

Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: March 13, 2015

CLAIM NOS. 200584170 & 201300840

JOHN COYLE

PETITIONER

VS.

**APPEAL FROM HON. WILLIAM J. RUDLOFF,
ADMINISTRATIVE LAW JUDGE**

ATLANTIC AVIATION F/K/A
MACQUARIE AVIATION (AIG)
HON. WILLIAM J. RUDLOFF,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

AND

JOHN COYLE

PETITIONER/CROSS-RESPONDENT

VS.

ATLANTIC AVIATION F/K/A
MACQUARIE AVIATION (AIG)
HON. WILLIAM J. RUDLOFF

RESPONDENT/CROSS-PETITIONER

RESPONDENT

AND

ATLANTIC AVIATION

PETITIONER

VS.

MACQUARIE AVIATION
JOHN COYLE

RESPONDENTS

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

* * * * *

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

RECHTER, Member. Hon. William J. Rudloff, Administrative Law Judge ("ALJ") rendered an Opinion and Order on July 21, 2014 in the above-styled action, awarding John Coyle permanent total disability benefits and medical benefits for a cumulative trauma injury, but dismissing a motion to reopen. At the time of the cumulative trauma injury, Coyle worked for Atlantic Aviation.¹ He was also working for Atlantic Aviation in 2005, when he suffered the injury which is the subject of the motion to reopen. Coyle's cumulative trauma claim and motion to reopen were consolidated. The primary issue before the ALJ was whether Coyle's current condition is the result of a new cumulative trauma injury, a worsening of the 2005 injury, or a combination of both.

¹ At times during this litigation, Atlantic Aviation is referred to as Macquarie Aviation. It is unclear whether Macquarie Aviation is a parent company, or the prior name of Atlantic Aviation. For purposes of this Opinion, we refer to the employer as Atlantic Aviation, as have the parties to this appeal.

The litigation is complicated by the fact that, between 2005 and 2013, Atlantic Aviation was insured by various companies. At the time of the 2005 injury, it was insured by AIG. From July 3, 2011 through July 3, 2012, Liberty Mutual Insurance Company ("Liberty Mutual") insured Atlantic Aviation. Beginning on July 4, 2012, Atlantic Aviation maintained workers' compensation self-insurance through a third-party administrator. Thus, entries of appearance were made on behalf of AIG and Liberty Mutual, as well as Atlantic Aviation as self-insured (hereinafter referred to as "Atlantic (as self-insured)"). Coyle, Liberty Mutual and Atlantic (as self-insured) have appealed the ALJ's July 21, 2014 Opinion and Order and the August 25, 2014 Order on Reconsideration. For the reasons set forth herein, we affirm in part, vacate in part, and remand.

Atlantic Aviation is a fixed based operator servicing general aviation aircraft. In 2005, Coyle was employed as an operations supervisor when he injured his left leg and low back. The injury occurred when a tug truck struck him and momentarily pinned him against a ramp being used to load horses into the aircraft. He filed a workers' compensation claim which was settled and approved in 2007 based on an 8.5% impairment rating. The settlement agreement listed Coyle's injury as a "left knee tear with

post-traumatic arthritis and pre-existing grade 1 spondylothesis L5-S1 that was aggravated by the work injury." Coyle did not waive his right to reopen or his right to future medical benefits.

Coyle returned to work until 2009, when a spinal fusion at L4-5 and L5-S1 was performed by Dr. John Johnson and Dr. Christopher Shields. Following the fusion surgery he returned to full duty work in December, 2009. He did not experience any additional pain or problems with his low back or knees until 2011. At routine office visits with Dr. Johnson throughout 2010, Coyle reported he was doing well and experiencing no pain.

In November 2011, Coyle's position at Atlantic Aviation changed. His prior position as an operations supervisor involved mostly sedentary work. His new position involved more manual labor. He was required to unload luggage weighing 60-80 pounds. He also refueled aircraft, which involved driving a tanker truck and pulling a heavy fuel hose. Additionally, Coyle's new position required frequent walking and prolonged standing.

Following his job change, Coyle gradually began to experience low back and leg pain. He testified the back pain was similar to the pain he experienced following the 2005 injury. Coyle returned to Dr. Johnson on May 29, 2012,

reporting increased back pain as a result of work duties. He received injections and an abdominal binder to wear at work. Dr. Johnson ordered a CT scan on December 27, 2012, which revealed a disc bulge at L3-L4. In a January 31, 2013 note, Dr. Johnson stated Coyle's current problems, including the disc bulge, are the result of "effusion which occurs [as a] result of the original injury in 2005."

Coyle last worked at Atlantic on December 10, 2012, when Dr. Johnson removed him from work. He continues to treat with Dr. Johnson and Dr. Dean Colis for pain management. At the final hearing, Coyle explained he can no longer comfortably lift over fifteen to twenty pounds and is unable to bowl, ski or golf, which he previously enjoyed. He takes pain medication on a daily basis. Coyle stated he would like to return to work, but has been unable to find a position within his physical limitations.

Dr. Warren Bilkey performed an independent medical evaluation ("IME") on July 8, 2013. In his report, he noted Coyle's fusion surgery in 2009, and that he worked at full duty and without medication from late 2009 through late 2011, when his job duties changed. Upon physical evaluation and a review of medical records, Dr. Bilkey diagnosed a lumbar strain in 2012 and chronic low back pain. He

concluded "the above diagnoses are due to the December 10, 2012 work injury."

Referencing the American Medical Association, Guides to the Evaluation of Permanent Impairment, 5th Edition ("AMA Guides"), he assigned a 26% whole person impairment. However, he qualified that he is "not sure what the pre-existing active impairment would [] be." Using the 8.5% rating used in the settlement agreement, Dr. Bilkey stated the impairment rating attributable to the current injury would be 17.5%. Alternatively, he calculated a 16% impairment rating attributable to the current injury by subtracting 10%, the pre-existing active impairment rating assessed by Dr. Gregory Nazar. Dr. Nazar had conducted an IME in 2010 following Coyle's fusion surgery.

At a later deposition, Dr. Bilkey elaborated that he believed Coyle's lumbar strain is a result of his work activities since November 2011. He further stated the chronic low back pain is a combination of his work activities since November 2011 and an aggravation of his 2005 injury and subsequent fusion. Dr. Bilkey also explained his opinion of Coyle's current impairment rating. He stated he did not agree with the 8.5% impairment rating used in the 2007 settlement agreement, or the 10% impairment rating assigned by Dr. Nazar in 2010. Dr. Bilkey explained

he would have assigned an impairment rating between 20% and 23% following the 2009 surgery.

Dr. Timothy Kriss conducted an IME and reviewed Coyle's medical records. In a report dated April 17, 2013, Dr. Kriss diagnosed Coyle with axial low back pain and opined his current condition is unrelated to the 2005 injury or 2009 surgery. He emphasized that Coyle's current pain is in an anatomically distinct location than the site of his prior fusion surgery. He also rejected any theory of adjacent segment degeneration, a phenomenon whereby a patient's prior fusion surgery will accelerate or cause degeneration at adjacent levels of the spine. Dr. Kriss concluded Coyle suffered from dormant degenerative disease that was brought into disabling reality by his work activities in late 2011 and throughout 2012.

In a supplemental report dated January 28, 2014, Dr. Kriss explained he had reviewed an IME report prepared by Dr. Henry Tutt, as well as the lumbar CT scans performed in 2009 and 2012. He was unable to discern any significant difference in the L3-L4 level from 2009 to 2012. However, Dr. Kriss' original opinion remained unchanged, as the "absence of discernable structural change at L3/L4 does not automatically rule out lumbar work injury in Mr. Coyle." Dr. Kriss explained he found Coyle's history of the onset

and severity of his symptoms convincing and credible, and corroborated by the contemporaneous medical records of Drs. Johnson and Collis. Thus, Dr. Kriss' opinion remained unchanged that Coyle's current low back pain is a result of his 2011-2012 work activities.

Atlantic (as self-insured) filed the October 2, 2013 IME report of Dr. Henry Tutt. Dr. Tutt's physical examination of Coyle indicated normal musculoskeletal and neurological structures. He opined Coyle may have sustained a lumbar strain at the end of 2011 or in 2012, but that injury would have healed by the time of his examination. He noted Coyle has minor degenerative changes at the L3-4 level, but that minor disc bulge would not be the cause of his current complaints. Dr. Tutt concluded there is no evidence to indicate Coyle sustained any recent structural alteration of the lumbar spine as a result of his work activities in 2011 and 2012, and that he has not acquired any additional impairment rating relative to the 2005 injury.

Dr. Russell Travis conducted a records review on January 13, 2013 and testified at a December 18, 2013 deposition. Dr. Travis noted Coyle had degenerative changes at the L3-4 level before his 2005 injury, and his current complaints are a natural progression of the degenerative

process. He believed Coyle's current back problems relate to neither the 2005 accident nor his work activities in 2011 and 2012.

Coyle filed a motion to reopen on February 8, 2013, alleging his temporary total disability benefits had been improperly terminated. In response, AIG presented Dr. Kriss' report dated April 17, 2013. Based on Dr. Kriss' opinion contained therein, Coyle notified opposing counsel that he would be filing a cumulative trauma claim by letter dated May 7, 2013. His Form 101 was filed on May 30, 2013. Coyle alleged an injury date of December 10, 2012, his last date of work. He later amended his claim to include an injury date of April 17, 2013.

The ALJ ultimately concluded Coyle had suffered a new and distinct cumulative trauma injury as a result of his work duties in 2011 and 2012. He relied upon Drs. Bilkey and Kriss in reaching this conclusion, and determined the cumulative trauma became occupationally disabling on December 11, 2012. He further determined Coyle was first informed of the cumulative trauma via Dr. Kriss' report dated April 17, 2013, rendering his May 30, 2013 Form 101 timely. The ALJ awarded permanent total disability benefits and medical benefits.

Multiple petitions for reconsideration were filed. The ALJ reaffirmed his prior decision that Coyle had provided timely notice of his cumulative trauma injury, and that he is permanently totally disabled. The ALJ also acknowledged he failed to address Coyle's reopening in the July 21, 2014 Opinion. Relying on Drs. Kriss and Bilkey, the ALJ determined Coyle has not suffered a change in disability due to worsening of his 2005 impairment. He therefore dismissed the motion to reopen. Finally, the ALJ stated that AIG, Liberty Mutual and Atlantic (as self-insured) "have afforded coverage for [Coyle's] cumulative trauma injuries and that those coverages must be apportioned in a declaratory judgment action filed in Circuit Court under Civil Rule 57 and Chapter 418 of the Kentucky Revised Statutes." Coyle, Liberty Mutual and Atlantic Aviation (as self-insured) have now appealed.

Coyle's first argument concerns his claim on reopening. He argues Atlantic Aviation (regardless of the insurer) is estopped and has waived any claim as it relates to any limitation of action defense because it did not file a notice of termination of temporary total disability benefits as required by KRS 342.040 after benefits ceased in 2009. Atlantic (as self-insured) also argues the ALJ failed to enter sufficient findings of fact with respect to Coyle's

statute of limitations argument, as well as the merits of the claim on reopening.

In the July 21, 2014 Opinion and Order, the ALJ determined Coyle's cumulative trauma claim was timely filed. He therefore concluded "the estoppel and waiver issue raised by the plaintiff is moot and is hereby discarded." In his petition for reconsideration, Coyle requested additional findings of fact concerning any limitations defense as it related to the claim on reopening. In the Order on Reconsideration, the ALJ addressed Coyle's motion to reopen, which had not been adjudicated in the original opinion. Relying on Drs. Kriss and Bilkey, the ALJ concluded "there has not been a change of disability on the part of [Coyle] due to worsening of his impairment due to a condition caused by his 2005 work injuries". The ALJ did not squarely address Coyle's estoppel argument as applied to the motion to reopen.

Coyle essentially argues his motion to reopen his 2007 settlement, filed in 2013, must be considered timely because Atlantic Aviation failed to provide notice pursuant to KRS 342.040(1) of the termination of temporary total disability payments. See Colt Management Co. v. Carter, 907 S.W.2d 169 Ky. App. 1995). As stated above, the ALJ did not expressly address this argument. However, any error in this

omission is harmless because the ALJ dismissed the motion to reopen on the merits.

To the extent Coyle argues the ALJ erred in dismissing the motion, we disagree. As the claimant in a workers' compensation proceeding, Coyle had the burden of proving each of the essential elements of his cause of action. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Because he was unsuccessful in that burden, the question on appeal is whether the evidence compels a different result. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Compelling evidence" is defined as evidence that is so overwhelming, no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985). In order to reverse the decision of the ALJ, it must be shown there was no evidence of substantial probative value to support the decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

Drs. Bilkey and Kriss opined Coyle's current back condition is entirely attributable to his work activities since November 2011. This conclusion is consistent with Coyle's own testimony that he did not have any low back pain and was not on any medication following his fusion surgery until late 2011. Coyle was working at full duty during this period without symptoms. Furthermore, Drs. Kriss and Bilkey

believed Coyle suffered a disc bulge a L3-4 which was not previously present.

Though other physicians, including Coyle's treating physician, Dr. Johnson, disagreed with the opinions of Drs. Bilkey and Kriss, such does not compel a different result. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). The proof outlined above constitutes the requisite substantial evidence to support the ALJ's conclusion. The ALJ, as fact-finder, enjoys the discretion to determine the weight and credibility of the evidence. Given the numerous conflicting medical opinions presented in this case, we cannot conclude the totality of the evidence compelled a result in Coyle's favor.

Atlantic (as self-insured) first argues the ALJ's finding of cumulative trauma is not supported by substantial evidence. Because Coyle successfully carried the burden of proof on the cumulative trauma claim, the question on appeal is whether substantial evidence supports the ALJ's decision. Wolf Creek Collieries, 673 at 736. "Substantial evidence" is defined as evidence of relevant consequence having the fitness to induce conviction in the minds of reasonable persons. Smyzer v. B. F. Goodrich Chemical Co., 474 S.W.2d 367 (Ky. 1971).

In making this determination, the ALJ stated his reliance on Drs. Kriss and Bilkey. Dr. Kriss' report states his opinion Coyle's current back problems are the result of his work activities during 2012. Dr. Kriss restated this belief in his supplemental report. Dr. Bilkey diagnosed a lumbar strain and chronic back pain as related to Coyle's work activities in 2012. This proof constitutes the requisite substantial evidence to support the conclusion Coyle suffered a new and distinct cumulative trauma injury. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993).

Nonetheless, Atlantic (as self-insured) claims Dr. Kriss' opinion is unclear and speculative, and therefore cannot be considered substantial evidence. It argues Dr. Kriss' opinion should be rejected because he relied upon the radiological report of Coyle's December 27, 2012 CT scan, without reviewing the films. Dr. Tutt reviewed the films, and disagreed that there was any anatomical change at L3-4 between 2009 and 2012. Without this change at L3-4, it argues Dr. Kriss' report is based on nothing more than Coyle's subjective complaints of pain, with no objective evidence to support those complaints.

In essence, Atlantic (as self-insured) has asked this Board to reweigh the evidence, and rely upon Dr. Tutt's opinion. It is not the function of this Board to reweigh

the evidence. Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999). The conclusions drawn from Dr. Kriss' report are reasonable, and therefore cannot be disturbed. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

Atlantic (as self-insured) next argues the ALJ failed to address the appropriate date of manifestation for Coyle's cumulative trauma with sufficient specificity. It further claims the ALJ should have discussed the import of Dr. Johnson's records on the notice issue, as they address the effect of Coyle's work duties on his current condition in May, 2012. Under a heading entitled "Notice", the ALJ stated:

In the case at bar, when Mr. Coyle learned from Dr. Kriss that his back symptoms were due to cumulative trauma, Mr. Coyle's attorney gave prompt written notice to the defendant's attorney of the claim. I, therefore make the factual determination that Mr. Coyle was not required to self-diagnose his symptoms and that he gave due and timely notice to the defendant of his work-related cumulative trauma as soon as practicable under KRS 342.185(1).

In his discussion of notice in the Order on Reconsideration, the ALJ more expressly stated that Dr. Kriss examined Coyle on April 17, 2013 and attributed all of his current symptoms to repetitive work activities in 2012.

Coyle's attorney notified defense counsel by letter dated May 7, 2013 of his intent to pursue a cumulative trauma claim. The ALJ again concluded notice was given as soon as practicable.

The date for triggering the running of the limitations period and for giving notice in a cumulative trauma claim is when the worker has knowledge that a harmful change has occurred and is informed by a physician that it is work-related. Hill v. Sextet Mining, 65 S.W.3d 503 (Ky. 2001). The ALJ determined Coyle was first notified of a potential cumulative trauma injury by Dr. Kriss' April 17, 2013 report, and so stated in both the Opinion and the Order on Reconsideration. While he might have more clearly labeled or identified April 17, 2013 as the "manifestation date for purposes of notice and statute of limitations", we conclude the ALJ's language sufficiently apprises the parties of his ultimate determination. Cornett v. Corbin Materials, Inc., 807 S.W.2d 56 (Ky. 1991). Having determined Coyle was notified of his cumulative trauma injury on April 17, 2013, the ALJ correctly concluded his May 30, 2013 Form 101 was filed within the two-year statute of limitations set forth in KRS 342.185(1). Furthermore, he determined counsel's May 7, 2013 letter constituted timely notice of the cumulative trauma injury. We note Atlantic

(as self-insured) has not specifically argued that, if April 17, 2013 is a valid manifestation date, notice was untimely. Rather, its arguments are focused on the sufficiency of the ALJ's findings regarding the date of manifestation, and the ALJ's treatment of Dr. Johnson's records.

As Atlantic (as self-insured) points out, the ALJ provides little discussion of Dr. Johnson's records or opinions. It argues the ALJ was required to consider whether Dr. Johnson informed Coyle of a cumulative trauma injury prior to Dr. Kriss' report. For two reasons, we disagree. First, the ALJ relied upon Dr. Kriss' report in determining the date of manifestation for purposes of notice and statute of limitations. This determination is reasonable under the evidence presented, and therefore we may not disturb it. Second, our review of Dr. Johnson's records does not indicate he ever informed Coyle of a cumulative trauma injury. Dr. Johnson's medical records from May 2012 evidence his belief Coyle's work activities were causing him back pain, but do not state that Coyle had suffered a new injury to his back. In a note dated January 31, 2013, Dr. Johnson stated, "I do believe that Mr. Coyle's current problems, including the protrusion at L3-4 and the necessity for him to take off work, are causally related to the work

injury of May 18, 2005." He reiterated this sentiment in a progress note also dated January 31, 2013.

Certainly, because the parties so requested in their respective petitions for reconsideration, the ALJ might have more specifically addressed Dr. Johnson's records in his determination of the manifestation date of Coyle's cumulative trauma injury. However, we ultimately conclude any error in this omission is harmless. The ALJ's factual determination of the manifestation date is supported by substantial evidence, and he applied the correct law to his findings. Furthermore, Dr. Johnson's records cannot reasonably be interpreted as notifying Coyle he has suffered a cumulative trauma injury. Therefore, it is not necessary to remand this matter for further discussion regarding the date of manifestation for purposes of notice and statute of limitations.

However, Atlantic (as self-insured) correctly points out that the ALJ has improperly failed to designate which carrier is responsible for Coyle's cumulative trauma injuries. Liberty Mutual raises a similar argument on appeal, claiming the ALJ erred in failing to specifically find it is *not* liable for Coyle's cumulative trauma injury. In the Order on Reconsideration, the ALJ again stated that "said insurers may have afforded coverage for [Coyle's]

cumulative trauma injuries and that those coverages must be apportioned in a declaratory judgment action filed in Circuit Court under Civil Rule 57 and Chapter 418 of the Kentucky Revised Statutes." In fact, the apportionment of liability for Coyle's cumulative trauma is a question arising under Chapter 342. Pursuant to KRS 342.325, the ALJ "shall" determine all questions arising under Chapter 342. The exercise of this jurisdiction is not discretionary; the language of KRS 342.325 is mandatory. Therefore, this portion of the Opinion is vacated and the claim remanded to the ALJ for a determination of whether Liberty Mutual, Atlantic or both are liable for Coyle's cumulative trauma injury. The ALJ is referred to Brummitt v. Southeastern Kentucky Rehabilitation Industries, 156 S.W.3d 276 (Ky. 2005), for an explanation of the law applicable to this situation.

Atlantic (as self-insured) next argues the ALJ's finding of permanent total disability is not supported by substantial evidence. After citing the law applicable to a determination of permanent total disability, the ALJ stated his consideration of Coyle's testimony, and the opinions of Drs. Bilkey and Kriss. He also noted the physical work restrictions recommended by Dr. Bilkey. Finally, the ALJ noted that, although Coyle has a good work ethic and

consistent work history, he now takes prescription pain medication and is 60 years old. In the Order on Reconsideration, the ALJ additionally noted Coyle's ongoing, serious back pain.

As cited by the ALJ, permanent total disability is the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury." KRS 342.0011. To determine if an injured employee is permanently totally disabled, an ALJ must consider what impact the employee's post-injury physical, emotional, and intellectual state has on the employee's ability "to find work consistently under normal employment conditions." Ira A. Watson, 34 S.W.3d at 51.

We emphasize Atlantic (as self-insured) has not challenged the sufficiency of the ALJ's analysis, but only the evidence supporting his conclusion Coyle is permanently totally disabled. The primary contention seems to be that the physical restrictions recommended by Drs. Kriss and Bilkey do not differ from the restrictions imposed following his 2009 surgery. Furthermore, it emphasizes Coyle's testimony that he would like to go back to work, and that he could perform some of his prior duties. These arguments overlook the fact Coyle's job duties changed significantly

in 2011. Though he successfully returned to work following the 2009 surgery, his duties at that time were primarily clerical and sedentary in nature.

Atlantic (as self-insured) has simply noted evidence supporting a different outcome than that reached by an ALJ, which is not an adequate basis to reverse on appeal. McCloud, 514 S.W.2d at 47. The ALJ as fact-finder enjoys the sole discretion to determine the quality, character, and substance of evidence. Square D Co., 862 S.W.2d at 309. Here, the ALJ was more persuaded by Coyle's ongoing pain, his need for prescription pain medication, his age, and his significant physical restrictions. Furthermore, as noted in the opinion, Coyle has a ninth grade education and a GED. Weighing these factors, the ALJ was convinced he is permanently totally disabled. This conclusion is not so unreasonable under the evidence that it must be reversed as a matter of law. Ira A. Watson, 34 S.W.3d at 51.

However, as Atlantic (as self-insured) next argues, the ALJ's analysis concerning pre-existing active disability is insufficient. With respect to this issue, the ALJ stated only the following:

In making the award to [Coyle] for permanent total disability, I relied on the highly important decision of the Kentucky Supreme Court in Roberts Brothers Coal Company v. Robinson, 113

S.W.3d 181 (Ky. 2003), where the high court concluded that an exclusion from a total disability award must be based upon pre-existing occupational disability and that for that reason if an individual is working without restrictions at the time a work-related injury is sustained, a finding of pre-existing impairment does not compel a finding of pre-existing disability with regard to an award that is made under KRS 342.730(1)(a). That legal principle certainly applies to the case at bar.

The citation to Robinson, though applicable, does not equate to an express finding of fact. For this reason, the award of permanent total disability benefits must be vacated and remanded for further findings of fact. On remand, if the ALJ believes Coyle did not have a pre-existing disability at the time of his cumulative trauma, he must enter a specific finding of fact and identify the evidence upon which he relies in reaching such a conclusion. Such a finding, if supported by evidence, would imply that Coyle's subsequent injury in 2012 was totally disabling by itself. However, if the ALJ determines Coyle suffered a pre-existing disability at the time of his cumulative trauma, the ALJ must determine what percentage of Coyle's current impairment rating is attributable to the pre-existing active disability. Furthermore, the ALJ must determine if Coyle's current cumulative trauma is

sufficient, by itself, to cause permanent total disability. We compel no particular result.

Finally, Atlantic (as self-insured) argues the ALJ erred in failing to specify that AIG remains liable for payment of medical expenses related to the treatment of the 2005 injury. Prior to the filing of Coyle's motion to reopen, AIG filed a medical dispute, arguing Dr. Johnson's treatment in 2012 was not related to the 2005 injury or 2009 surgery. It submitted Dr. Kriss' report in support of this contention. The ALJ ultimately agreed with AIG, and found Coyle suffered a new cumulative trauma injury. This finding does not affect AIG's ongoing liability for Coyle's 2005 injury. We discern no error in the ALJ's failure to specifically state this fact.

For the foregoing reasons, the July 21, 2014 Opinion and Order and the August 25, 2014 Order on Reconsideration of Hon. William J. Rudloff, Administrative Law Judge are hereby **AFFIRMED IN PART, VACATED IN PART, and REMANDED**. As explained herein, on remand, the ALJ must determine the party or parties liable for Coyle's cumulative trauma injury and must enter specific findings of fact as to whether Coyle suffered a pre-existing active disability at the time of his cumulative trauma injury.

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