his ability to work given that no work restrictions were ever assigned, and he was always able to perform his regular duties." *See Friesen v. Hwy Patrol,* 364 So. 3d 1051 at 1060.

In *Battle,* on point with the case here, the claimant, a fire fighter for the City of Jacksonville, was "medically required to undergo catheterization to treat and diagnose" his coronary artery disease (CAD), for which he was seeking compensability. Just like the instant case, *Battle* had a catheterization, which confirmed he had CAD, but it was also not significant enough to warrant placement of stent(s). Both *Battle,* and the Claimant here, were given restrictions for three days following the procedure to recover. The hypertension and CAD in both cases would not have otherwise prevented the officer from working. In *Battle,* the JCC granted compensability and the city appealed arguing that *Bivens* controlled. However, the 1st DCA disagreed and explained that *Bivens* is distinguished from *Battle,* because in *Bivens,*

> "no work restrictions were ever placed on Claimant when he was being evaluated or diagnosed with [heart disease.]" In contrast, in the instant case there is medical evidence that Claimant was restricted from working *because of catheterization*, and that *the catheterization was because of his*

> *hypertension and CAD*…Battle clarified that if a diagnostic procedure is performed to treat a previously diagnosed, qualifying condition*, even if partially for diagnostic purposes regarding a different condition*, the resulting incapacity to earn may satisfy the required element of disablement.

See Friesen v. Hwy Patrol, 364 So. 3d 1051 at 1062. (Emphasis added.) The court went on to say that a "period of off-work status or restricted duty resulting from *a medical procedure* may satisfy disability if such procedure constitutes, *even in part*, treatment for a previously diagnosed qualifying condition, even if portions of the procedure are diagnostic in nature. *See Battle,* 148 So. 3d at 795." *See Friesen v. Hwy Patrol, 364 So. 3d 1051 at 1062-1063.*

Here, Dr. Borzak, whose testimony I accept, testified that the cardiac catheterization was necessary to diagnose *and treat* the coronary artery disease. He confirmed that the Claimant was disabled both during and after the catheterization. He expressly stated, "the cath was preformed because of his coronary artery disease and he was disabled as a result."[7] Dr. Borzak also confirmed that the records reflected the Claimant was restricted from working for three days after the procedure, which Dr. Borzak agreed, was reasonable. He then testified that with the claimant being a police officer, he would have taken him off for five days.[8]

Dr. Tee also testified that the Claimant was unable to work or earn his regular wages while having the catheterization performed. Dr. Tee testified that the five-day work restriction imposed by the claimant's doctor was "reasonable and medically necessary as a result of the coronary artery disease." [9] The Employer/Carrier argued that the Claimant failed to produce evidence of actual work restrictions imposed, as Dr. Celano's records were excluded as unauthenticated hearsay. They further argued that both Dr. Tee and Dr. Borzak's testimony on disability was hindsight and speculative; however, I disagree. Both doctors confirmed what the records from Cleveland clinic (also excluded) included an off work slip following the catheterization and that they

[7] See Dr. Borzak's deposition, p. 17. [DN28]
[8] *Id.* at p. 18
[9] See Dr. Tee's deposition, pgs. 24-25. [DN38]

merely agreed with the imposed restriction. I find that neither doctor's testimony was speculative, or hindsight about the restrictions, but instead was confirmed of the actual restriction imposed at the time of the procedure. Both doctors confirmed that they agree the restriction was reasonable and necessary. I accept their testimony as well as Dr. Borzak's about what led to the catheterization as outlined above. I find that his testimony establishes that the Claimant required the catheterization for both diagnosis and treatment of the heart disease. I accept both doctors' testimony that the Claimant was actually restricted during and after the catheterization due to the CAD. Accordingly, I find that he Claimant has established the fourth element of disability and as such his CAD is presumed to be caused by his job as a law enforcement officer; and is therefore compensable. I further accept the testimony by Dr. Tee and Dr. Borzak that the Claimant requires continued treatment for the condition.

The Employer/Carrier argued as an alternative, if the presumption is accepted, they have provided the necessary competent evidence to rebut the presumption. The Employer/Carrier rely on the testimony of Dr. Tee to support their position. While Dr. Tee testified that the Claimant has hyperlipidemia that "is likely cause of both his carotid disease and coronary artery disease;" Dr. Tee did not address the cause of the hyperlipidemia. Furthermore, Dr. Tee was directly asked if the Claimant's job contributed to his development of the CAD; Dr. Tee answered, "that I would not know." Neither Dr. Tee, nor Dr. Borzak testified about specific non-occupational causes for the CAD. "Once the statutory prerequisites are met, the Claimant bears no burden to prove occupational causation; the statute shifts the burden of persuasion to the Employer" *Lakatis v. Citrus County Sheriff's Office*, 429 So. 3d 52, 57 (Fla. 1st DCA 2026) citing Punsky v. Clay Cnty. Sheriff's Off., 18 So. 3d 577, 583-84 (Fla 1st DCA 2009) The *Lakatis* court further held that "where the medical evidence cannot pinpoint the trigger and still leaves room for a work-related contribution, the employer cannot meet its burden to show *that all causes were* non-occupational." See also *City of Jacksonville v. Ratliff,* 217 So. 3d 183, 192(Fla. 1st DCA 2017) ("The E/C failed to satisfy its rebuttal burden with respect to this

second-tier. Both medical experts testified that it was not possible, within a reasonable degree of medical certainty, to determine the cause of the "trigger," but the stress from the meeting could have been a possible cause. Because the E/C could not, by competent evidence, show that 'the' or 'all' possible factors causing the 'trigger event' were non-work related, the presumption prevails." Citing *LeBlanc v. City of W. Palm Beach*, 72 So. 3d 181 (Fla. 1st DCA 2011)

Here, Dr. Tee did not render any opinion on causation stating he did not know. Dr. Borzak also was not able to say what the cause of the CAD is in this Claimant and felt it would be impossible to pinpoint. Because the medical evidence here did not establish the cause as entirely non-occupational, I find that the Employer/Carrier has not satisfied their burden to rebut the presumption. As I find Employer/Carrier has not provided competent evidence rebutting the presumption, the presumption under Section 112.18 remains in effect and Claimant's CAD is compensable.

Hindrance

The Claimant also suffers from essential hypertension, for which he is not seeking compensability, although he does seek treatment of the hypertension under the theory of hindrance. Both Dr. Tee and Dr. Borzak, testified that it is necessary to treat and control the hypertension in order to treat the CAD. However, neither physician was asked or offered testimony to suggest that the Claimant's hypertension is a hindrance to treatment of the CAD. "[T]reatment for a condition not shown to be causally related to the compensable injury should be the responsibility of the employer '[i]f … one of the primary purposes of the treatment is also removal of a hindrance to recover from the compensable accident….' Decks, Inc. of Florida v. Wright, 389 So.2d 1074, 1076 (Fla. 1st DCA 1980).") citing Glades *County Sugar Growers v. Gonzales,* 388 So.2d 333 (Fla. 1st DCA 1980) (holding E/C is not responsible for "medical treatment required independently by the subsequent non-compensable injury when the removal of a hindrance to recovery from the compensable injury is merely an incidental effect of such treatment"). The testimony of both Dr. Tee and Dr. Borzak stopped short of establishing that treatment of the hypertension is necessary to remove

a hindrance for proper treatment of the CAD. As such, I find that the Claimant has not established the need for hypertension treatment is necessary to remove a hindrance to the CAD and thus the request for a cardiologist to treat hypertension is denied.

WHEREFORE, it is **ORDERED and ADJUDGED** that:

1. The claim for compensability of coronary artery disease is **GRANTED**.
2. The claim for compensability of hypertension as a hindrance to recovery is **DENIED.**
3. The claim for authorization of a cardiologist for treatment of the coronary artery disease is **GRANTED**.
4. The claim for authorization a cardiologist for treatment of the hypertension is **DENIED**.
5. The claim for employer/carrier-paid attorney's fees and costs is **GRANTED.**

DONE AND SERVED this 12th day of June 2026, in West Palm Beach, Palm Beach County, Florida.

Barbara K. Case
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APPENDIX: Exhibits and Documents

Eric Carlson v. Indian River County Sheriff's Office/Davies Claims North America, Inc.

OJCC Case No.: 25-026111BKC

Accident date: 09/23/2025

The following documents and exhibits were admitted into evidence, subject to any referenced objections.

JCC Exhibits:[10]

1. Petition for Benefits as filed on October 27, 2025. [DN1]
2. Order Setting Pretrial Stipulation Filing Date and Final Hearing entered on October 28, 2025. [DN4]
3. COMPOSITE: Uniform Pretrial Stipulation filed on March 4, 2026; and Order Approving Pretrial Stipulation entered on March 9, 2026. [DN15-16]
4. COMPOSITE: Claimant's Motion to Admit Medical Records of Dr. Tee as filed on March 23, 2026; and Order Admitting Records entered on April 3, 2026. [DN17-18, 21]
5. ARGUMENT ONLY: Claimant's Trial Memorandum filed on May 8, 2026. [DN35]
6. ARGUMENT ONLY: Employer/Carrier's Trial Memorandum filed on May 11, 2026. [DN41]

Joint Exhibits:

1. Deposition of Dr. Howard Tee, with exhibits, taken on March 25, 2026. [DN38]

Claimant Exhibits:

1. Claimant's Pre-Employment Physical filed on May 8, 2026. [DN27]
2. Deposition of Dr. Steven Borzak, with exhibits, taken on April 28, 2026. [28-34, 36]

[10] The parties were reminded that the undersigned takes Judicial Notice of the entire OJCC docket in this matter, pursuant to §90.202, Florida Statutes; as noted in the Pretrial Order entered on____.

The Employer/Carrier objected to the records of the unauthorized providers attached to Dr. Borzak's deposition as unauthenticated hearsay. The Claimant conceded that the records were hearsay and were not authenticated but were being offered for fact purposes only. The Pretrial reflected the same objections. The objections were sustained and the records were excluded.

Employer/Carrier Exhibits:

1. Employer/Carrier's Notice of Denial issued on February 23, 2026. [DN39]
2. Response to the Petition for Benefits filed on November 17, 2026. [DN7]