

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

**Sean Hephner
14228 W. Beecher Rd.
Hudson, MI 49247**

Plaintiff,

vs.

**Altenloh Brinck & Co. US Inc.
2105 County Road 12C
Bryan, OH 43506**

and

**Administrator, Ohio Bureau of
Workers' Compensation
30 West Spring Street, 6th Floor
Columbus, OH 43215**

Defendants.

Case No. _____
BWC Claim No. 23-139392
Jury Demand Endorsed Hereon
Judge

COMPLAINT

1. On or about May 10, 2023, Plaintiff, Sean Hephner ("Plaintiff"), was employed by the Defendant, Altenloh Brinck & Co. US Inc. (Employer).

2. On that date, Altenloh Brinck & Co. US Inc. was an Ohio employer amenable to Chapter 4123 of the Ohio Revised Code.

3. The Administrator of the Bureau of Workers' Compensation is the duly authorized agent entrusted with overseeing Ohio Workers' Compensation claims.

4. On or about May 10, 2023, Plaintiff accidentally sustained an injury and/or was diagnosed with having contracted an occupational disease in the course of and arising out of his employment with the employer. Venue is proper in Franklin County pursuant to Rule 3 of the Ohio Rules of Civil Procedure.

5. Thereafter, the Plaintiff filed with the Ohio Bureau of Workers' Compensation a claim to which was assigned claim number 23-139392.

6. As a result of the Plaintiff's work injury, the Plaintiff's claim was recognized for the conditions of acute lumbar strain and adjustment disorder with anxiety.

7. On April 12, 2024, the Plaintiff filed a Motion with the Bureau of Workers' Compensation requesting that the claim be additionally allowed for the condition of adjustment disorder with anxiety.

8. On January 13, 2025, a hearing was held before a District Hearing Officer of the Industrial Commission of Ohio who issued an order (Exhibit A) disallowing the Plaintiff's claim for the additional condition.

9. On January 29, 2025, the Plaintiff filed an Appeal to the District Hearing Officer's order.

10. On March 4, 2025, a hearing was held before a Staff Hearing Officer who issued an order (Exhibit B) affirming the District Hearing Officer's order.

11. On March 31, 2025, the Plaintiff filed a Notice of Appeal to the Staff Hearing Officer's decision.

12. On April 9, 2025, the Industrial Commission of Ohio mailed an order (Exhibit C) typed April 7, 2025, refusing the Plaintiff's appeal from the Staff Hearing Officer's decision.

13. The April 9, 2025, order is a final order disallowing the Plaintiff the right to participate in his workers' compensation claim for the additional condition of adjustment disorder with anxiety.

14. On October 29, 2024, the Plaintiff filed a Motion with the Bureau of Workers' Compensation requesting that the claim be additionally allowed for the condition of right foraminal disc protrusion L4-5.

15. On January 13, 2025, a hearing was held before a District Hearing Officer of the Industrial Commission of Ohio who issued an order (Exhibit D) disallowing the Plaintiff's claim for the additional condition.

16. On January 29, 2025, the Plaintiff filed an Appeal to the District Hearing Officer's order.

17. On March 4, 2025, a hearing was held before a Staff Hearing Officer who issued an order (Exhibit E) modifying the District Hearing Officer's order but still disallowing the Plaintiff's claim for the additional condition.

18. On March 31, 2025, the Plaintiff filed a Notice of Appeal to the Staff Hearing Officer's decision.

19. On April 9, 2025, the Industrial Commission of Ohio mailed an order (Exhibit F) typed April 7, 2025, refusing the Plaintiff's appeal from the Staff Hearing Officer's decision.

20. The April 9, 2025, order is a final order disallowing the Plaintiff the right to participate in his workers' compensation claim for the additional condition of right foraminal disc protrusion L4-5.

WHEREFORE, Plaintiff now prays for the right to participate in the workers' compensation fund for the additional condition of adjustment disorder with anxiety and right foraminal disc protrusion L4-5, for a jury trial, for costs, statutory attorney's fees and for such relief as this Court may deem equitable.

Respectfully submitted,

/S/ Lauren N. Osgood

Lauren N. Osgood (0085263) (Lead Counsel)

Jacob B. Brandt (0097639)

The Bainbridge Firm, LLC

900 Michigan Ave.

Columbus, Ohio 43215

Telephone: (614) 545-9990

Fax: (614) 224-9300

losgood@bainbridgefirm.com

jbrandt@bainbridgefirm.com

Attorneys for Plaintiff,

Sean Hephner

JURY DEMAND

Plaintiff demands a trial of this cause by Jury.

/S/ Lauren N. Osgood

Lauren N. Osgood (0085263)

Jacob B. Brandt (0097639)

REQUEST FOR SERVICE

Please serve a copy of the foregoing Complaint in accordance with O.R.C. Section 4123.512 upon the following:

Altenloh Brinck & Co. US Inc.
2105 County Road 12C
Bryan, OH 43506

and

Administrator, Ohio Bureau of
Workers' Compensation
30 West Spring Street, 6th Floor
Columbus, OH 43215

/S/ Lauren N. Osgood
Lauren N. Osgood (0085263)
Jacob B. Brandt (0097639)

Ohio Industrial Commission

RECORD OF PROCEEDINGS

Exhibit A

Claim Number: 23-139392
LT-ACC-OSIF-COV
PCN: 2243521 Sean Hephner

Claims Heard: 23-139392

SEAN HEPHNER
14228 W BEECHER RD
HUDSON MI 49247-8205

Date of Injury: 5/10/2023

Risk Number: 1500089-0

This claim has been previously allowed for: **ACUTE LUMBAR STRAIN; ADJUSTMENT DISORDER WITH ANXIETY.**

This matter was heard on 01/13/2025 before District Hearing Officer April Renner pursuant to the provisions of R.C. Sections 4121.34 and 4123.511 on the following:

APPEAL filed by Employer on 06/20/2024 from the order of the Administrator issued 06/03/2024.

Issue: 1) Additional Allowance - ADJUSTMENT DISORDER WITH ANXIETY

Notices were mailed to the Injured Worker, the Employer, their respective representatives and the Administrator of the Bureau of Workers' Compensation not less than 14 days prior to this date, and the following were present for the hearing:

APPEARANCE FOR THE INJURED WORKER: Ms. Osgood, Mr. Hephner

APPEARANCE FOR THE EMPLOYER: Ms. Kondalski

APPEARANCE FOR THE ADMINISTRATOR: No Appearance

The order of the Administrator, dated 06/03/2024, is vacated.

The District Hearing Officer **DISALLOWS** the claim for **ADJUSTMENT DISORDER WITH ANXIETY.**

The Hearing Officer finds persuasive the reports and opinions of Michael Murphy, Ph.D., dated 07/16/2024, and 08/26/2024.

Dr. Murphy reviews the medical evidence and evaluates the Injured Worker. Dr. Murphy opines that acute lumbar strain from the work injury did not cause adjustment disorder with anxiety. Dr. Murphy opines that the Injured Worker does not even have the condition.

Based upon the above, the Hearing Officer finds insufficient persuasive evidence to establish that the Injured Worker suffers from adjustment disorder with anxiety as a result of the compensable physical injury.

All of the evidence was reviewed and considered in rendering this decision.

An IC-12 Notice of Appeal from this order may be filed within 14 days of the receipt of the order. The IC-12 may be filed online at www.ic.ohio.gov or the IC-12 may be sent to the Industrial Commission, Toledo District Office, One Government Center, Suite 1500, Toledo, OH 43604.

Ohio Industrial Commission
RECORD OF PROCEEDINGS

Claim Number: 23-139392

Typed By: ar

Date Typed: 01/14/2025

Findings Mailed: 01/16/2025

April Renner
District Hearing Officer

Electronically signed by
April Renner

The parties and representatives listed below have been sent this record of proceedings. If you are not an authorized representative of one of the parties, please notify the Industrial Commission.

23-139392
Sean Hephner
14228 W Beecher Rd
Hudson MI 49247-8205

ID No: 219048-90
Bainbridge Firm, LLC
900 Michigan Ave
Columbus OH 43215-1165

Risk No: 1500089-0
Altenloh Brinck & Co US Inc
2105 County Road 12C
Bryan OH 43506-8301

ID No: 1788-80
Oma Workers Comp Svc
33 N High St Fl 6
Columbus OH 43215-3076

ID No: 219486-80
Ohio Group Management, LLC
PO Box 352230
Toledo OH 43635-2230

ID No: 1649-80
Eastman & Smith Ltd
PO Box 10032
Toledo OH 43699-0032

BWC, LAW DIRECTOR

NOTE: INJURED WORKERS, EMPLOYERS, AND THEIR AUTHORIZED REPRESENTATIVES MAY REVIEW THEIR ACTIVE CLAIMS INFORMATION THROUGH THE INDUSTRIAL COMMISSION WEB SITE AT www.ic.ohio.gov. ONCE ON THE HOME PAGE OF THE WEB SITE, PLEASE CLICK ICON AND FOLLOW THE INSTRUCTIONS FOR OBTAINING A PASSWORD. ONCE YOU HAVE OBTAINED A PASSWORD, YOU SHOULD BE ABLE TO ACCESS YOUR ACTIVE CLAIM(S).

Ohio Industrial Commission

RECORD OF PROCEEDINGS

Exhibit B

Claim Number: 23-139392
LT-ACC-OSIF-COV
PCN: 2243521 Sean Hephner

Claims Heard: 23-139392

SEAN HEPHNER
14228 W BEECHER RD
HUDSON MI 49247-8205

Date of Injury: 5/10/2023

Risk Number: 1500089-0

This claim has been previously allowed for: **ACUTE LUMBAR STRAIN.**

DISALLOWED: RIGHT FORAMINAL DISC PROTRUSION L4-L5; ADJUSTMENT DISORDER WITH ANXIETY.

This matter was heard on 03/04/2025 before Staff Hearing Officer Julie Shaw pursuant to the provisions of R.C. Sections 4121.35(B) and 4123.511(D) on the following:

APPEAL of District Hearing Officer order from the hearing dated 01/13/2025, filed by Injured Worker on 01/29/2025.

Issue: 1) Additional Allowance - ADJUSTMENT DISORDER WITH ANXIETY

Notices were mailed to the Injured Worker, the Employer, their respective representatives and the Administrator of the Bureau of Workers' Compensation not less than 14 days prior to this date, and the following were present for the hearing:

APPEARANCE FOR THE INJURED WORKER: Mr. Hephner; Ms. Osgood

APPEARANCE FOR THE EMPLOYER: Ms. Kondalski

APPEARANCE FOR THE ADMINISTRATOR: No Appearance

The order of the District Hearing Officer, issued 01/16/2025, is affirmed.

It is the order of the Staff Hearing Officer the Injured Worker's C-86 Motion, filed 04/12/2024, is denied.

It is ordered this claim is **DISALLOWED** for: **ADJUSTMENT DISORDER WITH ANXIETY.**

In rendering this decision, the Staff Hearing Officer relies on the opinion by Michael Murphy, Ph.D., set forth in his report, dated 07/16/2024. The Staff Hearing Officer finds Dr. Murphy completed a review of records, administered psychological testing, completed a clinical interview and mental status examination of the Injured Worker which included his medical and psychological history, social history and personal history. Dr. Murphy noted the Injured Worker denied anxiety during the interview. Dr. Murphy opined the requested psychological condition was not substantiated.

Therefore, the Staff Hearing Officer finds insufficient persuasive medical evidence to support the condition is present.

All of the evidence was reviewed and considered in rendering this decision.

An IC-12 Notice of Appeal from this order may be filed within 14 days of the receipt of the order. The IC-12 Notice of Appeal may be filed online at www.ic.ohio.gov or the IC-12 Notice of Appeal may be sent to the Industrial Commission, Toledo District Office, One Government Center, Suite 1500, Toledo, OH 43604.

Ohio Industrial Commission
RECORD OF PROCEEDINGS

Claim Number: 23-139392

Typed By: jc

Date Typed: 03/14/2025

Findings Mailed: 03/20/2025

Julie Shaw
Staff Hearing Officer

Electronically signed by
Julie Shaw

The parties and representatives listed below have been sent this record of proceedings. If you are not an authorized representative of one of the parties, please notify the Industrial Commission.

23-139392
Sean Hephner
14228 W Beecher Rd
Hudson MI 49247-8205

ID No: 219048-90
Bainbridge Firm, LLC
900 Michigan Ave
Columbus OH 43215-1165

Risk No: 1500089-0
Altenloh Brinck & Co US Inc
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Bryan OH 43506-8301

ID No: 1788-80
Oma Workers Comp Svc
33 N High St Fl 6
Columbus OH 43215-3076

ID No: 219486-80
Ohio Group Management, LLC
PO Box 352230
Toledo OH 43635-2230

ID No: 1649-80
Eastman & Smith Ltd
PO Box 10032
Toledo OH 43699-0032

BWC, LAW DIRECTOR

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Ohio Industrial Commission
RECORD OF PROCEEDINGS

Exhibit C

Claim Number: 23-139392
LT-ACC-OSIF-COV
PCN: 2243521 Sean Hephner

Claims Heard: 23-139392

SEAN HEPHNER
14228 W BEECHER RD
HUDSON MI 49247-8205

Date of Injury: 5/10/2023

Risk Number: 1500089-0

APPEAL filed by Injured Worker on 03/31/2025.
Issue: 1) Additional Allowance - ADJUSTMENT DISORDER WITH ANXIETY

Pursuant to the authority of the Industrial Commission under R.C. 4123.511(E), it is ordered that the Injured Worker's appeal, filed 03/31/2025, from the Staff Hearing Officer order, issued 03/20/2025, be refused and that copies of this order be mailed to all interested parties.

ANY PARTY MAY APPEAL AN ORDER OF THE COMMISSION, OTHER THAN A DECISION AS TO EXTENT OF DISABILITY, TO THE COURT OF COMMON PLEAS WITHIN SIXTY (60) DAYS AFTER RECEIPT OF THE ORDER, SUBJECT TO THE LIMITATIONS CONTAINED IN R.C. 4123.512.

Typed By: kh

Date Typed: 04/07/2025

Findings Mailed: 04/09/2025

M. Tyack
Staff Hearing Officer

Electronically signed by
M. Tyack

The parties and representatives listed below have been sent this record of proceedings. If you are not an authorized representative of one of the parties, please notify the Industrial Commission.

23-139392
Sean Hephner
14228 W Beecher Rd
Hudson MI 49247-8205

TD No: 219048-90
Bainbridge Firm, LLC
900 Michigan Ave
Columbus OH 43215-1165

Risk No: 1500089-0
Altenloh Brinck & Co US Inc
2105 County Road 12C
Bryan OH 43506-8301

ID No: 1788-80
Oma Workers Comp Svc
33 N High St Fl 6
Columbus OH 43215-3076

Ohio Industrial Commission
RECORD OF PROCEEDINGS

Claim Number: 23-139392

ID No: 219486-80
Ohio Group Management, LLC
PO Box 352230
Toledo OH 43635-2230

ID No: 1649-80
Eastman & Smith Ltd
PO Box 10032
Toledo OH 43699-0032

BWC, LAW DIRECTOR

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Ohio Industrial Commission
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Exhibit D

Claim Number: 23-139392
LT-ACC-OSIF-COV
PCN: 2240861 Sean Hephner

Claims Heard: 23-139392

SEAN HEPHNER
14228 W BEECHER RD
HUDSON MI 49247-8205

Date of Injury: 5/10/2023

Risk Number: 1500089-0

This claim has been previously allowed for: **ACUTE LUMBAR STRAIN; ADJUSTMENT DISORDER WITH ANXIETY.**

This matter was heard on 01/13/2025 before District Hearing Officer April Renner pursuant to the provisions of R.C. Sections 4121.34 and 4123.511 on the following:

APPEAL filed by Employer on 03/21/2024.
Issue: 1) Temporary Total Disability

C-84 Request For Temporary Total Compensation filed by Injured Worker on 03/22/2024.
Issue: 1) Temporary Total Disability

C-86 Motion filed by Injured Worker on 10/29/2024.
Issue: 1) Additional Allowance - RIGHT FORAMINAL DISC PROTRUSION L4-L5

APPEAL filed by Injured Worker on 11/12/2024.
Issue: 1) Auth. Of Treatment/Diagnostic Testing, ADR # - 1003305581
2) Request For Consultation, ADR # - 1003305581

Notices were mailed to the Injured Worker, the Employer, their respective representatives and the Administrator of the Bureau of Workers' Compensation not less than 14 days prior to this date, and the following were present for the hearing:

APPEARANCE FOR THE INJURED WORKER: Ms. Osgood, Mr. Hephner
APPEARANCE FOR THE EMPLOYER: Ms. Kondalski
APPEARANCE FOR THE ADMINISTRATOR: No Appearance

The order of the Administrator, dated 03/01/2024, is vacated.

The District Hearing Officer denies temporary total disability compensation from 06/06/2023, through 11/29/2023.

The District Hearing Officer relies upon the Injured Worker's testimony at hearing; the treatment note of Brenda Hoops, CNP, dated 06/06/2024; the Medco-14 Physician's Report of Work Ability of Richard Grieser, M.D., dated 06/06/2023, 08/31/2023, 10/05/2023, and 11/30/2023; the statement of Jennifer Wilkie, dated 05/10/2023, and filed 09/13/2023; the statement of Scott Manges, dated 05/10/2023, and filed 09/13/2023; e-mail correspondence from Debbie Oliver to Rich Hazelton and Jennifer Storrs, at the Employer, dated 05/11/2023, and filed 09/13/2023; the Meeting Summary, dated 05/11/2023, and filed 09/13/2023; correspondence from the Employer to the Injured Worker, dated 05/11/2023, and filed 09/13/2023; the statement of Wendy Schang, filed 09/13/2023; and the Affidavit of Debbie Oliver, dated and filed 09/20/2023.

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Claim Number: 23-139392

Ms. Hoops, from Fulton County Health Center Occupational Medicine, notes the Injured Worker presents, on 06/06/2023, reporting low back pain from a work injury, on 05/10/2023, in which he twisted wrong after coming off of a ladder and reaching the floor. Ms. Hoops examines the Injured Worker and assesses him with the allowed acute lumbar strain. The Injured Worker continues to treat with Ms. Hoops. Dr. Grieser, from Fulton County Health Center Occupational Medicine, completes Medco-14 forms, dated 06/06/2023, 08/31/2023, and 10/05/2023, giving the Injured Worker work restrictions from 06/06/2023, to 11/30/2023. On 11/30/2023, Dr. Grieser completes a Medco-14 indicating the Injured Worker no longer has work restrictions and is released to full duty work and has reached maximum medical improvement, as of 11/30/2023.

In her Affidavit, dated and filed 09/20/2023, Ms. Oliver attests that she was the Injured Worker's direct supervisor, on 05/10/2023. Ms. Oliver attests that she had an interaction with the Injured Worker, on 05/10/2023, at which time the Injured Worker never discussed the work injury. The interaction is detailed in e-mail correspondence from Ms. Oliver to Mr. Hazelton and Ms. Storrs, dated 05/11/2023, and filed 09/13/2023. Ms. Oliver indicates that the Injured Worker came into her office complaining of a missing piece on his machine. Ms. Oliver indicates the Injured Worker advised that a co-worker, Bryan, made a piece in maintenance to put into the machine. Ms. Oliver indicates she advised the Injured Worker that going into maintenance and using the machines is not permissible. Ms. Oliver indicates the Injured Worker became angry, swore, and yelled and then stormed out. Ms. Oliver indicates she instructed the Injured Worker to leave due to his behavior. Ms. Oliver indicates the Injured Worker refused to leave and advised he was recording the conversation. Ms. Oliver indicates the Injured Worker eventually left the facility.

In her statement, dated 05/10/2023, and filed 09/13/2023, Ms. Wilkie states she heard the Injured Worker shouting at Ms. Oliver and cussing. Ms. Wilkie states she heard the Injured Worker refuse to leave when Ms. Oliver asked him to clock out. Ms. Wilkie states she had Mr. Manges come to be a witness.

In his statement, dated 05/10/2023, and filed 09/13/2023, Mr. Manges states he overheard the Injured Worker yelling at Ms. Oliver and entered the office. Mr. Manges states the Injured Worker complained about things they made on third shift being removed. Mr. Manges states he advised the Injured Worker it was not permissible to use power tools in maintenance to fabricate items. Mr. Manges states the Injured Worker refused to leave when asked.

A Meeting Summary, dated 05/11/2023, and filed 09/13/2023, details a meeting between the Injured Worker and Ms. Storrs and Mr. Hazelton, on 05/11/2023. Ms. Storrs notes the Injured Worker returned to the plant in the morning, on 05/11/2023. Ms. Storrs notes the Injured Worker reported Bryan had made a part to fix a problem with a machine, but when the Injured Worker arrived at work the part had been removed. Ms. Storrs notes the Injured Worker reported he had a conversation with Ms. Oliver about it during which Ms. Oliver advised him they were not to make parts in maintenance. Ms. Storrs notes the Injured Worker reported Ms. Oliver asked him to leave, but he wanted a paper to that effect so that it not appear to be an attendance issue. Ms. Storrs notes Mr. Hazelton advised the Employer would need to complete an investigation and the matter would be discussed further when the Injured Worker came back that evening to work.

In her statement, filed 09/13/2023, Ms. Schang, from human resources, indicates she and Charlene Swank had a telephone conference with the Injured Worker at around 1:00 p.m., on 05/11/2023. Ms. Schang indicates Ms. Swank informed the Injured Worker she had reviewed statements from the situation that happened the night before. Ms. Schang indicates Ms. Swank advised the Injured Worker that he was being terminated due to his behavior, which does not represent the Employer's core values, and would not be permitted on the property. Ms. Schang indicates the Injured Worker asked about his back injury. Ms. Schang indicates Ms. Swank advised the Injured Worker she was unaware of a back injury.

Ms. Swank, Vice President of Human Resources, writes a letter to the Injured Worker, dated 05/11/2023, and filed 09/13/2023, referencing the earlier

Ohio Industrial Commission

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Claim Number: 23-139392

conversation with her and Ms. Schang, in which the Injured Worker was advised he was no longer permitted on the property.

The Injured Worker confirmed through his testimony that Bryan did get a part from maintenance to temporarily put in a machine. The Injured Worker testified, however, that this happened on Friday, 05/05/2023, and the conversation with Ms. Oliver happened, on Monday, 05/08/2023, before his work injury, on 05/10/2023. The Injured Worker testified that he did not become angry, yell at Ms. Oliver, or cuss. The Injured Worker testified that he returned to work after the work injury on the morning, of 05/11/2023, to present Mr. Hazelton with the emergency room documentation. The Injured Worker testified that Mr. Hazelton told him to come back for his shift that evening and they would figure out what work duties the Injured Worker could complete. The Injured Worker testified that he was contacted by telephone by Ms. Schang in Human Resources around 12:00 p.m. to 1:00 p.m. and told he was terminated from employment. The Injured Worker testified that he was not given a reason for the termination. The Injured Worker testified that he was surprised by the termination and has no idea why he was terminated.

R.C. 4123.56(F) provides as to entitlement to temporary total disability compensation that "[i]f an employee is not working or has suffered a wage loss as the direct result of reasons unrelated to the allowed injury or occupational disease, the employee is not eligible to receive compensation under this section."

Based upon the above, the Hearing Officer finds insufficient persuasive evidence to establish entitlement to temporary total disability compensation, from 06/06/2023, through 11/29/2023. The Hearing Officer finds the Employer submitted documentation showing the Injured Worker was terminated for reasons unrelated to the work injury, prior to Dr. Grieser certifying disability, from 06/06/2023. The Injured Worker testified he does not know the reason for his termination. The Hearing Officer finds no evidence the Injured Worker's termination from employment was a result of the work injury. The Hearing Officer finds, then, that when Dr. Grieser certified disability, as of 06/06/2023, the Injured Worker was already off of work not due to impairment from the work injury. Therefore, the Hearing Officer finds the Injured Worker's wage loss, from 06/06/2023, through 11/29/2023, is not a direct result of impairment from the work injury and denies temporary total disability compensation.

It is the order of the District Hearing Officer that the Injured Worker's C-86 Motion, filed 10/29/2024, is denied.

The District Hearing Officer **DISALLOWS** the claim for **RIGHT FORAMINAL DISC PROTRUSION L4-L5**.

The Hearing Officer finds persuasive the report and opinion of Robert Whitehead, M.D., dated 11/02/2024, and the report and opinion of Aaron Fritz, D.O., dated 12/12/2024.

Dr. Whitehead opines that the medical evidence does not support the requested right foraminal disc protrusion L4-L5 as being related to the work injury.

Dr. Fritz reviews the medical evidence and examines the Injured Worker. Dr. Fritz opines that the lumbar MRI, dated 09/03/2024, is consistent with a right foraminal disc protrusion L4-L5. Dr. Fritz opines, however, that the disc protrusion is not related to the work injury. Dr. Fritz notes the Injured Worker's back pain has been left-sided. Dr. Fritz opines that the Injured Worker has not exhibited radiculopathy relative to an acute L4-5 disc protrusion. Dr. Fritz notes the protrusion is described as subtle. Dr. Fritz opines that the disc protrusion is degenerative, without objective medical evidence of a substantial aggravation.

Based upon the above, the Hearing Officer finds insufficient persuasive evidence to establish that the Injured Worker sustained a right foraminal disc protrusion L4-L5 as a result of the work injury.

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The order of the Administrator, dated 10/28/2024, is modified. Therefore, the treatment requests, dated 10/10/2024, are denied.

The District Hearing Officer denies authorization for and payment of EMG/NCV bilateral lower extremities times one as requested by Nathan Hill, M.D., dated 10/10/2024.

The District Hearing Officer denies authorization for and payment of chiropractic consult times one as requested by Dr. Hill, dated 10/10/2024.

The Hearing Officer finds persuasive the report and opinion of Kimberly Togliatti-Trickett, M.D., dated 10/20/2024, and the report and opinion of Dr. Fritz, dated 12/12/2024.

Dr. Togliatti-Trickett reviews the medical evidence. Dr. Togliatti-Trickett opines that the requested chiropractic consult is not reasonably related to the allowed condition or medically necessary to treat the allowed condition. Dr. Togliatti-Trickett opines that the requested EMG/NCV is also not supported. Dr. Togliatti-Trickett opines that the allowed acute lumbar strain is a soft tissue injury, which would have already resolved. Dr. Togliatti-Trickett opines that the Injured Worker's pain and limitations are not related to the work injury. Dr. Togliatti-Trickett opines that the requested treatment is directed at non-allowed conditions.

Dr. Fritz opines that the requested chiropractic consult is not reasonably related to the allowed condition and medically necessary to treat the allowed condition. Dr. Fritz opines that the Injured Worker has already received the appropriate conservative treatment for the allowed strain, which would have resolved long ago. Dr. Fritz opines that the requested EMG/NCV is not indicated for the allowed condition. Dr. Fritz opines that there are also no examination findings warranting the need for the testing.

Based upon the above, the Hearing Officer finds insufficient persuasive evidence to establish that the requested chiropractic consult is related, reasonable, and necessary for the allowed condition. The Hearing Officer finds insufficient persuasive evidence to establish that the requested EMG/NCV is related, reasonable, and necessary for the allowed condition or medically necessary for diagnostic purposes.

It is the order of the District Hearing Officer that the Injured Worker's C-84 Request for Temporary Total Compensation, filed 03/22/2024, is denied.

The District Hearing Officer denies temporary total disability compensation from 03/21/2024, to the date of this hearing, 01/13/2025.

The Hearing Officer relies upon the Injured Worker's testimony at hearing; the treatment note of Ms. Hoops, dated 03/07/2024; the Medco-14 forms of Dr. Grieser, dated 03/07/2024, 05/02/2024, and 06/13/2024; the report and opinion of Sarita Salzberg, M.D., dated 03/29/2024; the report and opinion of W. Kent Soderstrum, M.D., dated 06/12/2024; the treatment note of Dr. Hill, dated 09/18/2024; and the Medco-14 forms of Dr. Hill dated 09/18/2024, and 11/19/2024.

The Injured Worker testified that, after being terminated by the Employer, he returned to work for a temporary agency in January, 2024. The Injured Worker testified that in March, 2024, he was up for permanent hiring by the facility he had been placed at. The Injured Worker testified he had to first pass several medical tests. The Injured Worker testified his last day worked was, on 03/20/2024. The Injured Worker testified that the temporary agency informed him that he was not able to continue working due to failing the physical on account of being given work restrictions.

Ms. Hoops notes the Injured Worker presents, on 03/07/2024, reporting continued left upper lumbar pain. Ms. Hoops notes the Injured Worker had been released to full duty work in November, 2023. Ms. Hoops notes the Injured Worker was terminated from employment, on 05/11/2023, and re-entered the work force in January, 2024. Ms. Hoops notes the Injured Worker reports his new job has

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Claim Number: 23-139392

resulted in a worsening of his pain. Dr. Grieser completes a Medco-14, dated 03/07/2024, giving the Injured Worker work restrictions from 03/03/2024, to 04/30/2024, for the allowed strain. The Injured Worker continues to treat with Ms. Hoops. Dr. Grieser completes a Medco-14, dated 05/02/2024, giving the Injured Worker work restrictions from 05/02/2024, to 06/01/2024, for the allowed strain. On 06/13/2024, Dr. Grieser releases the Injured Worker to full duty work.

Dr. Hill notes the Injured Worker presents, on 09/18/2024, reporting low back pain from the work injury. Dr. Hill completes Medco-14 forms, dated 09/18/2024, and 11/19/2024, writing the Injured Worker off of work for the allowed strain from 09/18/2024, to 03/18/2025.

Dr. Saltzberg reviews the medical evidence. Dr. Saltzberg opines that the objective and subjective findings fail to substantiate temporary total disability, from 03/21/2024, for the allowed acute lumbar strain.

Dr. Soderstrum reviews the medical evidence and examines the Injured Worker. Dr. Soderstrum opines that the evidence is not sufficient to support temporary total disability for the allowed acute lumbar strain, from 03/21/2024. Dr. Soderstrum opines that the evidence is not sufficient to support the Injured Worker's complaints subsequent, to 03/21/2024, as being reasonably related to the self-limiting soft tissue injury. Dr. Soderstrum opines that the Injured Worker's complaints and clinical examination findings are not consistent with the allowed strain. Dr. Soderstrum opines, therefore, that any inability to return to the former position of employment is not related to the work injury and would be related to non-allowed conditions.

Based upon the above, the Hearing Officer finds insufficient persuasive evidence to establish that the Injured Worker's off work status and wage loss, from 03/21/2024, was a direct result of impairment from the work injury. Therefore, the Hearing Officer denies temporary total disability compensation, from 03/21/2024, to the present.

All of the evidence was reviewed and considered in rendering this decision.

An IC-12 Notice of Appeal from this order may be filed within 14 days of the receipt of the order. The IC-12 Notice of Appeal may be filed online at www.ic.ohio.gov or the IC-12 Notice of Appeal may be sent to the Industrial Commission, Toledo District Office, One Government Center, Suite 1500, Toledo, OH 43604.

Typed By: ar

Date Typed: 01/14/2025

Notice of Contested Claim: 03/21/2024

Findings Mailed: 01/16/2025

April Renner

District Hearing Officer

Electronically signed by
April Renner

The parties and representatives listed below have been sent this record of proceedings. If you are not an authorized representative of one of the parties, please notify the Industrial Commission.

23-139392
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Hudson MI 49247-8205

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Bainbridge Firm, LLC
900 Michigan Ave
Columbus OH 43215-1165

Ohio Industrial Commission
RECORD OF PROCEEDINGS

Claim Number: 23-139392

Risk No: 1500089-0
Altenloh Brinck & Co US Inc
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Bryan OH 43506-8301

ID No: 1788-80
Oma Workers Comp Svc
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Columbus OH 43215-3076

ID No: 219486-80
Ohio Group Management, LLC
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Toledo OH 43635-2230

ID No: 1649-80
Eastman & Smith Ltd
PO Box 10032
Toledo OH 43699-0032

BWC, LAW DIRECTOR

NOTE: INJURED WORKERS, EMPLOYERS, AND THEIR AUTHORIZED REPRESENTATIVES MAY REVIEW THEIR ACTIVE CLAIMS INFORMATION THROUGH THE INDUSTRIAL COMMISSION WEB SITE AT www.ic.ohio.gov. ONCE ON THE HOME PAGE OF THE WEB SITE, PLEASE CLICK ICON AND FOLLOW THE INSTRUCTIONS FOR OBTAINING A PASSWORD. ONCE YOU HAVE OBTAINED A PASSWORD, YOU SHOULD BE ABLE TO ACCESS YOUR ACTIVE CLAIM(S).

Ohio Industrial Commission

RECORD OF PROCEEDINGS

Exhibit E

Claim Number: 23-139392
LT-ACC-OSIF-COV
PCN: 2240861 Sean Hephner

Claims Heard: 23-139392

SEAN HEPHNER
14228 W BEECHER RD
HUDSON MI 49247-8205

Date of Injury: 5/10/2023

Risk Number: 1500089-0

This claim has been previously allowed for: ACUTE LUMBAR STRAIN.

DISALLOWED: RIGHT FORAMINAL DISC PROTRUSION L4-L5; ADJUSTMENT DISORDER WITH ANXIETY.

This matter was heard on 03/04/2025 before Staff Hearing Officer Julie Shaw pursuant to the provisions of R.C. Sections 4121.35(B) and 4123.511(D) on the following:

APPEAL of District Hearing Officer order from the hearing dated 01/13/2025, filed by Injured Worker on 01/29/2025.

Issue: 1) Temporary Total Disability
2) Temporary Total Disability
3) Additional Allowance - RIGHT FORAMINAL DISC PROTRUSION L4-L5
4) Auth. Of Treatment/Diagnostic Testing, ADR # - 1003305581
5) Request For Consultation, ADR # - 1003305581

Notices were mailed to the Injured Worker, the Employer, their respective representatives and the Administrator of the Bureau of Workers' Compensation not less than 14 days prior to this date, and the following were present for the hearing:

APPEARANCE FOR THE INJURED WORKER: Mr. Hephner; Ms. Osgood
APPEARANCE FOR THE EMPLOYER: Ms. Kondalski
APPEARANCE FOR THE ADMINISTRATOR: No Appearance

The order of the District Hearing Officer, issued 01/16/2025, is modified.

Temporary total disability compensation is denied for a closed period, from 06/06/2023 through 11/29/2023.

The Staff Hearing Officer finds the Injured Worker received medical treatment on 05/10/2023 as documented in Emergency Department treatment note by Shereaf Walid, M.D. The Staff Hearing Officer finds Dr. Walid did not document work limitations related to the allowed condition. The Staff Hearing Officer finds the Injured Worker did not seek further medical treatment until nearly a month later on 06/06/2023 when he was evaluated by Brenda Hoops, CNP. NP Hoops provided restrictions and noted "Pt states he is no longer working at this facility and is not currently looking for another job[.]"

The Staff Hearing Officer finds the Employer submitted evidence on 09/13/2023, filed as "Emp Info, Employer notes from meetings," that supported the Injured Worker was informed his employment with the Employer was terminated as of 05/11/2023. The Staff Hearing Officer finds the Injured Worker completed C-84 Requests for Temporary Total Compensation, dated 06/08/2023, 07/17/2023, 08/21/2023 that noted he was told by the Employer on 05/11/2023 "not to come in any more."

The Staff Hearing Officer finds the treatment notes by NP Hoops, dated

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08/31/2023 and 10/05/2023, documented the Injured Worker was not working. The Staff Hearing Officer finds the treatment note by Richard Grieser, M.D., dated 11/30/2023, documented the Injured Worker reported his pain gradually resolved and he had been pain free for a couple weeks. Dr. Grieser noted the Injured Worker was able to perform his activities of daily living without discomfort. Dr. Grieser's physical examination findings were normal and he released the Injured Worker from care as his symptoms were resolved. Dr. Grieser completed a MEDCO-14, dated 11/30/2023 and documented the Injured Worker reached maximum medical improvement on 11/30/2023.

The Staff Hearing Officer finds on 06/06/2023 through 11/29/2023, the Injured Worker was not working as the direct result of reasons unrelated to the allowed injury and was not eligible to receive compensation.

It is the order of the Staff Hearing Officer the Injured Worker's C-86 Motion, filed 10/29/2024, is denied.

It is ordered this claim is **DISALLOWED** for: **RIGHT L4-5 FORAMINAL DISC PROTRUSION.**

In rendering this decision the Staff Hearing Officer relies on the opinion by Robert Whitehead, M.D., provided in the report, dated 11/02/2024. Dr. Whitehead completed a review of claim file documents and pointed out the condition was demonstrated on the MRI study completed 09/03/2024, more than one year after the work injury. Dr. Whitehead pointed out the clinical findings did not correlate to the MRI findings, noting the Injured worker's pain complaints were left-sided, without midline lumbar tenderness or right-sided symptoms. Dr. Whitehead opined the medical evidence failed to support a causal relationship between the requested condition and the work injury.

The Staff Hearing Officer finds the Injured Worker was examined by Aaron Fritz, D.O. on 12/12/2024. The Staff Hearing Officer finds Dr. Fritz reviewed claim file documents. Dr. Fritz agreed the Injured Worker has the requested condition and it was demonstrated on the MRI study, completed 09/03/2024. Dr. Fritz pointed out the Injured Worker's complaints have been left-sided which was not consistent with the requested condition, and the Injured Worker did not have radiculopathy associated with the requested condition. Dr. Fritz indicated the condition was a degenerative finding and not traumatic. Dr. Fritz opined the requested condition was not causally related to the work injury. Dr. Fritz further opined the allowed condition was resolved and further treatment was not reasonable or medically necessary.

Based upon the opinions by Dr. Whitehead and Dr. Fritz, the Staff Hearing Officer finds insufficient persuasive medical evidence to support the requested condition is causally related to the work injury on 05/10/2023.

It is further the order of the Staff Hearing Officer the Injured Worker's C-84 Request for Temporary Total Compensation, filed 03/22/2024, is denied.

Temporary total disability compensation is denied from 03/21/2024 through 03/04/2025.

The Staff Hearing Officer finds a gap in the medical documentation from 11/30/2023 until 03/07/2024. The Staff Hearing Officer finds the Injured Worker was evaluated by NP Hoops on 03/07/2024, who noted the Injured Worker was off work from 05/11/2023 until January, 2024 when he started working for a different employer. NP Hoops documented the Injured Worker reported he was stacking boxes and " * * * feels this has worsened his chronic injury pain." However, the Staff Hearing Officer finds the Injured Worker had physical therapy on 03/20/2024 and was assessed by Chas Frey, DPT, who documented the Injured Worker reported he had a similar pop in his back in December, 2023, as the work injury on 05/10/2023.

Additionally, the Staff Hearing Officer finds Dr. Grieser completed a MEDCO-14, dated 03/07/2024 that documented restrictions, and the Injured Worker was to follow up after he was halfway through physical therapy. The Staff Hearing

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Officer finds the physical therapy note by PT Frey on 03/20/2024 noted the Injured Worker was working full time with restrictions, but the physical therapy note, dated 03/25/2024, documented the Injured Worker reported he was not working due to being on restrictions. The Staff Hearing Officer finds the medical evidence supports the Injured Worker had no restriction from 11/23/2023 until 03/07/2024. The Staff Hearing Officer finds insufficient evidence to support the physical restrictions were changed from 03/07/2024 until the MEDCO-14, dated 04/08/2024. At today's hearing, the Injured Worker testified he believed he began working for a temporary agency on 01/05/2024 and was let go on 03/20/2024 because he had restrictions. The Staff Hearing Officer finds the Injured Worker's testimony inconsistent with the medical documentation.

The Staff Hearing Officer finds the Injured Worker was examined by Kent Soderstrum, M.D. on 06/12/2024. In addition to his examination, Dr. Soderstrum completed a review of claim file documents. Dr. Soderstrum opined the allowed condition was a self-limiting soft tissue injury that resolved. Dr. Soderstrum opined temporary total disability compensation was not supported beginning 03/21/2024 due to the allowed condition.

The Staff Hearing Officer finds a medical review completed by Sarita Salzberg, M.D. came to the same conclusion. The Staff Hearing Officer finds Dr. Salzberg completed a review of claim file documents and pointed out the allowed condition was self-limiting. Dr. Salzberg, in her report, dated 03/09/2024, opined payment of temporary total compensation based solely on the allowed condition was not supported, from 03/21/2024 to 04/29/2024.

Based on the foregoing, the Staff Hearing Officer finds insufficient persuasive medical evidence to support payment of temporary total disability compensation based solely on the allowed condition in the claim.

It is further ordered the C-9 Requests for Medical Service Reimbursement or Recommendation for Additional Conditions for Industrial Injury or Occupational Disease, both dated 10/10/2024, are denied as follows:

Authorization is denied for: chiropractic consultation one time; and EMG/NCV bilateral lower extremities, one time as requested by Nathan Hill, M.D.

The Staff Hearing Officer finds insufficient persuasive medical evidence to support the requested medical services are reasonably related and necessary for treatment of the allowed condition.

This finding is supported by the opinion provided by Dr. Fritz in his report, dated 12/12/2024, and the opinion provided by Kimberly Togliatti-Trickett, M.D., dated 10/20/2024.

All of the evidence was reviewed and considered in rendering this decision.

An IC-12 Notice of Appeal from this order may be filed within 14 days of the receipt of the order. The IC-12 Notice of Appeal may be filed online at www.ic.ohio.gov or the IC-12 Notice of Appeal may be sent to the Industrial Commission, Toledo District Office, One Government Center, Suite 1500, Toledo, OH 43604.

Typed By: jc

Date Typed: 03/14/2025

Findings Mailed: 03/20/2025

Julie Shaw
Staff Hearing Officer

Electronically signed by
Julie Shaw

Ohio Industrial Commission
RECORD OF PROCEEDINGS

Claim Number: 23-139392

The parties and representatives listed below have been sent this record of proceedings. If you are not an authorized representative of one of the parties, please notify the Industrial Commission.

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Risk No: 1500089-0
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Toledo OH 43699-0032

BWC, LAW DIRECTOR

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RECORD OF PROCEEDINGS

Exhibit F

Claim Number: 23-139392
LT-ACC-OSIF-COV
PCN: 2240861 Sean Hephner

Claims Heard: 23-139392

SEAN HEPHNER
14228 W BEECHER RD
HUDSON MI 49247-8205

Date of Injury: 5/10/2023

Risk Number: 1500089-0

APPEAL filed by Injured Worker on 03/31/2025.

Issue: 1) Temporary Total Disability
2) Temporary Total Disability
3) Additional Allowance - RIGHT FORAMINAL DISC PROTRUSION L4-L5
4) Auth. Of Treatment/Diagnostic Testing, ADR # - 1003305581
5) Request For Consultation, ADR # - 1003305581

Pursuant to the authority of the Industrial Commission under R.C. 4123.511(E), it is ordered that the Injured Worker's appeal, filed 03/31/2025, from the Staff Hearing Officer order, issued 03/20/2025, be refused and that copies of this order be mailed to all interested parties.

ANY PARTY MAY APPEAL AN ORDER OF THE COMMISSION, OTHER THAN A DECISION AS TO EXTENT OF DISABILITY, TO THE COURT OF COMMON PLEAS WITHIN SIXTY (60) DAYS AFTER RECEIPT OF THE ORDER, SUBJECT TO THE LIMITATIONS CONTAINED IN R.C. 4123.512.

Typed By: kh
Date Typed: 04/07/2025

M. Tyack
Staff Hearing Officer

Findings Mailed: 04/09/2025

Electronically signed by
M. Tyack

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