Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: July 22, 2022

CLAIM NO. 201800635

TERRY HALL PETITIONER

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

BPM LUMBER, LLC and
HON. JONATHAN R. WEATHERBY,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

**OPINION
AFFIRMING IN PART,
VACATING IN PART & REMANDING**

* * * * * *

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

MILLER, Member. Terry Hall ("Hall") appeals from the February 6, 2022 Opinion and Order and the March 9, 2022 Order on Petition for Reconsideration, rendered by Honorable Jonathan R. Weatherby, Administrative Law Judge ("ALJ"), dismissing his claim. For the foregoing reasons, we affirm the ALJ's dismissal of Hall's injury claim for neurocognitive and related conditions. We also affirm the striking of the lab report; however, we vacate the portion of the Opinion rejecting the University

Evaluator's opinion and dismissing Hall's claim for occupational disease. We remand for a more detailed explanation of the ALJ's basis for rejecting the University Evaluator's report.

BACKGROUND

Hall began working for Pine Mountain Lumber, now BPM Lumber ("BPM"), in 2000. He has a high school education and vocational training in welding but worked as a firefighter until he began working for BPM. He worked as a slab sawer at BPM's Whitesburg mill until he was terminated on July 24, 2015 due to a failed drug test.

Hall filed a Form 102 on April 19, 2018, alleging an occupational disease claim arising out of his employment at BPM. Hall operated a slab saw inside an enclosed cab containing an air conditioning unit. The cab was mainly metal with glass to see the front and TV monitors to view the surrounding area. The saw requires lubrication and Hall claims he and other employees used a 50/50 mixture of hydraulic fuel and diesel fuel to lubricate the saw. The fluid was filled in a large container tank outside the cab, and the mixture was sprayed through a nozzle directly onto the saw to lubricate it and keep it cool. Hall stated the cab was often smoky and he left work smelling like diesel fuel. He also stated wood dust got inside the cab. Hall alleges that, in the course of his employment, he developed cognitive issues, dementia, tremors, headaches, neurological dysfunction, COPD, and skin rashes due to his exposure to the hydraulic and diesel fuel mixture and wood dust.

Hall testified by deposition and at the final hearing. He testified he was not sick until 2010 when he got pancreatitis. He alleged cognitive issues, dementia,

tremors, and skin issues started over a year before he was terminated. He gets large rashes that look like tumors, has tremors where his whole body will jerk, and deals with shortness of breath and dry mouth. He stated the smoke inside the cab was thick and got on his clothes, as well as on his food if he tried to eat lunch inside the cab. Hall acknowledged he has smoked a little less than a pack of cigarettes per day for 20 years, and once got in trouble for smoking inside one of the cabs. Hall was awarded Social Security disability benefits. He testified his doctors never definitively told him the hydraulic fluid caused his symptoms. Hall took a sample of the hydraulic and diesel mixture without authorization and stored it in his garage for three years in hopes of having it tested.

Several current and former employees of BPM testified by deposition. Mark Gannon ("Gannon"), a safety and maintenance manager, testified he has worked at BPM for four years. Though he visits the mill where Hall worked, his physical office is in London, Kentucky. Gannon stated BPM has used Biolube to lubricate the saws in the four years he has been employed there. BPM entered a February 10, 2015 invoice for Biolube into evidence. Gannon acknowledged BPM uses hydraulic fuel for heavy equipment and in the power unit of the saw, but he had not seen a 50/50 hydraulic and diesel fuel mixture. He also stated the air conditioning unit did not pull in dust and smoke, and the only dust in the cab may be residual dust from the mill if the door is left open.

Rick Hopkins ("Hopkins"), the Whitesburg plant manager, also testified by deposition. His time as plant manager only briefly overlapped with Hall's employment. He confirmed Hall was terminated for a failed drug screen. Hopkins

also testified there is a hydraulic containment unit underneath the mill that operates press rollers, but he did not think Hall was in charge of filling that with hydraulic fluid or changing the fluid. He acknowledged BPM used hydraulic fuel and diesel fuel in its mills, and stated it was common in the industry to mix the two, but BPM had used Biolube at least as long as he has been plant manager. Neither Hopkins nor Gannon recalled Hall telling anyone he was getting sick from any type of exposure at work.

Martin Caudill ("Caudill") and James Hicks ("Hicks"), two of Hall's former co-workers, also testified by deposition. Caudill has worked at BPM for 23 years. His wife is related to Hall's wife, but he also knows Hall from working with him for a few years. Caudill works as an edger operator but is familiar with the slab saw Hall operated. He stated BPM used a half and half mixture of hydraulic and diesel fuel on the saws for the first 18 years he worked there, but recently switched to using Biolube. He stated the cab sometimes got smoky and he went home smelling like diesel fuel. He believed the hydraulic and diesel fuel mixture produced stronger fumes than Biolube.

Hicks also worked with Hall at BPM. He worked as a saw filer and testified he used a hydraulic fuel and diesel fuel mixture to lubricate the saws and keep them cool. He testified the cab smelled of fumes from the mixture because it constantly sprayed. He also stated the cab was not airtight.

Hall's wife, Nancy Hall ("Mrs. Hall"), testified at the final hearing, stating her husband came home smelling like diesel fuel and his clothes had wood dust on them. She stated Hall suffers from tremors, headaches, seizures, and issues

with walking and balance. He can no longer drive and sometimes has trouble dressing himself.

Hall filed records from his treating physician, Dr. Gregory Jicha, from UK HealthCare. Dr. Jicha noted Hall has active problems of hives, dementia, cognitive changes, headaches, autoimmune urticaria, tremors, and myoclonus. He ultimately diagnosed Hall with autoimmune encephalomyelitis.

Because an occupational disease is alleged, Hall was referred to Dr. Bob Moldoveanu for a university evaluation. Dr. Moldoveanu found Hall had urticaria, or skin rashes, since 2012, and he was exposed to diesel fuel and hydraulic fluid in the course of his employment. X-rays revealed emphysema with no evidence of pneumoconiosis and no active cardiopulmonary disease. He performed an exercise test which showed mild functional impairment. Hall was allergy tested and found to be allergic to Bioban, which is found in hydraulic fluid. Dr. Moldoveanu diagnosed occupational asthma and found the cause of Hall's disease or condition is work-related. He added that Hall's condition was complicated due to chronic obstruction and his smoking history. Dr. Moldoveanu assessed a 10% impairment pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment Rating ("AMA Guides") due to the loss of pulmonary function and found no prior active impairment. He determined Hall did not retain the physical capacity to return to his prior employment and should avoid contact with wood dust, diesel fumes, cigarette smoke, and moldy and dusty environments.

In his Form 108 report, Dr. Moldoveanu noted a "7-pack-year history of tobacco use." However, at his deposition, he stated that was an error and he meant to say Hall had a 30-year smoking history. Dr. Moldoveanu submitted a supplemental report on June 23, 2020, further explaining some of his findings and noting a 30-year tobacco history would significantly contribute to his lung disease and disability, but stated it felt "somewhat presumptive" to place his entire disability on tobacco smoke.

Hall also filed a medical report from Dr. Barry Klein. Dr. Klein reviewed medical records dating back to 2000 and examined Hall at the request of his counsel. He reviewed records from several different providers, including neurocognitive testing by Dr. Amelia Anderson Mooney at Kentucky Neuroscience Institute. He noted none of Hall's symptoms occurred prior to his employment at BPM. Dr. Klein also reviewed literature, including articles regarding organic solvents' effects on the central nervous system. He opined Hall's neurologic and skin conditions were directly related to his exposure to the hydrocarbon and diesel fuel formula used as lubricant at BPM. Dr. Klein assessed a 97% whole person impairment rating in accordance with the AMA Guides and determined Hall is permanently disabled from any gainful employment.

Dr. Klein's report also contained findings from a spectrography of the lubricant. According to his report, a sample was sent to the University of Louisville Chemical Engineering Department. The spectrograph revealed the sample contained diesel fuel and hydrocarbons identified as organophosphates. There was a second spectrograph performed by Blackstone Laboratories indicating the sample could

contain hydraulic fuel diluted with diesel fuel. BPM moved to strike this portion of Dr. Klein's report, arguing the sample could not be properly authenticated. BPM also noted it requested production of any test results and did not receive any until the filing of Dr. Klein's report. The ALJ granted BPM's motion to strike, stating: "Absent proper authentication, the reference to an assessment of lubricant within Dr. Klein's report is hereby STRICKEN from the record." BPM also filed a Motion to Strike Evidence on December 8, 2021, the date of the final hearing, alleging Hall filed the lab report one hour prior to the hearing. The ALJ granted that Motion to Strike as well.

Dr. Klein also testified at the final hearing. He testified he relied on Dr. Mooney's neuropsychiatric evaluation in determining Hall's impairment. He also stated he agreed with Dr. Jicha's opinions over those expressed by Dr. Joseph Zerga because he had seen Hall at least 18 times, and Dr. Zerga only saw him once.

Dr. Klein admitted on cross examination his license was restricted in 2013 due to chemical dependency issues. He stated he is now sober and his license was restored after 12 months. He also stated he is not a neurologist but has experience with patients experiencing similar symptoms to Hall.

BPM filed a medical report and supplemental report from Dr. Bruce Broudy, a pulmonologist at the Lexington Clinic. Dr. Broudy evaluated Hall on February 18, 2020 at BPM's request. He agreed with Dr. Moldoveanu that Hall may have a 10% impairment rating, but he attributed his impairment totally to his cigarette smoking history. Dr. Broudy did not find any work-related impairment and opined Hall could return to his position at BPM from a respiratory standpoint.

Dr. Zerga examined Hall on April 7, 2021 at BPM's request. Dr. Zerga believes Hall's providers at the University of Kentucky have provided inconsistent physical findings and that Hall needed to see a neurotoxicologist and neuropsychiatrist. Concerning impairment, he stated: "First of all, we need to see if there is an actual neurologic condition. Secondly, we need to see if the fluid he was presumably exposed to has been reported to cause such condition. This needs to be done before any opinions regarding impairment can be given." Dr. Zerga also stated he does not believe Dr. Klein was qualified to give a psychological impairment and he did not know if Dr. Klein had the expertise to do a neurologic examination. He further opined Dr. Klein did not properly use the AMA Guides in calculating impairment.

BPM also filed records from Dr. William George, a pharmacologist and toxicologist. Dr. George opined there was no validated scientific evidence that Hall's use of hydraulic fuel and diesel fuel would have produced the symptoms of neurotoxicity dysfunction as claimed. Dr. George further opined Hall's use of drugs containing sedative, anticonvulsant, or antidepressant actions would, "more likely than not, be causally related to the symptoms of sedation or neurotoxicity dysfunction."

Finally, BPM filed a report from Dr. Paul Ebben, a licensed clinical psychologist, who conducted an independent neuropsychological examination with Hall on September 24, 2021. Dr. Ebben noted "serious concerns" with effort throughout the testing and could not confirm the presence of a neurocognitive condition due to Hall's effort.

The ALJ rendered his Opinion and Order on February 6, 2022. Regarding work-relatedness, the ALJ found the opinions of Drs. Ebben, Zerga, and George outweighed Dr. Klein's opinion regarding causation. The ALJ ultimately found Hall did not meet his burden in establishing his alleged neurocognitive condition was work-related.

The ALJ noted Dr. Moldoveanu, the University Evaluator, assessed a 10% work-related impairment due to Hall's loss in pulmonary function, but rejected his opinion regarding causation.

Accordingly, the ALJ dismissed Hall's claim. Hall filed a Petition for Reconsideration alleging numerous factual errors he believed appeared patently in the Opinion. The ALJ issued a terse Order overruling the Petition for Reconsideration on March 9, 2022, stating it failed to point out patent error. This appeal follows.

ANALYSIS

On appeal, Hall argues the ALJ erred in 1) relying on medical opinions based on corrupt histories, 2) striking the lab results of the lubricant sample, 3) rejecting the university evaluator's findings without a proper basis, and 4) dismissing the petition, arguing the ALJ committed a gross injustice.

We first note, as the claimant in this workers' compensation proceeding, Hall 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). Since he was unsuccessful before the ALJ, 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). This is a high burden to overcome as it is not enough to show there was evidence of substance which would have justified a finding in his favor. Special Fund v. Francis, 708 S.W. 2d 641 (Ky. 1986).

The function of the Board in reviewing the ALJ's decision is limited to a determination of whether the findings made by the ALJ are so unreasonable under the evidence that they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

In rendering a decision, Kentucky's Workers' Compensation Act grants the ALJ as fact-finder the sole discretion to determine the quality, character, and substance of evidence. *See* KRS 342.275; KRS 342.285; AK Steel Corp. v. Adkins, 253 S.W.3d 59 (Ky. 2008). The ALJ may draw reasonable inferences from the evidence, reject any testimony, and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Caudill v. Maloney's Discount Stores, 560 S.W.2d 15, 16 (Ky. 1977). Although a party may note evidence supporting an outcome other than that reached by the ALJ, this is not adequate to support a reversal on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact finder by superimposing its own appraisals as to weight and credibility or by noting reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 479, 481 (Ky. 1999).

Hall first argues the ALJ relied on medical opinions based on a corrupt history, relying on Cepero v. Fabricated Metals Corp., 132 S.W.3d 839 (Ky. 2004). Specifically, Hall contends Drs. Zerga, Ebben, and George relied on a corrupt history because they stated Biolube was the lubricant Hall had been exposed to, as opposed to a hydraulic and diesel fuel mixture. Hall also argues Dr. George relied on a corrupt history because he did not have the journals relied upon by Dr. Klein and did not review Hall's records from the University of Kentucky.

In Cepero, supra, the plaintiff alleged a work-related knee injury. The ALJ awarded benefits based upon evidence from two physicians that indicated his knee condition was related to a work injury. However, neither doctor was aware that Cepero had suffered a severe injury to his knee several years earlier. The Board reversed the ALJ's finding that the doctors' opinions were sufficient evidence upon which to base an award of benefits. The Kentucky Supreme Court affirmed, stating:

> [I]n cases such as this, where it is irrefutable that a physician's history regarding work-related causation is corrupt due to it [*sic*] being substantially inaccurate or largely incomplete, any opinion generated by that physician on the issue of causation cannot constitute substantial evidence. Medical opinion predicated upon such erroneous or deficient information that is *completely unsupported by any other credible evidence* can never, in our view, be reasonably probable.
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> Cepero, supra, at 842. (emphasis added).

This claim is distinguishable from the facts in Cepero and the Board does not conclude the doctors' opinions expressed were based on a corrupt history. Dr. Zerga reviewed data sheets for diesel, hydraulic oil, and Biolube, and was aware Hall testified it was a mixture of hydraulic and diesel (report filed 10/26/21). The

pharmacologist and toxicologist, Dr. George, specifically referred to Hall's testimony that he used a mixture of hydraulic fluid and diesel fuel. It was his opinion that a review of peer-reviewed scientific literature did not support a causal relationship between the fluids used by Hall and cognitive impairment, including neurological dysfunction as claimed by Hall. Dr. George listed the numerous medical reports he reviewed. He reviewed deposition testimony from Hall, the University Evaluator, and witnesses for both the claimant and BPM. Dr. Ebben also noted Hall claimed he was exposed to a 50/50 mix of hydraulic fluid and diesel fuel. This case is distinguishable from Cepero and there was no deception hoisted on the medical examiners.

As fact-finder, The ALJ is entitled to pick and choose among conflicting medical opinions. Pruitt v. Bugg Brothers, 547 S.W.2d 123 (Ky. 1977). While Dr. Klein offered a different opinion, the ALJ chose to rely on Drs. Zerga, George, and Ebben and found Hall failed to establish the work-relatedness of his alleged neurocognitive condition. Accordingly, we do not find error in the ALJ's reliance on Drs. Zerga, George, and Ebben.

Second, Hall argues the ALJ erred in striking references by Dr. Klein to the lab report, which contained results regarding a sample Hall had allegedly obtained from BPM. The Kentucky Rules of Evidence ("KRE") are specifically incorporated by reference in the administrative regulations accompanying KRS Chapter 342. It is recognized that the presentation of proof in workers' compensation proceedings is somewhat more indulgent than in civil court actions. Manns v. Topy Corp., Claim No. 03-01987; 803 KAR 25:010 Sec. 14.

KRE 901 states: "The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." The ALJ as trier of fact is the gatekeeper and arbiter of the evidence both procedurally and substantively. Dravo Lime Co., Inc. v. Eakins, 156 S.W.3d 283 (Ky. 2003). The ALJ is empowered under KRS 342.230(2) to "make rulings affecting the competency, relevancy and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case." KRS 342.033 permits the introduction of direct testimony through written medical reports that become part of the evidentiary record subject to the right of the adverse party to object to the admissibility of the report and to cross-examine the reporting physician.

Hall argues references to the lab report, Spectrography of Lubricant, should not have been stricken from the record. BPM argues there has been no authentication of the material. The fluid Hall obtained without authorization sat in his garage for three years. Though Mrs. Hall testified she and her husband brought the sample to the deposition, Hall did not offer any chain of custody regarding how it reached the lab, and there has not been any testimony from lab personnel. The lack of specific evidence as to the authentication of the mixture itself, the chain of custody to the lab, or lab personnel describing the testing performed and instruments used support the ALJ's decision to strike reference to the lab report. *See* Haste v. Kentucky Unemployment Insurance Commission, 673 S.W.2d 740 (Ky. App. 1984).

Finally, BPM filed a Request for Production for any testing in January 2020 and Hall did not respond to that request. The ALJ did not abuse his discretion in striking any reference to the lab report.

Hall also argues the ALJ erred in rejecting the University Evaluator's findings without a proper basis. KRS 342.315 states in relevant part:

> [T]he clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

While KRS 342.315(2) creates a rebuttable presumption, it does not prohibit the fact-finder from rejecting a finding or opinion of a university evaluator. Magic Coal Co. v. Fox, 19 S.W.3d 88, 94-95 (Ky. 2000). It simply requires the ALJ to specifically state the reasons for doing so. Id.; KRS 342.315(2). KRS 342.315(2) does not alter the claimant's burden of persuasion but, "[t]o the extent that the university evaluator's testimony favors a particular party, it shifts to the opponent the burden of going forward with evidence which rebuts the testimony. If the opponent fails to do so, the party whom the testimony favors is entitled to prevail by operation of the presumption." Magic Coal, supra, at 96. Accordingly, "clinical findings and opinions of the university evaluator constitute substantial evidence with regard to medical questions which, if uncontradicted, may not be disregarded by the fact-finder." Id.

KRS 342.315(2) is properly governed by KRE 301 which provides as follows:

> In all civil actions and proceedings when not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

Magic Coal Co. v. Fox, supra, at 95.

An ALJ has the discretion to reject the University Evaluator's testimony where it is determined the presumption has been overcome by other evidence and the reasons for doing so are expressly stated within the body of the decision. Bullock v. Goodwill Coal Co., 214 S.W.3d 890, 891 (Ky. 2007). Hence, the issue here is whether the ALJ had a reasonable basis for rejecting the University Evaluator's opinion on causation and impairment, and further, whether the ALJ's Order specifically stated the reasons for rejecting that evidence. The ALJ stated *verbatim*:

> 28. The ALJ finds that the history relied upon by Dr. Moldoveanu was not complete because he initially believed the Plaintiff had only seven years of smoking history which had ceased. Dr. Moldoveanu therefore found that the Plaintiff's lung impairment of 10% was completely related to occupational asthma as complicated by the work environment. He admitted in his supplemental report however that the Plaintiff's actual smoking history would be a significant contributor to the impairment.
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> 29. Despite Dr. Moldeveanu's admission that there was a significant contributing factor, he made no revision to his ultimate determination of impairment. The ALJ therefore finds due to this inconsistency that the findings of the university evaluator are outweighed by the consensus of opinions reached by Drs. Zerga and Broudy. The ALJ thus finds that Hall's respiratory impairment was not causally work-related.

> 30. The ALJ is also compelled to reference that the findings of impairment cited in the university evaluation was due to occupational asthma which was not alleged in the Form 101. For all of the foregoing reasons, the ALJ finds that the Plaintiff, Terry Hall, has failed to satisfy his burden to establish the occurrence of a work-related harmful change to the human organism.

The Order on Petition for Reconsideration did not explain or expound on the reasons for the ALJ's findings.

Initially, it is recognized Hall had the burden to prove each element of his case. Snawder v. Stice, supra. KRS 342.0011(2) states an occupational disease "means a disease arising out of and in the course of the employment." KRS 342.0011(3) states an occupational disease is deemed to arise out of the employment:

> ... if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence[.]"

KRS 342.011(4) defines "injurious exposure" as "that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made." KRS 342.0011(4) requires only that the exposure "would" independently cause the disease, not that the exposure *did in fact* independently cause the disease. "All that is required … is

that the exposure be such as *could* cause the disease independently of any other cause." Miller v. Tema Isenmann, Inc., 542 S.W.3d 265, 271 (Ky. 2018) (citing Childers v. Hackney's Creek Coal Co., 337 S.W.2d 680, 683 (Ky. 1960)) (emphasis added) (interpreting identical predecessor statute). Kentucky courts have consistently interpreted that provision as requiring proof the received exposure "would have produced or caused the disease in and of itself regardless of any other exposure." Mills v. Blake, 734 S.W.2d 494, 496 (Ky. App. 1987); *see also* Letcher County Board of Education v. Hall, 576 S.W.3d 123 (Ky. 2019).

In his Opinion and Order, the ALJ stated that "Hall alleges a work-related injury occurring on July 24, 2015." The ALJ stated: "Plaintiff Terry Hall has failed to satisfy his burden to establish the occurrence of a work-related harmful change to the human organism." He further found "the finding of impairment cited in the university evaluation reference was due to occupational asthma which was not alleged in the Form 101." The elements needed to prove an occupational disease claim are different than proof of an injury claim.

In rejecting the University Evaluator's opinion, the ALJ stated he found Dr. Moldoveanu's findings inconsistent because he initially believed Hall only had a seven-year smoking history and did not revise his determination on impairment; however, Dr. Moldoveanu stated in his deposition that the "seven-pack-year" language in his report was an error, and he meant to say Hall had a 30-year smoking history.

In this light, the ALJ must review the complete reports and deposition testimony of the University Evaluator and specifically all mentions of the smoking

history of Hall and how the evaluator's understanding of this history affected his ultimate opinion. Hall filed an Application for Resolution of a Claim - Occupational Disease alleging various medical conditions and giving notice to his Employer of breathing trouble and request for ventilation. The lay testimony of the claimant and witnesses Hicks and Mrs. Hall needs to be more fully detailed regarding the saw dust in the cab and on Hall's clothes as well as the scent of the fumes. The ALJ needs to be clear this claim pertains to the elements of an occupational disease claim, not a work-related injury. This detail is especially important, as the ALJ has rejected the findings of the University Evaluator who opined the work environment contributed to the pulmonary impairment.

We recognize the ALJ is vested with broad authority to decide questions including the presence or absence of an occupational disease. Dravo Lime Co., supra. However, the ALJ must state in some detail with citations to the record the reasons for his rejecting the University Evaluator's opinion and the conflicting medical opinions he relied upon. There must be a reasonable basis for disregarding the University Evaluator's opinion and other testimony elicited during this litigation, both medical and lay. The parties are entitled to be informed of the basis for the decision. Shields v. Pittsburgh & Midway Coal Mining Co., 634 S.W.2d 440, 444 (Ky. App. 1982).

Accordingly, the claim is remanded to the ALJ to further elucidate his findings and opinion regarding whether Hall has proven the elements of his claim for an occupational disease. Clearly, the rejection of the University Evaluator's report is

at the heart of the matter. The ALJ must issue sufficient reasons for this rejection when he dismissed the claim for pulmonary impairment.

Accordingly, the February 6, 2022 Opinion and Order and the March 9, 2022 Order on Petition for Reconsideration, rendered by Honorable Jonathan R. Weatherby, Administrative Law Judge are **AFFIRMED** in Part. We vacate the dismissal of Hall's occupational disease claim set forth in the February 6, 2022 Opinion and Order and the portion of the March 9, 2022 Order relating to the dismissal of the occupational disease claim and remand the claim to the ALJ to provide additional findings and an amended decision consistent with this opinion.

ALL CONCUR.

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