



**TENNESSEE BUREAU OF WORKERS' COMPENSATION**  
**IN THE COURT OF WORKERS' COMPENSATION CLAIMS**  
**AT JACKSON**

<b>CALVIN HOWELL,</b>	)	<b>Docket No. 2024-70-6705</b>
<b>Employee,</b>	)	
<b>v.</b>	)	
<b>501K RECYCLING, LLC,</b>	)	<b>State File No. 13558-2024</b>
<b>Employer,</b>	)	
<b>And</b>	)	
<b>INSURANCE COMPANY OF THE WEST,</b>	)	<b>Judge Amber E. Luttrell</b>
<b>Carrier.</b>	)	

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**EXPEDITED HEARING ORDER**

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Mr. Howell requested additional medical treatment for an aggravation of his preexisting back condition. The issue is whether Mr. Howell's aggravation and need for treatment primarily arose out of the work injury. For the reasons below, the Court finds he met his burden and partially grants his requests.

**History of Claim**

Mr. Howell worked for 501K Recycling as a material handler/forklift driver. On February 14, 2024, a forklift operator accelerated and "smashed" Mr. Howell's left-lower leg into a box of aluminum. He continued working, but his foot and ankle swelled, and he experienced pain, numbness, and tingling extending from his foot up to his leg. He went to the emergency room that evening and began authorized treatment at an urgent-care clinic two days later.

Mr. Howell underwent conservative treatment for lower-extremity pain and a low-back strain. He was then referred to an orthopedic specialist for his low back, and Mr. Howell selected Dr. Blake Chandler from a panel.

Dr. Chandler saw Mr. Howell twice for hip and back pain. Mr. Howell reported multiple symptoms, including hip pain, left-leg numbness, tingling, and weakness, and severe low-back pain and stiffness. A lumbar MRI showed degenerative disc disease with

neural foraminal narrowing at L4/L5.

Dr. Chandler diagnosed an aggravation of Mr. Howell's degenerative disc disease causing a disc bulge and neural foraminal narrowing. He noted, "the degenerative disc disease is not related to the work injury as this was preexisting." However, he added that the injury "could have caused the aggravation and symptoms to be known." Dr. Chandler referred Mr. Howell for an injection and, if unsuccessful, a neurosurgical evaluation.

501K then sent Dr. Chandler a causation questionnaire, which referred to a "surveillance report" and described what 501K contended the surveillance showed.<sup>1</sup> Counsel wrote,

As you can see from the surveillance report, Mr. Howell left his medical visit at [the] Urgent Care where he reported significant lumbar symptoms on May 23, 2024, and immediately went to purchase five bags of mulch. Each bag weighs approximately 20 pounds when dry. The . . . video shows Mr. Howell was able to load all five bags of mulch into his vehicle without any apparent issues. Presumably, he was also able to lay the mulch and spread it at his home.

Counsel further wrote, "All of these tasks seem to contradict Mr. Howell's symptoms and limitations he self-reported to you."

In response, Dr. Chandler wrote that Mr. Howell's lumbar disc disease and need for treatment were not more than 50% related to his work injury. The questionnaire also asked the following (compound and poorly-worded) question: whether "Mr. Howell is at maximum medical improvement for any injury he may have suffered to his lumbar spine on February 14, 2024's lumbar degenerative disc disease and need for treatment are more than 50% related to his reported February 14, 2024?" Dr. Chandler again answered "no."

Mr. Howell also sent Dr. Chandler a causation questionnaire. Dr. Chandler responded that the work injury aggravated his preexisting back condition. He wrote, "aggravated [sic] caused symptoms from an already present underlying condition." But he further noted that Mr. Howell did not need additional medical treatment for the aggravation, stating, "if he is capable of moving bags of mulch, I would opine that he is at MMI." 501K denied Mr. Howell any further treatment.

Mr. Howell then obtained an independent medical evaluation with Dr. James Fish,

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<sup>1</sup> To clarify, no surveillance video footage was admitted into evidence—rather, this refers to an investigator's report describing what they saw. 501K introduced the surveillance video, but Mr. Howell objected because it was not authenticated by testimony or affidavit or filed in advance under the rules. The Court sustained the objection. The surveillance was not impeachment or rebuttal evidence, as Mr. Howell admitted the events in the surveillance.

who reviewed his records, including his 2019 and 2024 MRIs Mr. Howell gave him. He took a history of his injury, treatment to date, and past back treatment. Dr. Fish discussed the surveillance with Mr. Howell. According to Dr. Fish's note, Mr. Howell reported continued low-back pain going into the left hip and extremity and no improvement since the injury. He additionally told Dr. Fish that he left the military because of his back, but the last time he experienced problems was in 2019.

Dr. Fish noted that a 2019 MRI showed degenerative disc disease. Mr. Howell informed him that he underwent therapy between 2019 and 2020, but that from 2020 to 2024, he had no back treatment and "only mild back pain and stiffness on a daily basis." Dr. Fish also wrote that Mr. Howell's 2024 MRI showed "mild to moderate disc protrusions at L4/L5 and L5/S1" with early facet arthropathy as well as degenerative disc disease and stenosis at L4/L5. He diagnosed a lumbar herniated disc and radiculopathy.

Regarding causation, Dr. Fish concluded that Mr. Howell's work injury was the "primary cause of his current lumbar issues" given his symptoms, mechanism of injury, and lack of treatment from 2020 through 2024. He explained, "It is possible to sustain a disc herniation on top of degenerative disks in the lumbar spine from a significant jolt or injury. Based on the medical records, there was an acute change in his symptoms after the injury in February of last year." Similar to Dr. Chandler, he recommended an injection, therapy, and possible surgery.

Dr. Fish also discussed the surveillance. He said that Mr. Howell lifting 20-pound bags of mulch did not affect his opinion, since patients often try to continue their normal activities despite having spinal problems requiring treatment.

In addition to the medical proof, Mr. Howell testified regarding his preexisting back treatment, his past and current conditions, the surveillance, and the injury's effect on his daily living.

He said he underwent therapy in the past and a physician suggested the possibility of surgery, but "they decided not to go that route." Eventually, his symptoms improved. He was "not pain free," but it "eased up." Mr. Howell has never had injections or surgery.

Compared to his pre-injury condition, Mr. Howell has had more severe pain and symptoms with greater frequency since his work injury. He had no back symptoms when he started at 501K like those he experienced after the injury, nor was he under limitations or restrictions. Mr. Howell informed Dr. Chandler of his past back treatment and attempted to give him a CD of the 2019 MRI, but he did not accept it. Mr. Howell said he "never hid [his past back treatment] from anyone."

As for the surveillance, Mr. Howell explained he lifted and transferred each individual bag of mulch from a shopping cart to the back of his truck. He did not have to

lift the bags from the ground, was not under any specific lifting restriction, and did not consider 20 pounds to be heavy. Mr. Howell used “proper mechanics” and had no “major issue” transferring a bag from a stack to the cart and from the cart to his truck. At home, his neighbor and children helped spread the mulch, and he only spread some with a rake. Mr. Howell requested to return to Dr. Chandler to discuss the surveillance but was denied.

His symptoms “come and go,” but he has tried to maintain some normalcy at home because of his four children ages five to 12 and “do[ing] things for the family.” He could not lift like before but has “tried to do some things because he could not stop life.”

On cross-examination, Mr. Howell admitted that while serving in the army in 1995, he experienced back pain, “went to the sick bay, and got out of the military.” At some point, he began receiving VA disability benefits for multiple conditions, including degenerative disc disease that was added in 2021.

Mr. Howell did not produce the 2019 records in discovery because of lack of access to them; he only had the MRI. Counsel also questioned him about a 2020 back x-ray in Texas, but he could not recall the physician or which treatment he received.

### **Findings of Fact and Conclusions of Law**

At this expedited hearing, Mr. Howell must show that he would likely prevail at trial in his request for additional medical treatment. Tenn. Code Ann. § 50-6-239(d) (2025).

The threshold issue is causation for Mr. Howell’s current back condition. To prove causation, Mr. Howell must establish that his back injury or aggravation and need for treatment primarily arose out of his alleged work injury. *Id.* § 50-6-102(12). The Tennessee Supreme Court recently defined “aggravation” as “an intensification or worsening of a preexisting disease, condition or ailment, permanent or not, that contributes more than fifty percent in causing death, disability, or the need for medical treatment.” *Edwards v. Peoplease, LLC*, \_\_\_ S.W.3d \_\_\_ (Tenn. 2025), 2025 Tenn. LEXIS 514, at \*26 (2025).

Further, causation must be proven to a “reasonable degree of medical certainty,” which requires an expert medical opinion. *Id.* § 50-6-102(12)(C). As the panel-selected treating physician, Dr. Chandler’s causation opinion is presumed correct but can be rebutted by a preponderance of the evidence. *Id.* § 50-6-102(12)(E).

The Court analyzed the competing opinions of Drs. Chandler and Fish. When deciding which medical opinion to accept, the Court can consider the experts’ qualifications, the circumstances of their examinations, the information available to them, and the importance attached to the information by other experts. *Orman v. Williams Sonoma, Inc.*, 803 S.W.2d 672, 676 (Tenn. 1991).

Both physicians are well-qualified.<sup>2</sup> Dr. Chandler saw Mr. Howell twice for evaluation and treatment, while Dr. Fish saw him once for an independent medical examination. This factor favors neither physician.

As to the circumstances of their evaluations, Dr. Chandler diagnosed an aggravation of his preexisting degenerative disc disease. He then responded to a leading causation questionnaire from 501K as to what the surveillance report showed and presumptions to draw from it. Dr. Chandler stated that Mr. Howell's back condition and need for treatment did not primarily arise out of the work injury. He also answered "no" to a second question, but the poor phrasing of the question leaves the Court unable to determine what his answer means.

Later, Dr. Chandler responded to Mr. Howell's attorney that Mr. Howell's work injury aggravated his preexisting conditions, but he said Mr. Howell did not need additional treatment because the surveillance reported him capable of moving bags of mulch.

As to the information available to them, Dr. Chandler reached this opinion without talking to Mr. Howell, despite Mr. Howell's request. Had he done so, Mr. Howell could have explained how he lifted and moved the bags; what, if anything, he felt in his back when he did; and that he was under no lifting restriction at the time.

In addition, Dr. Chandler formed his opinions without comparing Mr. Howell's 2019 MRI to the 2024 study. Mr. Howell's uncontroverted testimony was that he offered Dr. Chandler a CD of his 2019 MRI, but he declined. The disc undoubtedly contained useful information, which the doctor refused to consider for unknown reasons.

In contrast, Dr. Fish had this information available to him and considered it. He also took a detailed history from Mr. Howell regarding the surveillance, his injury and symptoms, his treatment to date, and his past back history. He reviewed his records, compared the 2019 and 2024 MRIs, and determined that the records showed an acute change in symptoms after Mr. Howell's work injury *and* recommended an injection and therapy for that change.

Dr. Fish concluded that Mr. Howell's work injury primarily caused his current back symptoms and need for treatment. The surveillance did not affect his opinion, since patients often attempt to continue their activities despite having a spine problem requiring treatment. His opinion was consistent with Mr. Howell's candid testimony that, despite his symptoms, he tried to maintain some normalcy at home due to family responsibilities.

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<sup>2</sup> Mr. Howell did not file Dr. Fish's curriculum vitae or take his deposition regarding his specialty or board certifications. Instead, he requested the Court take judicial notice of Dr. Fish's specialty and certifications because he contended the Court may research his credentials on the internet. 501K objected, and the Court took the objection under advisement. The Court sustains the objection. According to his record, Dr. Fish is a D.O. practicing at Spine and Orthopedic Solutions.

Tennessee law has long held that medical proof is not to be “read and evaluated in a vacuum” but, instead “must be considered in conjunction with the lay testimony of the employee as to how the injury occurred and the employee’s subsequent condition.” *Thomas v. Aetna Life and Cas. Co.*, 812 S.W.2d 278, 283 (Tenn. 1991). Mr. Howell was admittedly imprecise trying to recall some dates or some past conservative treatment on cross-examination. However, “if minor and insignificant details vary, an injured worker should not be penalized simply for being a poor historian.” *Orman*, 803 S.W.2d at 677.

Importantly, Mr. Howell testified that he has never had injections or surgery in the past; he had no pre-injury back symptoms like those he experienced after the injury; and he disclosed his past back condition to his doctors. 501K did not offer countervailing proof on any of these points. The Court finds Mr. Howell credible.

For these reasons, the Court finds that Mr. Howell, through the opinions of Dr. Fish, overcame the presumption afforded to Dr. Chandler’s opinion. He suffered an intensification or worsening of his preexisting degenerative condition that contributed more than 50% in causing his disability and need for medical treatment. Thus, the Court holds Mr. Howell is likely to prevail at trial in his request for medical treatment for the aggravation of his preexisting back condition.

Mr. Howell requested the Court designate Dr. Fish as the treating physician or order a new panel. The Court denies this request. The parties agreed that Dr. Chandler and Dr. Fish recommended the same or similar treatment for Mr. Howell’s injury and agreed that Dr. Chandler had not refused to see Mr. Howell for treatment. Under these facts, Mr. Howell shall return to Dr. Chandler.

Finally, in closing argument, Mr. Howell also requested additional temporary disability benefits. 501K objected on grounds that temporary disability was not certified as an issue on the dispute certification notice; therefore, it only knew of medical benefits at issue at this hearing and was not prepared to present proof on temporary benefits.

Section 50-6-239(b) allows the trial judge discretion to grant permission for parties to present issues that have not been certified by a mediator. However, in fairness to both parties, the Court declines to consider this issue under these facts. The parties may seek a decision on the record on this issue, if needed, where the Court will give the parties deadlines to submit their proof and argument.<sup>3</sup>

### **IT IS ORDERED.**

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<sup>3</sup> Mr. Howell filed a post-hearing motion to clarify evidence regarding Mr. Howell’s testimony about his tax returns. 501K objected to the request. Based on the above findings, the Court need not decide the motion in this Order.

ENTERED February 11, 2026.

*Amber E. Luttrell*  
JUDGE AMBER E. LUTTRELL  
Court of Workers' Compensation Claims

**Appendix**

Exhibits:

1. Rule 72 Statement of Calvin Howell<sup>4</sup>
2. Dr. Chandler's records
3. Employer's questionnaire to Dr. Chandler
4. Employee's questionnaire to Dr. Chandler
5. Dr. Fish's record
6. Panel
7. Henry County Medical Center records
8. Fastpace Health records
9. MRI (July 16, 2019)
10. MRI (December 8, 2020)
11. Employee's Responses to First Request for Production of Documents
12. Employee's Responses to Interrogatories
13. Wage Statement
14. Tax Returns

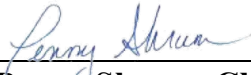
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<sup>4</sup>The Court sustained 501K's hearsay objection to numbers three through five and seven through nine. The Court overruled its objection to number 6.

**CERTIFICATE OF SERVICE**

I certify that a copy of this Order was sent as indicated on February 1, 2026.

Name	Email	Service sent to:
Adam Brock-Dagnan, Employee's Attorney	X	adam.brockdagnan@forthepeople.com kelly.slagle@forthepeople.com
Richard Clark, Employer's Attorney	X X	rclark@eraclides.com jenniferdavis@eraclides.com

  
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**Penny Shrum, Clerk of Court  
Court of Workers' Compensation Claims**



### Right to Appeal:

If you disagree with the Court's Order, you may appeal to the Workers' Compensation Appeals Board. To do so, you must:

1. Complete the enclosed form entitled "Notice of Appeal" and file it with the Clerk of the Court of Workers' Compensation Claims before the expiration of the deadline.
  - If the order being appealed is "expedited" (also called "interlocutory"), or if the order does not dispose of the case in its entirety, the notice of appeal *must* be filed *within seven (7) business days* of the date the order was filed.
  - If the order being appealed is a "Compensation Order," or if it resolves all issues in the case, the notice of appeal *must* be filed *within thirty (30) calendar days* of the date the Compensation Order was filed.

When filing the Notice of Appeal, you must serve a copy on the opposing party (or attorney, if represented).

2. You must pay, via check, money order, or credit card, a **\$75.00 filing fee** *within ten calendar days* after filing the Notice of Appeal. Payments can be made in-person at any Bureau office or by U.S. mail, hand-delivery, or other delivery service. In the alternative, you may file an Affidavit of Indigency (form available on the Bureau's website or any Bureau office) seeking a waiver of the filing fee. You must file the fully-completed Affidavit of Indigency *within ten calendar days* of filing the Notice of Appeal. **Failure to timely pay the filing fee or file the Affidavit of Indigency will result in dismissal of your appeal.**
3. You are responsible for ensuring a complete record is presented on appeal. If no court reporter was present at the hearing, you may request from the Court Clerk the audio recording of the hearing for a \$25.00 fee. If you choose to submit a transcript as part of your appeal, which the Appeals Board has emphasized is important for a meaningful review of the case, a licensed court reporter must prepare the transcript, and you must file it with the Court Clerk. The Court Clerk will prepare the record for submission to the Appeals Board, and you will receive notice once it has been submitted. For deadlines related to the filing of transcripts, statements of the evidence, and briefs on appeal, see the applicable rules on the Bureau's website at <https://www.tn.gov/wcappealsboard>. (Click the "Read Rules" button.)
4. After the Workers' Compensation Judge approves the record and the Court Clerk transmits it to the Appeals Board, a docketing notice will be sent to the parties.

**If neither party timely files an appeal with the Appeals Board, the Court Order becomes enforceable. See Tenn. Code Ann. § 50-6-239(d)(3) (expedited/interlocutory orders) and Tenn. Code Ann. § 50-6-239(c)(7) (compensation orders).**

*For self-represented litigants: Help from an Ombudsman is available at 800-332-2667.*



**NOTICE OF APPEAL**

Tennessee Bureau of Workers' Compensation

[www.tn.gov/workforce/injuries-at-work/](http://www.tn.gov/workforce/injuries-at-work/)

wc.courtclerk@tn.gov | 1-800-332-2667

**Docket No.:** \_\_\_\_\_

**State File No.:** \_\_\_\_\_

**Date of Injury:** \_\_\_\_\_

\_\_\_\_\_  
**Employee**

v.

\_\_\_\_\_  
**Employer**

Notice is given that \_\_\_\_\_

*[List name(s) of all appealing party(ies). Use separate sheet if necessary.]*

appeals the following order(s) of the Tennessee Court of Workers' Compensation Claims to the Workers' Compensation Appeals Board (check one or more applicable boxes and include the date file-stamped on the first page of the order(s) being appealed):

Expedited Hearing Order filed on \_\_\_\_\_  Motion Order filed on \_\_\_\_\_

Compensation Order filed on \_\_\_\_\_  Other Order filed on \_\_\_\_\_

issued by Judge \_\_\_\_\_.

**Statement of the Issues on Appeal**

Provide a short and plain statement of the issues on appeal or basis for relief on appeal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Parties**

**Appellant(s)** (Requesting Party): \_\_\_\_\_  Employer  Employee

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Attorney's Name: \_\_\_\_\_ BPR#: \_\_\_\_\_

Attorney's Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Attorney's Address: \_\_\_\_\_

*\* Attach an additional sheet for each additional Appellant \**

Employee Name: \_\_\_\_\_ Docket No.: \_\_\_\_\_ Date of Inj.: \_\_\_\_\_

**Appellee(s)** (Opposing Party): \_\_\_\_\_  Employer  Employee

Appellee's Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Attorney's Name: \_\_\_\_\_ BPR#: \_\_\_\_\_

Attorney's Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Attorney's Address: \_\_\_\_\_

*\* Attach an additional sheet for each additional Appellee \**

### **CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, certify that I have forwarded a true and exact copy of this Notice of Appeal by First Class mail, postage prepaid, or in any manner as described in Tennessee Compilation Rules & Regulations, Chapter 0800-02-21, to all parties and/or their attorneys in this case on this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*[Signature of appellant or attorney for appellant]*



**Tennessee Bureau of Workers' Compensation**  
220 French Landing Drive, I-B  
Nashville, TN 37243-1002  
800-332-2667

**AFFIDAVIT OF INDIGENCY**

I, \_\_\_\_\_, having been duly sworn according to law, make oath that because of my poverty, I am unable to bear the costs of this appeal and request that the filing fee to appeal be waived. The following facts support my poverty.

1. Full Name: \_\_\_\_\_ 2. Address: \_\_\_\_\_

3. Telephone Number: \_\_\_\_\_ 4. Date of Birth: \_\_\_\_\_

5. Names and Ages of All Dependents:

\_\_\_\_\_ Relationship: \_\_\_\_\_

\_\_\_\_\_ Relationship: \_\_\_\_\_

\_\_\_\_\_ Relationship: \_\_\_\_\_

\_\_\_\_\_ Relationship: \_\_\_\_\_

6. I am employed by: \_\_\_\_\_

My employer's address is: \_\_\_\_\_

My employer's phone number is: \_\_\_\_\_

7. My present monthly household income, after federal income and social security taxes are deducted, is:

\$ \_\_\_\_\_

8. I receive or expect to receive money from the following sources:

AFDC \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

SSI \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

Retirement \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

Disability \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

Unemployment \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

Worker's Comp. \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

Other \$ \_\_\_\_\_ per month beginning \_\_\_\_\_

9. My expenses are:

Rent/House Payment	\$ _____ per month	Medical/Dental	\$ _____ per month
Groceries	\$ _____ per month	Telephone	\$ _____ per month
Electricity	\$ _____ per month	School Supplies	\$ _____ per month
Water	\$ _____ per month	Clothing	\$ _____ per month
Gas	\$ _____ per month	Child Care	\$ _____ per month
Transportation	\$ _____ per month	Child Support	\$ _____ per month
Car	\$ _____ per month		
Other	\$ _____ per month (describe: _____)		

10. Assets:

Automobile	\$ _____	(FMV) _____
Checking/Savings Acct.	\$ _____	
House	\$ _____	(FMV) _____
Other	\$ _____	Describe: _____

11. My debts are:

Amount Owed	To Whom
_____	_____
_____	_____
_____	_____
_____	_____

I hereby declare under the penalty of perjury that the foregoing answers are true, correct, and complete and that I am financially unable to pay the costs of this appeal.

\_\_\_\_\_  
APPELLANT

Sworn and subscribed before me, a notary public, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_