

**United States Department of Labor  
Employees' Compensation Appeals Board**

M.F., Appellant	)	
	)	
and	)	<b>Docket No. 18-0602</b>
	)	<b>Issued: October 11, 2018</b>
<b>U.S. POSTAL SERVICE, CAPITAL</b>	)	
<b>PERFORMANCE CLUSTER, Washington, DC,</b>	)	
<b>Employer</b>	)	
	)	

*Appearances:*  
Alan J. Shapiro, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 29, 2018 appellant, through counsel, filed a timely appeal from a December 8, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(d) and 501.3, the Board has jurisdiction over the merits of the case.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## ISSUE

The issue is whether appellant has met his burden of proof to establish a left knee injury causally related to the accepted January 28, 2016 employment incident.

## FACTUAL HISTORY

On February 19, 2016 appellant, then a 48-year-old data collector, filed a traumatic injury claim (Form CA-1) alleging that, on January 28, 2016, he slipped and fell on black ice while walking from his car in the course of his federal employment. He alleged that he fractured his left knee and left upper leg above the left knee, and incurred a small bruise on his right arm. Appellant stopped work on the date of injury and returned to work on February 12, 2016.

In a February 9, 2016 sick/disability certification, a physician assistant indicated that appellant had a left knee and suprapatellar effusion and hematoma status post fall. He indicated that appellant could return to work on February 12, 2016.

By development letter dated July 6, 2016, OWCP informed appellant that, when his claim was first received, it appeared that the employing establishment did not controvert the claim as it appeared to be for a minor injury that resulted in minimal medical bills and minimal or no lost time from work. Accordingly, it administratively accepted his claim without consideration of the merits. However, as the medical bills exceeded \$1,500.00, OWCP advised that the case must be considered on its merits. It informed appellant that additional medical evidence was necessary to establish his claim. OWCP afforded him 30 days to submit the necessary evidence.

In response, appellant submitted a May 16, 2016 medical report from Dr. Craig M. Thomas, a Board-certified orthopedic surgeon. Dr. Thomas noted that appellant indicated that he fell on black ice in January 2016. He diagnosed appellant with quadriceps tendon rupture (primary) and noted that appellant consented to surgery.

By decision dated August 11, 2016, OWCP denied appellant's claim because the evidence submitted was insufficient to establish that the event occurred as alleged. It further noted that there was no medical evidence which established that a diagnosed medical condition was causally related to his claimed work injury or event.

On October 25, 2016 appellant, through counsel, requested reconsideration. In support thereof, counsel resubmitted the May 16, 2016 medical report from Dr. Thomas. He also submitted a September 22, 2016 form wherein Dr. Thomas diagnosed left knee quadriceps tendon rupture and noted that appellant would be incapacitated from October 7 to 25, 2016. Dr. Thomas listed appellant's surgery date as October 11, 2016.

In a letter dated November 10, 2016, counsel argued that the August 11, 2016 decision should be vacated and overturned.

By decision dated January 12, 2017, OWCP determined that appellant had established that he fell on January 28, 2016, as alleged. However, the case remained denied because the medical evidence of record did not provide a history that he sustained an injury on January 28, 2016 due to the employment incident. OWCP noted that, although the medical evidence included a diagnosis

of left knee quadriceps tendon rupture, appellant had not submitted a rationalized medical opinion which explained how the diagnosed condition was causally related to the claimed January 28, 2016 employment-related injury.

On February 7, 2017 appellant, through counsel, requested reconsideration. In support thereof, counsel submitted Dr. Thomas' November 23, 2016 handwritten responses to questions. Dr. Thomas indicated that appellant sustained a left knee quadriceps tendon rupture after a fall on black ice while at work on January 28, 2016. He noted that appellant complained of left knee tenderness and decreased range of motion. Dr. Thomas further noted that appellant's magnetic resonance imaging scan showed a quadriceps tendon rupture status post repair. He also signed a typed report relating that the incident was the direct and proximate cause of the diagnosis based on a reasonable medical probability.

By decision dated February 14, 2017, OWCP denied modification of its prior decision. It determined that the report of Dr. Thomas lacked probative value as the physician failed to adequately explain his opinion on causal relationship.

On November 27, 2017 counsel again requested reconsideration. In support of this request, he submitted a November 20, 2017 report wherein Dr. Thomas explained that a fall could cause a quadriceps tendon rupture. Dr. Thomas noted that quadriceps tendon ruptures were pathologic processes that occurred as a direct result of a load on the tendon that exceeded its failure point, and this commonly occurred as a result of eccentric loading of the extensor mechanism. He noted that a quadriceps tendon rupture usually occurs during a rapid, eccentric contraction of the quadriceps muscle, with the foot planted, and the knee partially flexed, such as a fall to the ground caused by snow and ice. Dr. Thomas noted that this injury commonly occurred during these falls. He noted that other mechanisms of injury include direct blows, lacerations, and iatrogenic causes. Dr. Thomas noted that many ruptures occur after a trivial trauma. He further noted that this type of injury could be quite debilitating secondary to the difficulty/inability to ambulate independently due to extensor mechanism disruption and the inability to straighten the knee.

By decision dated December 7, 2017, OWCP denied modification of its prior decision. It found that Dr. Thomas failed to provide a sufficiently rationalized medical opinion regarding causal relationship based upon a proper factual and medical background.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA<sup>3</sup> has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability claimed is causally related to the employment injury.<sup>4</sup>

To determine whether an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether the fact of injury has been established. Generally, fact

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<sup>3</sup> *Id.*

<sup>4</sup> *S.S.*, Docket No. 16-1760 (issued January 23, 2018).

of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>5</sup> The second component is whether the employment incident caused a personal injury.<sup>6</sup> An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.<sup>7</sup>

Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.<sup>8</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>9</sup> Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment factor(s).<sup>10</sup>

### ANALYSIS

The Board finds that this case is not in posture for decision.

Appellant alleged that he sustained an injury to his left knee as a result of slipping on black ice on January 28, 2016. OWCP accepted that the claimed incident occurred as alleged, but found that the medical evidence of record was insufficient to establish that his left quadriceps tendon rupture was causally related to the accepted incident.

Dr. Thomas noted that appellant fell on black ice in January 2016 and opined that this caused his left knee quadriceps tendon rupture. He provided an explanation that quadriceps tendon ruptures usually occur during a rapid, eccentric contraction of the quadriceps muscle with the foot planted and the knee partially flexed, such as caused by a fall on snow or ice. Dr. Thomas also noted that a quadriceps tendon rupture was a pathologic process that occurred as a direct result of a tendon load that exceeded its failure point. While his medical report was not fully rationalized, it does provide sufficient rationale to explain how a fall on black ice could cause a quadriceps tendon rupture and therefore warrant further development of the medical evidence in the claim.

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<sup>5</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s). *Id.*

<sup>7</sup> *Shirley Temple*, 48 ECAB 404, 407 (1997).

<sup>8</sup> *Robert G. Morris*, *supra* note 6.

<sup>9</sup> *Victor J. Woodhams*, *supra* note 6.

<sup>10</sup> *See B.M.*, Docket No. 17-0796 (issued July 5, 2018).

The Board also notes that Dr. Thomas' opinion is not contradicted by any substantial or factual evidence of record.<sup>11</sup>

It is well established that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter.<sup>12</sup> While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence and to see that justice is done.<sup>13</sup> Thus, the Board will remand the case to OWCP for further development to obtain a rationalized medical opinion on the issue of whether appellant's diagnosed quadriceps tendon rupture of the left knee is causally related to the accepted employment incident. Thereafter, OWCP shall issue a *de novo* decision on whether he sustained an injury causally related to the accepted January 28, 2016 employment incident.<sup>14</sup>

### CONCLUSION

The Board finds that this case is not in posture for decision.

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<sup>11</sup> See *S.T.*, Docket No. 17-1292 (issued February 8, 2018).

<sup>12</sup> See *Vanessa Young*, 56 ECAB 575 (2004).

<sup>13</sup> *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *Jimmy A. Hammons*, 51 ECAB 219 (1999); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

<sup>14</sup> See *L.F.*, Docket No. 14-1906 (issued August 13, 2015) (the Board determined that, while reports by a claimant's treating physician were not completely rationalized to establish a work-related injury, they strongly supported a relationship between the employment incident and diagnosed condition and remanded the case for OWCP to further develop the medical evidence).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 8, 2017 is set aside and this case is remanded to OWCP for further proceedings consistent with this opinion.

Issued: October 11, 2018  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board