Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: May 23, 2014

CLAIM NO. 201188476

GENEVIEVE NOBLE PETITIONER

VS. **APPEAL FROM HON. JONATHAN WEATHERBY, ADMINISTRATIVE LAW JUDGE**

FRESENIUS MEDICAL CARE HOLDINGS
and HON. JONATHAN WEATHERBY,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
VACATING IN PART AND REMANDING
* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

STIVERS, Member. Genevieve Noble ("Noble") seeks review of the November 18, 2013, opinion and award of Hon. Jonathan Weatherby, Administrative Law Judge ("ALJ") finding Noble sustained a work-related low back injury on August 9, 2011, and awarding temporary total disability ("TTD") benefits, permanent partial disability ("PPD") benefits, and medical benefits. The ALJ dismissed Noble's claim of a cumulative

trauma injury occurring on March 8, 2010, based on her failure to give notice as soon as practicable after the injury. Noble also appeals from the December 26, 2013, order denying her petition for reconsideration.

In her Form 101, Noble alleged injuries occurring on March 8, 2010, April 26, 2011, and August 9, 2011. Specifically, Noble alleged a "work-related cumulative trauma for which she was referred to Dr. Elmer Dunbar on March 8, 2010," and she continued to work and suffered continuing work-related cumulative trauma. Noble alleged the April 26, 2011, injury occurred when she was "working with a five hundred pound patient." She alleged the August 9, 2011, injury occurred when, while pushing a dialysis machine down an incline, the dialysis machine "rolled quickly," hit the wall and bounced back striking her and injuring her head, back, and legs.

Noble was deposed on February 22, 2012. She testified her title with Fresenius Medical Care Holdings ("Fresenius") at the time of all the injuries was acute dialysis nurse. She stated Fresenius is the largest dialysis company in the world and operates clinics where patients receive outpatient dialysis. It has facilities in Louisville and southern Indiana. When she travels to a facility, Noble takes her tool chest to set up the dialysis

machine. She gets the machine from the storage room and takes it to the patient's room where she sets up the machine. Since the dialysis machine is a large unit on wheels with no motor, she is required to push and steer it. She estimated its weight to be approximately four hundred pounds. In the course of operating the dialysis machine, Noble regularly bends over, stoops, and crouches. She has to crawl on the floor to plug the unit into the electrical outlet. She is frequently required to pull patients up in bed or turn them. She always obtains assistance when she is required to position a patient in the bed. She estimated the typical treatment lasts between three and half to four hours.

Noble estimated she had worked for Fresenius approximately four years when she first experienced centrally located lumbar pain in 2008. She had no lower back pain before 2008. Although she is not sure she told her prior physician, Dr. Van Arsdale, she reported her low back symptoms to Dr. Thomas Schurfranz, her current family physician. She did not remember any discussion with him concerning the cause of the back pain and he did not express an opinion as to the cause of her pain. Acknowledging she had such a discussion, Noble did not recall when she first discussed with Dr. Schurfranz the

requirements of her work and whether it was impacting her back condition. Because Dr. Schurfranz wanted to determine whether Noble had an extra vertebra he ordered an x-ray which was performed on January 22, 2009. Dr. Schurfranz also recommended physical therapy which was administered by Dunn & Associates, and prescribed Mobic, an anti-inflammatory medication. Because her pain worsened and she developed radiating pain down her leg, and based on the results of an MRI, Dr. Schurfranz referred Noble to Dr. Elmer Dunbar for treatment of her lower back. Noble testified she did not have a specific injury on March 8, 2010, when she first saw Dr. Dunbar. In the course of treating Noble, Dr. Dunbar administered approximately six or seven epidurals. Noble continued to perform her regular duties during the period the epidurals were administered.

Noble testified that on April 26, 2011, she and the patient's husband were pushing a five hundred pound patient in an attempt to get her on a bed pan. Several hours later, Noble began experiencing pain of much greater intensity which was centrally located in the low back and radiated into the left leg.

On April 27, 2011, Noble experienced another injury while pulling a patient receiving dialysis

treatment.[1] Because the event increased the intensity and severity of her pain, Dr. Dunbar recommended another epidural which was performed in May 2011. After that epidural, she received no additional treatment until August 9, 2011, when she was injured in the course of moving a dialysis machine from Norton Hospital to the Norton Pavilion. Based on the results of another MRI, Dr. Dunbar referred Noble to Dr. Kmiathi Doss who she first saw in early September 2011. At that time, Dr. Doss took over her care and performed surgery on December 16, 2011. Dr. Doss' operative report reveals he performed the following procedures:

> 1. Gill procedure at L4 secondary to spondylosis and spondylolisthesis.
>
> 2. Bilateral facetectomy L4-5.
>
> 3. Diskectomy bilateral L4-5.
>
> 4. Interbody arthrodesis with 7 x 25 Crescent PEEK interbody cage L4-5, posterolateral arthrodesis with DBM+, Grafton strips, and local bone obtained during the decompression bilateral L4-5.
>
> 5. Pedicle screw fixation secondary to spondylolisthesis and instability at L5-5 with 5.5 x 45 Solera screw at L4, 5.5 x 40 screw at L5 bilateral L5 Solera.

[1] During the proceedings, Noble was permitted to amend the Form 101 to include the claim for the April 27, 2011, injury.

> 6. Neuromonitoring leads were placed by the surgeon as a technical component for NIM stimulation of screws and neuromonitoring, and all needles were placed at appropriate muscles for stimulation and monitoring.

Noble testified the surgery has helped significantly and she only experiences discomfort in the upper thoracic region. It was her intention to return to work at Fresenius when Dr. Doss released her to return to work.

At the September 24, 2013, hearing, regarding the cumulative trauma injury, Noble provided the following testimony:

> Q: When do you first recall having low back symptoms?
>
> A: After – well, about 2008 – around 2008, when I was working with Fresenius.
>
> Q: Do you – do you remember what your symptoms were at that time?
>
> A: Just, low back pain, non-radiating.
>
> Q: And, you saw Doctor Schurfranz, your family physician.
>
> A: Yes.
>
> Q: He had – after a couple of visits, he sent you for some physical therapy at Dunn and Associates.
>
> A: Uh-huh. (Yes)
>
> Q: Was the physical therapy helpful?

A: I think it was helpful as far as strengthening and stretching. But, not – it didn’t relieve the symptoms.

Q: You returned to Doctor Schurfranz in March of 2010. What kind of symptoms were you having at that time?

A: They were – it was just worse. I was having difficulty – just more pain, difficulty getting dressed, you know, and pain in my legs and in my back.

Q: Okay. Was the pain in both of your legs at that point?

A: It was more in the left.

Q: Was there any specific incident that had caused your symptoms or where they just progressively getting worse up to that point?

A: I think it was progressive.

Q: There is a mention of you had been tugging on a patient in November of 2009, do you remember that incident?

A: Yes.

Q: With that incident was there any change in your symptoms or just in – in the type of symptoms you were having or just a change in the degree of symptoms?

A: That patient was – I remember specifically that patient, because after pulling that patient up numerous times during their dialysis treatment, my back really hurt and I recall limping after work.

Q: Were you having leg symptoms at that time?

A: No. It wasn’t. It was just – it was like something pulled in my back –

MS. WOLFINBARGER: Okay.

A: -- my low back. And, that was at Kindred at Jewish.

Q: Okay. After that March, 2010 visit, you got referred to Doctor Dunbar –

A: Uh-huh. (Yes)

Q: --and had some epidurals.

A: Uh-huh. (Yes)

Q: Were those helpful?

A: Yes. They – they were at first. They kind of had a decreasing effectiveness over time.

Q: And, up until this point, you were continuing to do your regular job?

A: Uh-huh. (Yes) Yes.

Q: Had the way you done the job changed at all?

A: Yes. I – I wore a back brace. I always wore the back brace to work. And, I would just leave the jug on the floor, I couldn’t lift it and shake it. I would just leave it on the floor and shake it back, and forth. And, also my – my trunk that I carried supplies in, I would have to empty it and put it in the car and, you know, take it in and out of the car empty, I couldn’t leave stuff in it, it was too heavy.

Q: At that point had you been told by any doctor that your back symptoms were caused by your work activities?

A: No.

> Q: Did you ever have a conversation with your supervisor about your back symptoms?
>
> A: Yes. I did.
>
> Q: Do you remember when that was, approximately?
>
> A: That was probably in March, maybe February or March of 2011. I asked her how would I go about filing for Workers' Comp if I didn't have a specific date of injury. And, she said, well, I don't know, no one's ever asked me that. She said, I'll have to get back with you.
>
> Q: And, did she get back with you?
>
> A: No.[2]

On cross-examination, the following exchange took place regarding the alleged cumulative trauma injury:

> Q: Okay. In response to some questions that were asked of you by your attorney, you indicated, to the best of your recollection, you first began to notice some symptoms, problems, pain and discomfort in your low back in calendar year 2008, is that correct?
>
> A: Uh-huh. (Yes)
>
> Q: I'm sorry is that a yes?
>
> A: Oh, yes. Sorry.
>
> Q: That's okay. And, I think you told us that after a while you began treating with Doctor Schurfranz for those symptoms, correct?

[2] The remainder of Noble's hearing testimony dealt with the events occurring on April 26, 2011, April 27, 2011, and August 9, 2011, the job she currently performs at Fresenius after returning to work, and her current physical problems.

A: Yes.

Q: As you were treating with Doctor Schurfranz in 2008, did you have any discussions with him as to what was likely causing your back symptoms or problems?

A: No. He told me that he wanted to rule out that I had an extra vertebrate. So, he did the x-ray, I think it was in January of 2009. And, when I – he told me over the phone that it was normal. And, when I later saw – when I actually saw the report in 2010, I saw that it wasn't really normal. But, he told me that it was.

Q: Okay. After you first started treating with Doctor Schurfranz in 2008, I'm assuming you continued to treat with him, at least, through January of 2009, when you had your x-ray?

A: Yes.

Q: And, did you continue to see and treat with him periodically thereafter?

A: Well, he's my regular doctor. So, I would see him, at least, once a year.

Q: Okay. Well, let me as you this, did you continue to see and treat with him and discuss with him your – your ongoing low back symptoms and problems?

A: Well, yes. He – he prescribed Mobic for me.

Q: Okay. And, was there ever a time prior to 2010, when Doctor Schurfranz discussed with you the possibility that some of your low back complaints were possibly a product of your work for Fresenius?

> A: No. And, he never suggested I get a different job or anything like that.
>
> Q: Was there any discussion whatsoever before 2010, as to what was likely causing those low back complaints, other than that he initially thought maybe you had an extra vertebrate, but then later ruled that out?
>
> A: No.
>
> Q: When was the first time a physician, whether it was Doctor Schurfranz or maybe another medical provider, ever suggest to you that some or all of your low back and – and lower extremity symptoms were possibly caused by your work for Fresenius?
>
> A: Well, Doctor Doss, the neurosurgeon, said that it was probably from my work and the fall.
>
> Q: And, do you recall, approximately, when you would have had that causation discussion with Doctor Doss?
>
> A: I didn't see him until some – let's see, I think September or October of 2011.
>
> Q: Okay. Okay. And, you were telling us just moment ago that you – you underwent a surgery, and I think that was on, was it on September 16th, 2011?
>
> A: December 16th.

In the November 18, 2013, opinion and award, the ALJ provided the following summarization of Noble's testimony regarding the alleged cumulative trauma injury:

> The Plaintiff recalled that in 2008, she had low back pain and saw Dr. Schurfranz for treatment. Dr.

> Schurfranz referred the Plaintiff to physical therapy which she said was helpful with strengthening and stretching but did not resolve her symptoms. She returned in 2010 with continued complaints including both legs, left worse than right. She could not recall a specific injury but believed that it just progressively worsened. After the March 2010 visit, the Plaintiff was referred to Dr. Dunbar and underwent epidural injections, which were helpful at first. She said that she continued to work during this time but began wearing a back brace. She recalled that she could no longer leave her supplies in a rolling trunk because it had to be emptied before she could place it in her car. She recalled speaking to her supervisor about her back symptoms before having two incidents back to back in April of 2011.
>
> . . .
>
> She said that she continued to treat with Dr. Schurfranz periodically after 2008 but that Dr. Doss was the first doctor to say her back complaints were probably from her work and fall in 2011. ...

Concerning notice of the March 8, 2010, cumulative trauma injury, the ALJ entered the following findings of fact and conclusions of law:

> 17. The Plaintiff testified that she asked her supervisor how to go about filing a worker's compensation claim if she did not have a specific injury. This is the only indication of the giving of notice on the part of the Plaintiff for this particular injury and it took place approximately one

> year after the injury date according to the Plaintiff. The ALJ finds that this does not constitute the giving of notice to the employer as soon as practicable after the happening of the injury.
>
> 18. The ALJ therefore concludes based upon the evidence available, that the Plaintiff has failed to establish that notice was properly given with regard to the March 8, 2010, injury.
>
> 19. The Employer is relieved from liability of the contested expenses regarding the March 8, 2010, injury.

Relying upon Dr. Warren Bilkey's opinions, the ALJ concluded Noble did not sustain an injury meriting an impairment rating on April 26th or 27th, 2011, but the August 9, 2011, injury resulted in a 20% whole person impairment.[3] After providing an analysis pursuant to Fawbush v. Gwinn, 103 S.W.3d 5 (Ky. 2003), the ALJ determined Noble was capable of returning to work and enhancement by the three multiplier was not appropriate. Therefore, the award of PPD benefits was based upon the 20% impairment rating. The ALJ found Noble was entitled to enhanced benefits pursuant to KRS 342.730(1)(c)2 in the event her employment ceased for reasons related to the work injury.

[3] The ALJ found Noble was entitled to medical benefits only for the "April 2011 injury dates." However, the ALJ failed to award medical benefits for these injuries.

In her petition for reconsideration, Noble pointed out she was alleging a cumulative trauma injury and, pursuant to Hill v. Sextet Mining Corp., 65 S.W.3d 503 (Ky. 2001), when an injury is caused by the cumulative effects of repetitive trauma rather than by a single traumatic event, the notice requirement is triggered when a physician informs the worker of a gradual injury and its cause. She contended although she did not give notice of her March 8, 2010, cumulative trauma injury until February or March of 2011; she was not required to provide notice at that time since a physician had not informed her she sustained a work-related injury. Accordingly, Noble requested additional findings of fact regarding whether she provided due and timely notice of a cumulative trauma injury.[4] Noble also sought a correction of the award of TTD benefits.

On December 26, 2013, the ALJ overruled the portion of Noble's petition for reconsideration regarding his finding Noble failed to give notice of the March 8, 2010, injury finding it to be an impermissible attempt to reargue the merits of her position. The ALJ sustained that

[4] Noble also requested that should the ALJ find due and timely notice of a cumulative trauma injury was provided that she was entitled to an award of income and medical benefits since Dr. Bilkey assessed a 5% impairment due to the cumulative trauma injury.

portion of the petition for reconsideration regarding the award of TTD benefits.

On appeal, Noble again asserts, because the uncontradicted evidence establishes the March 8, 2010, injury was a cumulative trauma injury, notice is triggered when a physician informs the worker of the gradual injury and its cause. Noble argues when she gave notice of the March 8, 2010, cumulative trauma injury in February or March of 2011, she had not been told by a physician her condition was work-related. Thus, the evidence compels a finding she provided due and timely notice of the cumulative trauma work-related injury. She requests the decision be reversed and the claim remanded with directions to address whether she sustained a cumulative trauma injury and notice of the injury.

Conversely, Fresenius argues while Noble alleges Dr. Schurfranz never discussed the origin of her lumbar symptoms prior to February or March of 2011, his notes suggest otherwise. It notes in a January 22, 2009, office note, Dr. Schurfranz stated Noble had reported chronic back pain and her pain worsened due to her work as a dialysis nurse. It contends this indicates Dr. Schurfranz recognized a possible causal connection between Noble's lumbar symptoms and her work. Further, in a March 1, 2010,

note, Dr. Schurfranz reported Noble had reported a worsening of her low back condition stemming from a November 2009 incident at work involving movement of a patient. On March 11, 2010, Dr. Schurfranz assessed work restrictions which indicates he was “aware of and concerned by the interplay” between Noble’s condition and her work. Fresenius notes that on March 18, 2010, Dr. Schurfranz diagnosed lumbar degenerative disc disease with lumbar radiculopathy and spondylolisthesis at L4 and L5 and that her work worsened her symptoms. Again, on April 15, 2010, Dr. Schurfranz noted Noble’s low back and lower extremity symptoms were aggravated by her work.

Fresenius contends in light of these office notes, the assertion Dr. Schurfranz never once addressed with Noble the issue of her symptoms being work-related until February or March of 2011 is not credible. Instead, Fresenius argues it is readily apparent Dr. Schurfranz was concerned about Noble’s work, and his office notes document a recognition that Noble’s work environment was playing at least some role with respect to her ongoing chronic injury. It posits that even if Dr. Schurfranz did not expressly discuss with Noble the fact her injury could be due to her work, his office notes clearly express his concern in that regard. Further, since Noble had access to these records,

Fresenius argues she was placed on notice no later than March or April of 2010 that her work was likely responsible for at least some portion of her chronic lumbar and lower extremity symptoms. In light of these facts, Fresenius argues Noble inexcusably waited a full year before reporting to her supervisor that she may want to assert or file a workers' compensation claim. Consequently, Noble did not provide due and timely notice, as she should have reported the alleged work-related lumbar injury no later than March or April of 2010.

KRS 342.185(1) requires a worker to give his or her employer notice of an injury "as soon as practicable." Where the harmful change to the human organism is the result of cumulative trauma, the time for giving notice manifests on the date when the employee discovers that a physically disabling injury has been sustained and learns his condition is caused by work. Alcan Foil Products v. Huff, 2 S.W.3d 96, 101 (Ky. 1999). Since an employee is not required to self-diagnose, the date of manifestation for a cumulative trauma injury most usually, if not always, occurs at the point when the employee is first informed by a physician that his disabling condition is work-related. Hill v. Sextet Mining Corp., 65 S.W.3d 503 (Ky. 2001).

Our review of Dr. Schurfranz's records reveals there was no diagnosis of a work-related injury. Specifically, the January 22, 2009, note reflects Noble had "back pain for a while" which was worse during work as a dialysis nurse. On March 24, 2009, he noted low back stiffness and soreness approximately every day. He also noted the pain did not radiate into the legs. His March 1, 2010, note contains an observation that her back pain had worsened since November and she "injured it 11/09 pulling up a patient." He noted she had been to physical therapy in 2009 due to persistent low back pain. He diagnosed sciatica expressing no opinion regarding causation.

Dr. Dunbar's March 8, 2010, note pertaining to the initial consultation with Noble does not state Noble sustained a work-related injury. That record provides the following history:

> The patient is a pleasant 52-year-old white female with low back and left leg pain, referred to me for evaluation and treatment. The patient relates the onset of her pain to approximately a year-and-a-half ago with lifting patients and doing work as an RN. She did not report this as a Workers' Comp injury. In November and December 2009, her pain became significantly worse. Her low back pain equals her leg pain. She denies any surgical intervention or spinal injection therapy. She denies bowel and bladder incontinence. She has had medication trials with anti-

> inflammatories and muscle relaxers with no significant benefit. She has tried back bracing which is minimally helpful. She had trials of PT in January of this year which gave her mild relief of her pain.

After performing an examination and reviewing the imaging studies, Dr. Dunbar's impression was degenerative anterolisthesis and neuroforaminal narrowing bilaterally at L4. He provided a "post-operative diagnosis" of internal disruption of the lumbar disc and spondylolisthesis of L4 on L5. Dr. Dunbar noted Noble was to return for epidural steroid injections. His subsequent notes of March 18, 2010, April 1, 2010, April 15, 2010, June 2, 2010, August 4, 2010, and September 9, 2010, contain a diagnosis of lumbar degenerative disc disease with radiculopathy and spondylolisthesis of L4 on L5. Some of those notes also state Noble works long hours as an RN. There is no diagnosis of a work injury. Significantly, Dr. Dunbar's March 25, 2011, note reflects Noble had undergone previous injections and had obtained substantial pain relief. However, over the last three or four weeks she had noticed escalating back and left leg pain. Dr. Dunbar noted although Noble admitted she was working long hours, she denied any trauma or injury. The remaining notes of Dr. Dunbar dated March 3, 2011, August 11, 2011, and August 18,

2011, do not contain a diagnosis of a work injury or any statement linking Noble's back injury to her work.

Similarly, Dr. Doss' records do not reveal a diagnosis of a work-related cumulative trauma injury or relate her back problems to cumulative trauma.

In summary, Noble's testimony and the records of Drs. Schurfranz, Dunbar, and Doss do not establish Noble was ever advised her low back condition is work-related. Although Fresenius maintains Dr. Schurfranz must have advised Noble that her lumbar symptoms were due to her work, his notes do not contain a diagnosis of a work-related injury, nor is there a notation he informed Noble her back problems were due to mini-traumas while at work. Similarly, its argument that Noble had access to these records and should have reviewed them is without merit. As pointed out in Hill v. Sextet Mining Corp., supra, even though Noble was a nurse, she was not required to self-diagnose the cause of her pain and recurrent back symptoms. Further, Noble's uncontradicted testimony was that Dr. Doss was the first physician to advise her that her back condition was work-related and he advised her of this sometime in 2011. Thus, her testimony, if credible, establishes the obligation to notify Fresenius of a gradual work-related injury and file a claim was not triggered

until Noble's conversation with Dr. Doss. Further, we note in American Printing House for the Blind ex rel. Mutual Ins. Corp. of America v. Brown, 142 S.W.3d 145 (Ky. 2004), the Supreme Court stated as follows:

> It is undisputed that the claimant sustained work-related trauma and that harmful changes from the trauma were symptomatic on June 5, 2000. Therefore, she sustained an injury as defined by KRS 342.0011(1) although Chapter 342's notice and limitations provisions were not triggered until she received a medical diagnosis in January, 2001. *See Hill v. Sextet Mining Corp.*, supra. As the Court of Appeals noted, nothing prohibits a worker who thinks she has sustained a work-related gradual injury from reporting it to her employer before the law requires her to do so, and nothing prevents her from reporting an injury that she thinks is work-related before a physician confirms her suspicion.

Id. at 148-149.

Even though the medical records reflect Noble had back problems and she worked long hours as an RN, the medical records do not reflect she was ever told by a physician that her back problems were work-related. Until Noble was provided with a medical diagnosis that her lumbar problems were work-related, she had no obligation to provide notice to Fresenius of a work-related injury.

The opinion of the Court of Appeals in Clintwood Elkhorn Mining Company v. Anderson, 2008-CA-000880-WC,

rendered October 3, 2008, Designated Not To Be Published, is directly on point. In that case, Anderson testified a physician previously advised him he had hearing loss, and he knew for years his hearing loss was work-related. However, Anderson never testified a physician told him his hearing loss was work-related. The ALJ dismissed for failure to give notice but this Board reversed. The Court of Appeals affirmed, holding as follows:

> It is clear from the facts that Anderson knew that he had a work-related hearing loss for a number of years before he reported it to Clintwood. Although Clintwood has argued that Dr. Trivette told Anderson that his hearing loss was work-related, the evidence does not support that position. Anderson testified that Dr. Trivette confirmed that he had a hearing loss; however, he specifically stated that Dr. Trivette did not tell him that his hearing loss was work-related. Therefore, the question on appeal is whether an injured worker's knowledge that he has suffered work-related hearing loss, absent affirmation by a physician, is sufficient to trigger his obligation to notify his employer of that condition.
>
> As noted by the Board,
>
> [m]edical causation is a matter for the medical experts and, therefore, the claimant cannot be expected to have self-diagnosed the cause of the harmful change ... as being a gradual injury versus a specific traumatic event. He was not required to give notice that he had sustained a work-related gradual

injury ... until he was informed of that fact. *See* *Alcan Foil Products v. Huff*, *2 S.W.3d 96 (Ky. 1999)*; *Special Fund v. Clark*, Ky., 998 S.W.2d 487 (Ky. 1999).

Hill v. Sextet Mining Corp., *65 S.W.3d 503, 507 (Ky. 2001).*

Clintwood and Board Member Stivers argue that this case is distinguishable from *Hill v. Sextet Mining* because Anderson testified that he knew his hearing loss was work-related. We disagree. As the Supreme Court of Kentucky noted, Hill "was aware of symptoms in his cervical spine and associated the periodic flare-up of symptoms with his work long before" he was advised that he had suffered cumulative trauma injuries. Furthermore, Hill "sought medical treatment after some specific incidents of cervical trauma," and was advised by his physicians "to quit working in the mines" and "that the work was too stressful." *Id.* at 507. Based on these facts, Hill had at least as much knowledge as Anderson that his condition was related to work. Therefore, rather than being distinguishable, *Hill* is on point with this claim.

Additionally, we note the Supreme Court's Opinion in *American Printing House for the Blind v. Brown*, 142 S.W.3d 145 (Ky. 2004). While working for American Printing House for the Blind, Brown began to experience symptoms of carpal tunnel syndrome. Because she had previously suffered from that condition, she recognized the significance of her symptoms and reported her injury to her employer prior to receiving a definitive diagnosis from a physician. With regard to the duty to give notice, the Supreme

> Court held that nothing in the law prohibits a claimant from reporting an injury before she receives a definitive diagnosis. However, she is not required to do so until she receives that diagnosis. *Id*. at 148-49.
>
> Anderson, like Brown, could have notified his employer of his hearing loss claim prior to receiving Dr. Hieronymus's report. However, like Brown, he was not required to do so.
>
> CONCLUSION
>
> Based on the above, we hold that Anderson's belief that his hearing loss was work-related was not sufficient to trigger the notice requirement of KRS 342.185. Pursuant to *Hill v. Sextet and American Printing House for the Blind v. Brown,* Anderson's obligation to provide notice under KRS 342.185 did not arise until he received a diagnosis consistent with his belief from Dr. Hieronymus. Therefore, we affirm the Board.

Slip Op. at 10-12.

Based on the above-language, we believe the matter must be remanded to the ALJ for additional findings. The ALJ failed to make a specific finding as to whether Noble sustained a cumulative trauma injury. Thus, the ALJ must first determine whether Noble sustained a work-related cumulative trauma injury prior to resolving the issue of due and timely notice of the work injury. The findings of fact and conclusions of law contained in numerical paragraphs 17, 18, and 19 as set out herein are

insufficient and do not adequately address the issue of whether Noble sustained a cumulative trauma injury and the law concerning the obligation to provide notice of a cumulative trauma injury. On remand, should the ALJ determine a cumulative trauma injury occurred, he must also make a finding as to the date of manifestation of the cumulative trauma injury. After determining the date of manifestation, the ALJ must then decide whether notice was timely.

If the ALJ determines the date of manifestation occurred in 2011, and Noble gave notice of the injury to Fresenius in 2010 when she asked a supervisor how to file a workers' compensation claim, then Noble provided timely notice of the work injury.

On remand, the ALJ is charged with two tasks if he determines Noble sustained a cumulative trauma injury; 1) determine the date of manifestation and; 2) determine the date Noble provided notice of the cumulative trauma injury and whether it was due and timely.

Finally, although not raised by either party, since the ALJ found Noble is entitled to medical benefits for the April 2011, injuries, but the November 18, 2013, opinion and award does not contain an award of medical benefits for these injuries, on remand the ALJ shall enter

the appropriate award of medical benefits. Further, the award shall also include language regarding entitlement to the two multiplier consistent with his findings of fact.

Accordingly, that portion of the November 18, 2013, opinion and award dismissing Noble's claim for a March 8, 2010, cumulative trauma injury for failure to give proper notice and the December 26, 2013, order reaffirming the dismissal of the cumulative trauma claim are **VACATED**. This matter is **REMANDED** to the ALJ for entry of an amended opinion in accordance with the views expressed herein.

ALL CONCUR.

COUNSEL FOR PETITIONER:

HON STEPHANIE N WOLFINBARGER
429 W MUHAMMAD ALI BLVD #1102
LOUISVILLE KY 40202

COUNSEL FOR RESPONDENT:

HON F ALLON BAILEY
3151 BEAUMONT CTR CIR #200
LEXINGTON KY 40513

ADMINISTRATIVE LAW JUDGE:

HON JONATHAN WEATHERBY
SPINDLETOP OFFICE COMPLEX
2780 RESEARCH PARK DR
LEXINGTON KY 40511