

Circuit Court for Prince George's County
Case No. C-16-CV-24-001847

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 580

September Term, 2025

IN THE MATTER OF WILBUR HILIGH

Nazarian,
Leahy,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 23, 2026

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

Wilbur Hiligh, appellant, appeals from the affirmance, by the Circuit Court for Prince George’s County, of a decision of the Workers’ Compensation Commission to disallow a claim. For the reasons that follow, we shall affirm the judgment of the circuit court.

On April 29, 2023, Mr. Hiligh filed with the Commission a claim in which he contended that on March 10, 2004, he was employed at a Walmart in Clinton. Mr. Hiligh stated: “Lifting a patio set on my own, I injured myself and had to be transported to a local clinic for treatment.” Mr. Hiligh contended that he suffered “abdominal injury and groin” injury, and returned to work on March 28, 2004. Mr. Hiligh subsequently filed a request for document correction in which he contended that the injury occurred on May 27, 2004.

The Commission subsequently held a hearing on the claim. The record does not contain a transcript of this hearing, and hence, we do not know the reason given by Mr. Hiligh, if any, as to why his claim was not barred pursuant to Section 9-709(b)(3) of the Labor & Employment Article (“LE”), Md. Code (1991, 2016 Repl. Vol., 2023 Supp.) (“if a covered employee fails to file a claim within 2 years after the date of the accidental personal injury, the claim is completely barred”), or whether he alleged before the Commission that he subsequently suffered trauma based on the earlier injury. But, at a subsequent hearing in the circuit court, counsel for Walmart recognized that “the employer and insurer did not file a first report of injury,” and in that circumstance, “the statute of limitations does not begin to run.” *See* LE Section 9-708(b) (“[i]n the case of an accidental personal injury, the claim limitation period in [Section] 9-709(b)(3) of this subtitle does not begin to run until the employer files a report with the Commission”). Also, Mr. Hiligh

insinuated before the circuit court that the trauma of the earlier injury continued uninterrupted, and in an exhibit discussed in greater detail *infra*, Mr. Hiligh’s primary physician stated that Mr. Hiligh did not receive treatment for the injury due in part to lack of insurance and denial of such treatment by Medicaid.

Following the hearing, the Commission issued an order in which it disallowed the claim, stating:

In April 2023, the Claimant filed a claim alleging an injury to his abdomen and groin 19 years earlier, on March 10, 2004.

Claimant put a letter in evidence from Dr. H. Herbert Washington who asserts that he saw Claimant in his office in May 2004 and July 2004. This May visit would have been 7-10 weeks after the alleged accident. Dr. Washington did not produce any reports from those encounter dates so that the Commission could determine whether Claimant was at his office for treatment related to a work accident. Dr. Washington then says that the Claimant subsequently came back to the office for his medical care. He does not provide a specific date of the subsequent visit. Given the 19 year span between the alleged date of injury and the filing of the claim, this date is highly relevant.

Dr. Washington states that during this subsequent physical examination it was determined that Claimant’s abdominal pain was caused “either by a severe abdominal muscle strain or sports hernia.” The Commission is unclear who Dr. Washington is but noting the quotation marks suggest it is not his medical diagnosis.

Sports hernias were not compensable in 2004. Moreover, it was established in a December 29, 2021 diagnostic test that Claimant has no other kind of hernia.

Claimant has failed to establish by a preponderance of the evidence that he sustained an abdominal or groin injury on March 10, 2004.

In April 2024, Mr. Hiligh filed a petition for judicial review of the Commission’s decision. On March 4, 2025, the court held a hearing on the petition, at which Walmart

was represented by counsel. Mr. Hiligh testified that on May 27, 2004, he “was asked by a customer to retrieve a patio set.” While Mr. Hiligh was “putting the patio set onto [a] lift,” he felt a “[s]harp pain . . . right under []neath [his] belly button.” A manager took Mr. Hiligh to see “Dr. Rupert,” who “diagnosed [Mr. Hiligh] with . . . a[n] abdominal injury” and gave him “10 to 20 days off.” A “couple [of] days” later, Mr. Hiligh saw Dr. Washington, who is Mr. Hiligh’s “primary doctor.”

Mr. Hiligh subsequently submitted into evidence a document titled “Walmart Stores, I[nc]. Notes for Claim.” The document contains an entry, dated July 21, 2004, which states: “RECEIVED BILL/REPORT FROM DR. EDWARD RUPERT DOS 5/27/04; BILL/REPORT TO CMI TODAY FOR AUDITING.” The document also contains an entry, dated July 28, 2004, which states: “BENEFITS PAID; NO ADDITIONAL MEDICALS RECEIVED TO DATE; CLOSING FILE.” Mr. Hiligh also submitted into evidence the following documents:

- A report, dated December 29, 2021, by Samir Chheda, M.D., of Community Radiology Associates, in which he stated that Mr. Hiligh’s abdomen was examined and “[n]o hernia [was] appreciated in [his] anterior abdominal wall.”
- A statement, dated August 22, 2023, by Dr. Washington, in which he stated:

To confirm that Mr. Hiligh has been under my care since 2013. He endorsed that he was injured while working for Walmart in 2004. He was being followed by his urologist, Dr. Khawand, He had a CT scan of the abdomen and pelvis in 2014, ordered by Dr. Khawand. He continued to have abdominal and pelvic pain which was intermittent and recurrent. In 2020 because of the ongoing and recurrent pain, he was ordered another CT scan of the abdomen and pelvis, but this was denied by Medicaid. He was approved for an ultrasound of the abdomen which did not completely evaluate the pelvic area. In December 2021 another CT scan of the abdomen was ordered and again denied. Mr. Hiligh has not had the treatment that he needs to recover, because of the denials of diagnostic tests.

- A letter, dated December 18, 2023, by Dr. Washington, in which he stated:

Mr. Hiligh was seen in my office in May 2004, and July 2004. He did not have health insurance then, and so he stopped coming to the office. He was concerned that he might have an aortic aneurysm because of his symptoms of mid and lower abdominal pain. Subsequently he was able to come back to the office for his medical care. A physical examination determined that his abdominal pain was caused “either by a severe abdominal muscle strain or sports hernia[.]”]

He requested scans of the area multiple times since he had an injury [that] occurred on the job May 27, 2004. He obtained insurance a few years ago and received physical therapy.

An August 22, 2023 letter was based on the fact that the patient was not able to get the requested CT scans of his abdomen to make a correct diagnosis.

Previous notes/letters were based on the patient’s understanding that he needed documentation to confirm that his injury persisted.

Following the close of Mr. Hiligh’s case, counsel for Walmart moved for affirmance of the Commission’s decision on the ground that “causal relationship . . . of an injury to an accident . . . requires expert medical testimony.” The court subsequently affirmed the Commission’s decision, stating:

The Plaintiff has the burden. Once again, the Court has to take the evidence, at this time, in the light most favorable to the Plaintiff. The Court, at this time, finds that the Plaintiff has not met his burden. The Court does not believe that the Plaintiff is in a position to meet its burden.

Just looking at the exhibits that were presented by the Plaintiff, from Dr. Herbert Washington, there’s no indication, there was no – well, first of all, I accepted these into evidence. But these letters don’t constitute expert testimony.

Even the letters themselves, even if the Court were to give credence to the letters, the doctor does not conclude in his letters that the injury that Mr. Hiligh apparently sustained around the time that he went to see Dr. Hiligh (sic) were – that they – there was an injury sustained at his place of

work. In fact, there's – even Dr. Washington – there's no mention of that at all. And, secondly, even Dr. Washington, in his letters, one dated December 18th, and I believe there's an earlier letter, he indicated that – says a physical exam determined that the abdominal pain was caused either by a severe abdominal muscle strain or sports hernia or – it doesn't go any further than that. And it certainly does not indicate a doctor's opinion as to how Mr. Hiligh may have sustained that injury.

Following the affirmance, Mr. Hiligh filed a motion to alter or amend the judgment. The court denied the motion.

Mr. Hiligh first contends that the court erred in affirming the Commission's decision because Walmart's "acceptance of the claim created a statutory presumption of compensability," and Walmart was required "to rebut the presumption of compensability with clear and convincing evidence." We disagree. LE Section 9-713(f) states that "payment by an employer or its insurer before an award does not waive the right of the employer or its insurer to contest the claim." The cases and statutes cited by Mr. Hiligh do not create any "presumption of compensability,"¹ and hence, Walmart was not required to rebut such a "presumption."

¹We note that in his reply brief, Mr. Hiligh contends that LE Section 9-707(c) states: "Upon acceptance of a claim, the carrier shall assume the burden of proving non-compensability." This contention is false. LE Section 9-707(c) states:

Each report under subsection (a) or (b) of this section shall state:

- (1) whether the accidental personal injury or occupational disease arose out of and in the course of employment;
- (2) the time, cause, and nature of the disability and the accidental personal injury or occupational disease;
- (3) the probable duration of the disability; and

(continued)

Mr. Hiligh next contends that, for numerous reasons, the court erred in concluding “that expert testimony was required.” We disagree. We have stated that a

genuine jury issue as to the causal relationship between an earlier injury and a subsequent trauma may sometimes be generated, even in the absence of expert legal testimony, when some combination of the following circumstances is present: 1) a very close temporal relationship between the initial injury and the onset of the trauma; 2) the manifestation of the trauma in precisely the same part of the body that received the impact of the initial injury; 3) . . . some medical testimony, albeit falling short of a certain diagnosis; and 4) an obvious cause-and-effect relationship that is within the common knowledge of laymen.

Conversely, the causal relationship will almost always be deemed a complicated medical question and expert medical testimony will almost always be required when one or more of the following circumstances is present: 1) some significant passage of time between the initial injury and the onset of the trauma; 2) the impact of the initial injury on one part of the body and the manifestation of the trauma in some remote part; 3) the absence of any medical testimony; and 4) a more arcane cause-and-effect relationship that is not part of common lay experience[.]

S.B. Thomas, Inc. v. Thompson, 114 Md. App. 357, 381-82 (1997). Here, there was significant passage of time between Mr. Hiligh’s initial injury and the trauma reported at the hearing, an absence of medical testimony, and a more arcane cause-and-effect relationship between the injury and trauma that is not part of common lay experience. In light of these circumstances, the causal relationship between the injury and trauma was a

(4) any other information that the Commission may require by regulation.

complicated medical question, and the court did not err in concluding that due to the lack of expert medical testimony, Mr. Hiligh failed to meet his burden of production.²

Mr. Hiligh next contends that the “doctrine of judicial estoppel should bar [Walmart] from denying claim acceptance when the trial record demonstrates their acknowledgment of claim processing.” But, the Supreme Court of Maryland has stated that “[b]efore judicial estoppel may be applied, three circumstances must exist: (1) one of the parties takes a factual position that is inconsistent with a position it took in previous litigation, (2) the previous inconsistent position was accepted by a court, and (3) the party who is maintaining the inconsistent positions must have intentionally misled the court in order to gain an unfair advantage.” *Dashiell v. Meeks*, 396 Md. 149, 171 (2006) (citations omitted). Here, Mr. Hiligh does not specify any evidence that he and Walmart engaged in previous litigation, or that Walmart took a factual position inconsistent with a position it took before the Commission. Hence, judicial estoppel is inapplicable.

Mr. Hiligh next contends that the court erred in denying his motion to alter or amend, because he “presented material evidence . . . demonstrating [Walmart’s] claim acceptance and the resulting burden shift.” But, for the aforementioned reasons, Walmart did not waive its right to contest Mr. Hiligh’s claim by making payment before an award,

²We note that Mr. Hiligh attached to his brief a letter purportedly written by Dr. Washington and which contains the statement: “[Mr. Hiligh] continues to have recurrent pain and limited range of motion since his original injury in 2004. As a result of these symptoms his mobility is limited.” But, the letter is dated March 12, 2025, over one year after the hearing on the petition for judicial review.

and such payment did not shift the burden of production to Walmart. Hence, the court did not err in denying the motion to alter or amend.

Finally, Mr. Hiligh contends that his position is supported by “discovery violations,” specifically failure to produce “employer-held records,” “[c]omplete billing documents,” and “medical information.” But, Mr. Hiligh does not explain how the alleged failure to disclose these records precluded him from presenting to the court expert medical testimony. As previously stated, Mr. Hiligh’s failure to meet his burden of production was caused by the lack of such expert testimony, and hence, the court did not err in affirming the Commission’s decision to disallow his claim.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**