

APPEAL NO. 131668  
FILED AUGUST 22, 2013

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 5, 2013, in [City], Texas, with [hearing officer] presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that the compensable injury sustained on [date of injury], extends to an aggravation of the left knee medial meniscus tear, aggravation of degenerative joint disease of the left knee, and a protrusion of ACL fixation hardware. The appellant (carrier) appeals the hearing officer's determination. The respondent (claimant) responded, urging affirmance.

DECISION

Affirmed in part and reversed and rendered in part.

The claimant testified that he twisted his left knee at work when he stumbled on a rock. It is undisputed that the carrier has accepted a left knee sprain/strain.

The hearing officer's determination that the compensable injury sustained on [date of injury], extends to an aggravation of the left knee medial meniscus tear and aggravation of degenerative joint disease of the left knee is supported by sufficient evidence and is affirmed.

The hearing officer also determined that the compensable injury extends to a protrusion of ACL fixation hardware.

The Appeals Panel has previously held that proof of causation must be established to a reasonable medical probability by expert evidence where the subject is so complex that a fact finder lacks the ability from common knowledge to find a causal connection. See Appeals Panel Decision (APD) 022301, decided October 23, 2002.

See also Guevara v. Ferrer, 247 S.W.3d 662 (Tex. 2007). To be probative, expert testimony must be based on reasonable medical probability. City of Laredo v. Garza, 293 S.W.3d 625 (Tex. App.-San Antonio 2009, no pet.) citing Insurance Company of North America v. Meyers, 411 S.W.2d 710, 713 (Tex. 1966).

In this case a protrusion of ACL fixation hardware requires expert evidence to establish a causal connection with the compensable injury.

The hearing officer noted in the Background Information section of the decision that [Dr. R], the designated doctor appointed by the Texas Department of Insurance, Division of Workers' Compensation to determine the extent of the compensable injury,

was of the opinion that the protrusion of the fixation hardware was caused by the compensable injury.

Dr. R examined the claimant on December 12, 2012, to determine the extent of the compensable injury. In a narrative dated that same date, Dr. R noted an impression of “[p]rotrusion of fixation hardware (old ACL repair).” Dr. R opined that “[t]here is also the possibility that the work related injury [the claimant] recently sustained may have caused a partial pull out of the previously placed ACL fixation hardware and therefore causing a mechanical impingement in his knee.” Dr. R did not offer an explanation of how the compensable injury actually caused a protrusion of ACL fixation hardware; he only acknowledged it was a possibility. The record does not contain any adequate expert causation explanation of the ACL fixation hardware from any other doctor. Accordingly, we reverse the hearing officer’s determination that the compensable injury extends to a protrusion of ACL fixation hardware and we render a new decision that the compensable injury does not extend to a protrusion of ACL fixation hardware.

### **SUMMARY**

We affirm the hearing officer’s determination that the compensable injury sustained on [date of injury], extends to an aggravation of the left knee medial meniscus tear and aggravation of degenerative joint disease of the left knee.

We reverse the hearing officer’s determination that the compensable injury sustained on [date of injury], extends to a protrusion of ACL fixation hardware, and we render a new decision that the compensable injury sustained on [date of injury], does not extend to a protrusion of ACL fixation hardware.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Carisa Space-Beam  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Margaret L. Turner  
Appeals Judge