

**BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD**

<b>TERRIE RILEY</b>	)	
Claimant	)	
	)	
V.	)	
	)	
<b>BJ'S RESTAURANT OPERATIONS CO.</b>	)	CS-00-0369-128
Respondent	)	AP-00-0454-228
	)	
AND	)	
	)	
<b>ARCH INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

**STATEMENT OF THE CASE**

Terrie Riley requested review of the November 13, 2020, Award entered by Administrative Law Judge (ALJ) Ali Marchant. The Board heard oral argument on February 25, 2021. Michael Snider, of Wichita, Kansas, appeared for Ms. Riley. Dallas Rakestraw, of Wichita, Kansas, appeared for respondent and its insurance carrier (respondent).

The ALJ found Ms. Riley's December 16, 2016, work-related accident was the prevailing factor causing her right knee meniscus tear. The ALJ concluded Ms. Riley failed to meet her burden of proving the work accident was the prevailing factor causing her preexisting right knee osteoarthritis and need for right total knee replacement surgery. The ALJ further determined Ms. Riley sustained 3 percent permanent functional impairment to the right knee as a result of the work accident, and she was not entitled to future medical treatment.

The Board considered the record and adopted the stipulations listed in the Award.

**ISSUES**

Ms. Riley argues she is entitled to an award based on 47 percent functional impairment to the right lower extremity pursuant to the Sixth Edition of the *AMA Guides* (Sixth Edition).<sup>1</sup> Ms. Riley argues she is entitled to payment of past medical expenses

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<sup>1</sup> American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (6th ed.).

related to her knee injury and joint replacement, and she is entitled to future medical treatment. Further, Ms. Riley contends the denial and reduction of benefits under the Sixth Edition is unconstitutional and denies her a legal remedy at law without an adequate quid pro quo required by the Kansas Constitution.

Respondent argues Ms. Riley sustained a right knee contusion with no permanent impairment as a result of her work-related accident. Alternatively, respondent maintains the ALJ's Award should be affirmed.

The issues for the Board's review are:

1. What is the prevailing factor causing Ms. Riley's right knee condition and need for total knee replacement surgery?
2. What is the nature and extent of Ms. Riley's impairment?
3. Does denying Ms. Riley medical treatment under the Workers Compensation Act without a substitute remedy deny her constitutional rights to a remedy for injuries to persons by due process of law as guaranteed by Section 18 of the Kansas Constitution Bill of Rights?
4. Is Ms. Riley entitled to future medical treatment?

#### **FINDINGS OF FACT**

Ms. Riley worked for respondent for approximately 12 years. She is 62 years old. On December 16, 2016, Ms. Riley fell onto her right knee when she tripped over a drain grate at the servers' station. Ms. Riley immediately felt some pain in her knee after the incident, but she thought she could walk it off as she had guests to serve. After about an hour, Ms. Riley could no longer work due to her pain, so she reported the injury to her managers and completed an accident report.

Ms. Riley was eventually referred to Dr. Larry Wilkinson for treatment. An MRI of Ms. Riley's right knee, taken December 27, 2016, was read to reveal:

1. Oblique tear of the medial meniscus involving the anterior horn and body with superior surface extension as well as additional oblique tears of the posterior horn and posterior root attachment of the medial meniscus. No medial meniscal extrusion.
2. Grossly intact lateral meniscus.
3. Intact anterior and posterior cruciate ligaments.

4. Mild patellofemoral and moderate to severe medial compartment osteoarthritis. No knee joint effusion or identified intra-articular body.
5. Small slit-like Baker's cyst.
6. Edema-like signal in the anterior aspect of the medial tibial plateau which may be degenerative related. This also could be stress related or secondary to bone contusion. No identified acute fracture.<sup>2</sup>

Regarding the MRI findings, Dr. Wilkinson testified:

A. The impression was: Oblique tear of the medial meniscus involving the anterior horn and body with superior surface extension as well as additional oblique tears of the posterior horn and posterior root attachment of the medial meniscus. No medial meniscus extrusion.

Q. Okay. So as a practicing physician, you have a patient who has tears to the posterior horn and the anterior horn of the medial meniscus. Are those conditions of significance if there's ongoing pain and inability to flex her knee?

A. You have to put the impression, which I read to you, in perspective. If you go back at the top of the page, it helps us, because the radiologist makes a statement: There is mild generalized thinning and superficial irregularity of the patellar cartilage, which that is not what we're looking at, but it's an indirect measurement of degenerative changes. There are broad areas of near full-thickness cartilage loss involving the medial femoral condyle and subjacent medial tibial plateau with underlying degenerative related marrow edema.<sup>3</sup>

Dr. Wilkinson opined Ms. Riley's pain symptoms were caused by her fall. He was unsure if Ms. Riley sustained a new injury in the fall, so he referred her to an orthopedic surgeon.

Ms. Riley denied having any medical treatment for either knee prior to December 16, 2016. Ms. Riley stated she had no pain in either knee prior to the work-related accident, and she was previously able to work 12-hour shifts, 5 days per week.

Dr. Daniel Prohaska, an orthopedic surgeon, was authorized to provide treatment for Ms. Riley. Dr. Prohaska diagnosed a right knee contusion and right unilateral primary osteoarthritis of the right knee on January 19, 2017. Dr. Prohaska testified Ms. Riley sustained the right knee contusion as a result of her work accident, but her underlying osteoarthritis preexisted the fall. He indicated the oblique meniscal tear identified on MRI

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<sup>2</sup> P.H. Trans. (July 26, 2018), Cl. Ex. 1 at 5.

<sup>3</sup> Wilkinson Depo. at 13-14.

is an anticipated and expected part of a knee with arthritis, and not caused by Ms. Riley's work fall. Dr. Prohaska provided Ms. Riley with temporary work restrictions.

Ms. Riley continued to treat with Dr. Prohaska through May 16, 2017, when he determined she had reached maximum medical improvement (MMI) in relation to her knee contusion. He wrote:

I discussed with [Ms. Riley] that the knee contusion has healed at this point, but her pain continues due to her arthritis in the knee. She was released to MMI for the knee contusion. She will be put on restrictions to follow until she follows up with a total knee arthroplasty doctor. The patient is now considered at maximum medical improvement.

No further active medical treatment is needed to resolve this work injury to its fullest extent possible.<sup>4</sup>

Dr. Prohaska explained his total knee arthroplasty recommendation was not causally related to Ms. Riley's work incident. Dr. Prohaska did not recommend a meniscus repair surgery because it would not help pain caused by arthritis. Dr. Prohaska referred Ms. Riley to Dr. Shepherd for right knee replacement arthroplasty surgery. Ms. Riley stated this was because Dr. Shepherd accepted Medicaid. Ms. Riley continued working for respondent in an accommodated position.

On January 15, 2018, Dr. Jarron Tilghman examined Ms. Riley for purposes of a Court-ordered independent medical evaluation. Dr. Tilghman found Ms. Riley sustained pain in the right knee, a medial meniscal tear of the right knee, and moderate to severe osteoarthritis of the right knee, specifically in the medial compartment. Dr. Tilghman recommended additional medical treatment, including surgical consultation for consideration of meniscal repair versus right total knee arthroplasty. Regarding causation, Dr. Tilghman concluded:

I was also asked whether Ms. Riley's December 16, 2016 work accident is the prevailing or primary factor in relation to any other factor causing Ms. Riley's injury, medical condition, and resulting disability or impairment. Based upon the imaging findings, there was the presence of chronic degenerative changes in the knee, however, there was also a medial meniscal tear, which is likely acute. Therefore, it can be said within a reasonable degree of medical certainty that the aforementioned work-related injury is the prevailing factor in the development of the patient's current medical condition.<sup>5</sup>

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<sup>4</sup> Prohaska Depo., Ex. 2 at 1-2.

<sup>5</sup> Tilghman Depo., Resp. Ex. C at 4.

Dr. Tilghman testified Ms. Riley's work accident was the prevailing factor causing her medial meniscus tear and need for a medial meniscus repair, if one was recommended. Dr. Tilghman explained the prevailing factor for Ms. Riley's osteoarthritis was age-related changes, and any recommended total knee arthroplasty would be a result of Ms. Riley's osteoarthritis and not the work incident.

Orthopedic surgeon Dr. Justin Strickland evaluated Ms. Riley on May 11, 2018. Ms. Riley continued to complain of worsening right knee pain, including throbbing, burning, and numbness. Dr. Strickland obtained right knee x-rays, which showed severe tricompartmental osteoarthritis, mostly in the medial and patellofemoral compartments. Dr. Strickland assessed Ms. Riley with unilateral primary osteoarthritis of the right knee and reported:

I explained to the patient that she does have severe OA of the right knee. She understands that a knee arthroscopy is not going to help her pain because of the amount of OA in the knee. She understands if it comes to surgery it would be a knee replacement. I did offer the patient an injection today but these have not helped in the past. I recommend referral to Dr. Tarun Bhargava for a total knee replacement.<sup>6</sup>

Dr. Strickland testified a total knee replacement is the only procedure that will help Ms. Riley because arthritis is the main source of her pain. Dr. Strickland further stated Ms. Riley's fall of December 2016 irritated a preexisting condition in her knee. He opined Ms. Riley's knee condition would be the same prior to the incident if an MRI had been conducted:

Q. And how do you know that?

A. I don't know that 100 percent sure, because she has arthritis in her knee. And almost everybody with arthritis has a meniscus tear. Like, almost 100 percent. So when people have severe arthritis in the knee, almost 100 percent of patients have meniscus tears with that.<sup>7</sup>

Dr. Strickland explained it is not uncommon for one with severe arthritis to be asymptomatic for a time. Dr. Strickland also noted any bone bruise or contusion would not have lasted and caused pain for two years, and Ms. Riley's torn meniscus was a result of her arthritis.

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<sup>6</sup> Strickland Depo., Ex. 2 at 3.

<sup>7</sup> Strickland Depo. at 19.

On February 19, 2019, Dr. Chris Fevurly examined Ms. Riley at respondent's request. Ms. Riley complained of ongoing right knee pain and depression she attributed to her situation. Dr. Fevurly concluded:

The work event on December 16, 2016 may have produced an acute medial meniscus tear and produced an acute temporary aggravation of preexisting moderately severe chondral surface wearing/DJD in the medial compartment and patellofemoral compartment of the right knee.

The claimant has current moderately severe degenerative arthritis in the right knee and is very symptomatic. She appears to be a good candidate for a right total knee replacement.

There is current physical examination evidence for moderate left knee osteoarthritis but the claimant denies current left knee symptoms.<sup>8</sup>

Dr. Fevurly testified it is impossible to tell from Ms. Riley's MRI whether the December 2016 fall caused her meniscus tear. He indicated the work event may or may not have produced Ms. Riley's medial meniscus tear, and the event may have temporarily aggravated the advanced preexisting degenerative osteoarthritis in her right knee. He further wrote:

The prevailing cause for her current and chronic pain (reported since 12/16/16) is the advanced osteoarthritis in the medial and patellofemoral compartments of the right knee. Addressing the medial meniscus tear by partial meniscectomy is not going to benefit the main cause of her pain which is the preexisting chondral surface wearing/erosions and bony arthritis that developed primarily as a result of her age and her elevated BMI. It is apparent on today's examination that she has similar but not as severe (and currently symptomatic) left knee osteoarthritis.<sup>9</sup>

Dr. Fevurly opined he did not believe Ms. Riley's work accident caused her meniscal tear. However, if it did, the tear would result in a partial medial meniscectomy, giving Ms. Riley a two percent permanent partial functional impairment to the right knee under the Fourth Edition of the *AMA Guides* (Fourth Edition).<sup>10</sup> Using the Sixth Edition, Ms. Riley would have a three percent permanent partial functional impairment to the right knee. Dr. Fevurly stated Ms. Riley's work-related injuries would have resulted in up to eight weeks of temporary work restrictions, and she would need ongoing restrictions related to her degenerative joint disease. He agreed Ms. Riley needs a right total knee replacement, and would likely need a left total knee replacement in the next five to ten years.

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<sup>8</sup> Fevurly Depo., Ex. 2 at 6.

<sup>9</sup> *Id.*

<sup>10</sup> American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (4th ed.).

Dr. Pedro Murati evaluated Ms. Riley on February 20, 2019, at the request of Ms. Riley's counsel. Ms. Riley complained of ongoing significant symptoms in her right knee, in addition to altered gait causing soreness in her low back. Dr. Murati listed the following impressions:

1. Oblique tear of the medial meniscus as well as additional oblique tears of the posterior horn and posterior root attachment of the medial meniscus per MRI performed on 12-27-16.
2. Medial and lateral collateral ligament sprain of the right knee.
3. Medial laxity of the right knee.
4. Right patellofemoral syndrome.
5. Low back sprain secondary to antalgic gait.
6. Right SI joint dysfunction.
7. Right trochanteric bursitis secondary to antalgic gait.<sup>11</sup>

Dr. Murati opined Ms. Riley requires future medical treatment, including a right total knee arthroscopy and follow-up appointment for her right knee and low back for any possible complications. Dr. Murati found Ms. Riley's work accident was the prevailing factor causing all of her diagnosed conditions, including the right medial meniscus tear and need for right knee replacement surgery. Dr. Murati provided permanent work restrictions.

Using the Fourth Edition, Dr. Murati determined Ms. Riley sustained a combined 21 percent functional impairment to the body as a whole, with 5 percent attributed to Ms. Riley's low back pain secondary to low back sprain and 17 percent to the right lower extremity. Dr. Murati's right lower extremity impairment opinion breaks down as follows: 7 percent for collateral ligament laxity, 3 percent for right patellofemoral syndrome, 20 percent for loss of range of motion of the right knee, 13 percent for atrophy of the right thigh, and 7 percent for right trochanteric bursitis, which results in 43 percent impairment to the right lower extremity, or 17 percent to the whole body.

Under the Sixth Edition, Dr. Murati assigned Ms. Riley a combined 16 percent functional impairment to the whole body, with 14 percent related to Ms. Riley's right lower extremity and 2 percent for lumbar spine sprain. Ms. Riley's right lower extremity impairment breaks down as follows: 3 percent for right patellofemoral syndrome, 20 percent for loss of range of motion of the right knee, 7 percent for right trochanteric bursitis, and 10

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<sup>11</sup> Murati Depo., Ex. 3 at 3-4.

percent for right collateral ligament laxity. This totals a combined 35 percent impairment to the right lower extremity, or 16 percent to the whole body.

Ms. Riley underwent a right knee replacement surgery with Dr. Shepherd on June 4, 2019. As a result, Ms. Riley stated she no longer has problems with her low back and right hip. Further, Ms. Riley indicated her right knee complaints also improved following surgery.

Ms. Riley developed a pulmonary embolus after surgery and received medical treatment at the emergency room. Drs. Prohaska and Flutter stated a pulmonary embolus is a known complication of any surgery. Dr. Murati testified Ms. Riley's pulmonary embolus was more probably than not a result of her right knee replacement surgery.

Dr. Murati also testified since Ms. Riley underwent right knee replacement surgery, her current permanent impairment could be anywhere from 21 percent to 83 percent to the right lower extremity under the Sixth Edition, and 37 percent to 75 percent impairment under the Fourth Edition. Dr. Murati's deposition was taken approximately one month after Ms. Riley's surgery, and he stated it was premature to determine a new permanent impairment so soon after the procedure. He determined Ms. Riley sustained permanent impairment and requires ongoing medical treatment as a result of her pulmonary embolism.

On October 15, 2019, Dr. George Flutter evaluated Ms. Riley at her counsel's request. Dr. Flutter assessed Ms. Riley with:

1. Status post work-related injury; 12/16/16.
2. Right knee pain/contusion.
3. Right knee internal derangement.
4. Status post right total knee replacement surgery; 06/04/19.
5. Deep vein thrombosis/pulmonary embolus.<sup>12</sup>

Dr. Flutter opined Ms. Riley's December 16, 2016, work accident was the prevailing factor causing all of Ms. Riley's diagnosed conditions and need for medical treatment, including the need for the right total knee replacement surgery. Dr. Flutter noted it was impossible to tell from Ms. Riley's diagnostic films whether her osteoarthritis was posttraumatic or nontraumatic, but he believed Ms. Riley has posttraumatic osteoarthritis in her right knee. Dr. Flutter stated Ms. Riley's degenerative changes preexisted the work accident. He found Ms. Riley's medial meniscus tear was a structural resulting from Ms.

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<sup>12</sup> Flutter Depo., Ex. 2 at 9.



Riley's fall at work. He assigned permanent work restrictions and opined Ms. Riley likely required future medical care.

Using the Sixth Edition, Dr. Flutter opined Ms. Riley sustained 59 percent impairment to the right lower extremity, for Class 4 total knee replacement with poor result and moderate to severe motion deficit. Under the Fourth Edition, Dr. Flutter assigned Ms. Riley permanent impairment of 75 percent to the right lower extremity for a total knee replacement with a poor result.

Ms. Riley was approved for Social Security Disability since her accident, based on her age, depression issues, and medical conditions. Ms. Riley resumed working a part-time job at another restaurant, working three hours per day, two days per week.

#### **PRINCIPLES OF LAW**

K.S.A. 2016 Supp. 44-501b(c) states:

The burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends. In determining whether the claimant has satisfied this burden of proof, the trier of fact shall consider the whole record.

K.S.A. 2016 Supp. 44-508(h) states:

"Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record unless a higher burden of proof is specifically required by this act.

K.S.A. 2016 Supp. 44-508(f) provides, in part:

(1) "Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto. Personal injury or injury may occur only by accident, repetitive trauma or occupational disease as those terms are defined.

(2) An injury is compensable only if it arises out of and in the course of employment. An injury is not compensable because work was a triggering or precipitating factor. An injury is not compensable solely because it aggravates, accelerates or exacerbates a preexisting condition or renders a preexisting condition symptomatic.

...

(B) An injury by accident shall be deemed to arise out of employment only if:

(i) There is a causal connection between the conditions under which the work is required to be performed and the resulting accident; and

(ii) the accident is the prevailing factor causing the injury, medical condition, and resulting disability or impairment.

K.S.A. 2016 Supp. 44-508(g) states:

“Prevailing” as it relates to the term “factor” means the primary factor, in relation to any other factor. In determining what constitutes the “prevailing factor” in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.

K.S.A. 2016 Supp. 44-510e(a)(2)(B) provides:

The extent of permanent partial general disability shall be the percentage of functional impairment the employee sustained on account of the injury as established by competent medical evidence and based on the fourth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein, until January 1, 2015, but for injuries occurring on and after January 1, 2015, based on the sixth edition of the American medical association guides to the evaluation of permanent impairment, if the impairment is contained therein.

K.S.A. 2016 Supp. 44-510h(e) states, in part:

It is presumed that the employer's obligation to provide [medical benefits] shall terminate upon the employee reaching maximum medical improvement. Such presumption may be overcome with medical evidence that it is more probably true than not that additional medical treatment will be necessary after such time as the employee reaches maximum medical improvement. As used in this subsection, “medical treatment” means only that treatment provided or prescribed by a licensed healthcare provider and shall not include home exercise programs or over-the-counter medications.

K.S.A. 2016 Supp. 44-525(a) states:

Every finding or award of compensation shall be in writing, signed and acknowledged by the administrative law judge and shall specify the amount due and unpaid by the employer to the employee up to the date of the award, if any, and the amount of the payments thereafter to be paid by the employer to the employee, if any, and the length of time such payment shall continue. No award shall include the right to future medical treatment, unless it is proved by the claimant that it is more probable than not that future medical treatment, as defined in subsection (e) of K.S.A. 44-510h, and amendments thereto, will be required as a result of the work-related injury. The award of the administrative law judge shall be effective the day following the date noted in the award.

ANALYSIS**1. What is the prevailing factor causing Ms. Riley's right knee condition and need for total knee replacement surgery?**

The Board agrees with and adopts the ALJ's analysis on the prevailing factor issue. Ms. Riley proved she suffered a compensable work-related injury to her right medial meniscus as the result of her December 16, 2016, work-related accident. Ms Riley has failed to prove her work-related accident is the prevailing factor causing her need for total knee replacement and resulting impairment.

In *Del Real v. Sam's Club*,<sup>13</sup> a Board Member wrote:

The opinion of the Kansas Court of Appeals in *Le* makes clear that in order to prove a compensable claim, more than a sole aggravation must be proven, but the worker must also satisfy the prevailing factor requirement. Several Board decisions have denied TKA procedures when it was found preexisting arthritic conditions, not the accident, caused the need for the knee replacement. Although these issues are fact-driven and depend on the evidence adduced in each case, these claims have fact patterns and issues comparable to this claim.

The facts in this claim and in *Del Real* are substantially identical. In *Del Real*, the injured worker suffered a compensable work-related meniscal tear, coupled with degenerative arthritis, which resulted in the need for a total knee replacement. The Board found the prevailing factor causing the claimant's need for total knee replacement was preexisting degenerative arthritis and not the work-related injury.

More recently, in *Shook v. Waters True Value Hardware*,<sup>14</sup> the Board cited *Del Real* and a list of other cases in support of the premise prior Board decisions held "preexisting arthritis and DJD, and not the work accident, were the prevailing factor causing an injury, need for medical treatment, and impairment or disability."<sup>15</sup>

The Board finds the weight of the evidence in this case supports finding Ms. Riley's degenerative condition is the prevailing factor causing the need for her total knee replacement. Therefore, the total knee replacement is not payable under workers compensation.

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<sup>13</sup> *Del Real v. Sam's Club*, Nos. 1,068,697 & 1,068,698, 2016 WL 6496898 (Kan. WCAB July 1, 2016).

<sup>14</sup> *Shook v. Waters True Value Hardware*, No. CS-00-0368-737, 2019 WL 6695514 (Kan. WCAB Nov. 19, 2019).

<sup>15</sup> *Id.* at 9.

## 2. What is the nature and extent of Ms. Riley's impairment?

Regarding the nature and extent of impairment suffered by Ms. Riley, the ALJ wrote:

Dr. Fevurly was the only physician to testify as to Claimant's functional impairment under the *AMA Guides to the Evaluation of Permanent Impairment*, Sixth Edition, for her medial meniscus tear. He believed that Claimant would have a 3% permanent partial functional impairment to the right knee as a result of her meniscus tear injury. The Court finds Dr. Fevurly's opinions to this effect to be unrefuted and finds them to be credible and finds that Claimant sustained a 3% permanent partial functional impairment to the right leg as a result of her December 16, 2016, work-related accident.<sup>16</sup>

The Board agrees with the ALJ's assessment of impairment. Dr. Fevurly's opinion is uncontradicted. Dr. Fevurly opined Ms. Riley suffers 3 percent impairment using the Sixth Edition and 2 percent under the Fourth Edition. Dr. Flutter's lower extremity rating included the total knee replacement, but did not include a specific rating for the meniscal injury. No other physician provided opinions on the extent of functional impairment specifically related to the meniscal injury. Dr. Murati broke down the specific aspects of his assessment of impairment, but did not include impairment for a meniscal tear.

The Board finds claimant suffered a 3 percent impairment to the right knee as the result of her December 16, 2016, work-related injury.

## 3. Does denying Ms. Riley medical treatment under the Workers Compensation Act without a substitute remedy deny her constitutional rights to a remedy for injuries to persons by due process of law as guaranteed by Section 18 of the Kansas Constitution Bill of Rights?

The Board does not possess the authority to review independently the constitutionality of the Kansas Workers Compensation Act. The Board is not a court established pursuant to Article III of the Kansas Constitution and does not have the authority to hold an Act of the Kansas Legislature unconstitutional. The Board does not have jurisdiction and authority to determine a statute is unconstitutional.

## 4. Is Ms. Riley entitled to future medical treatment?

The ALJ found no medical evidence in the record suggesting Ms. Riley requires future medical treatment as a result of her compensable right knee medial meniscus tear

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<sup>16</sup> ALJ Award at 24.

or contusion. The Board agrees. Ms. Riley failed to meet the burden of proving it is more probable than not future medical treatment will be required as a result of her work-related injury. Accordingly, denial of future medical is affirmed.

**CONCLUSION**

Ms. Riley failed to prove her December 16, 2016, work-related accident was the prevailing factor causing the need for her total knee replacement. Ms. Riley suffered a 3 percent impairment to the right knee as the result of her work-related medial meniscus tear and contusion. The Board lacks authority to rule on the constitutional issues. Ms. Riley is not entitled to future medical treatment.

**AWARD**

**WHEREFORE**, it is the finding, decision and order of the Board the Award of Administrative Law Judge Ali Marchant dated November 13, 2020, is affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of April, 2021.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

- c: Michael Snider, Attorney for Ms. Riley
- Dallas Rakestraw, Attorney for Respondent and its Insurance Carrier
- Hon. Ali Marchant, Administrative Law Judge