CASE NO. 6314 CRB-5-19-3 : COMPENSATION REVIEW BOARD
CLAIM NO. 500152961

GREGG M. SECULA : WORKERS' COMPENSATION
CLAIMANT-APPELLEE COMMISSION

v. : MARCH 10, 2020

SBC/SNET
SELF-INSURED
EMPLOYER

and

SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.
THIRD-PARTY ADMINISTRATOR
RESPONDENTS-APPELLANTS

APPEARANCES:

The claimant was represented by Justin A. Raymond, Esq., and James H. McColl, Jr., Esq., The Dodd Law Firm, L.L.C., Ten Corporate Center, 1781 Highland Avenue, Suite 4105, Cheshire, CT 06410.

The respondents were represented by Katherine E. Dudack, Esq., Strunk, Dodge, Aiken, Zovas, L.L.C., 200 Corporate Place, Suite 100, Rocky Hill, CT 06067.

This Petition for Review from the February 27, 2019 Finding and Decision of Carolyn M. Colangelo, Commissioner acting for the Fifth District, was heard on August 30, 2019 before a Compensation Review Board panel consisting of Commissioners Peter C. Mlynarczyk, David W. Schoolcraft, and Daniel E. Dilzer.[1]

[1] We note that two motions for extension of time were granted during the pendency of this appeal.

OPINION

PETER C. MLYNARCZYK, COMMISSIONER. The respondents have petitioned for review from the February 27, 2019 Finding and Decision (finding) of Carolyn M. Colangelo, Commissioner acting for the Fifth District (commissioner). We find no error and accordingly affirm the decision of the commissioner.

The commissioner identified the following issues for analysis: (1) whether the claimant's right knee condition and need for surgery were the result of the compensable injury sustained on February 12, 2011; and (2) whether the claimant was entitled to obtain a second opinion.

The commissioner made the following factual findings which are pertinent to our review of this matter. The claimant, who had worked for the respondent employer for approximately thirty years as of the September 18, 2018 formal hearing, sustained a compensable injury to his right knee on February 12, 2011. The claimant sustained a prior injury to his right knee in 2007; however, no reports were submitted into the record for this injury.

Concentra reports were submitted into the record for a knee injury sustained in February 2009; those records reflect that "internal derangement" was suspected at that time. Respondents' Exhibit 6. An MRI report dated February 11, 2009, did not demonstrate a tear. See Respondents' Exhibit 8. In a report dated February 19, 2009, T. Michelle Mariani, M.D., reviewed the February 11, 2009 MRI, noting that the study did not demonstrate any meniscal tears. Mariani diagnosed the claimant with, inter alia, right medial compartment arthritis. See Respondents' Exhibit 7.

The claimant offered credible testimony that at the time of the February 12, 2011 injury, his right knee was not bothering him. Concentra records reflect that following the 2011 injury, the claimant was diagnosed with internal derangement of the knee. An MRI taken on March 3, 2011, demonstrated substantial medial compartment arthritis with a meniscal tear and a mild lateral compartment meniscal tear. The claimant began treating with Patrick R. Duffy, M.D., on March 16, 2011. Duffy initially treated the claimant with anti-inflammatory medication and intra-articular injections.

The claimant underwent a respondents' medical examination (RME) with Lawrence C. Schweitzer, M.D., on April 28, 2011. Relative to the injury sustained by the claimant in 2007, Schweitzer stated that "[a]n MRI study at the time showed a meniscal tear; however, his knee symptoms settled down to the extent that he had no medical contact for the knee for the next five years." Respondents' Exhibit 2, p. 2. Regarding the injury sustained in 2011, Schweitzer opined as follows:

> Mr. Secula has a material aggravation of his preexisting knee condition. Whereas prior to this February event, the knee was functional and asymptomatic, the arthritic process was advancing. The work injury of 2007 was a significant remote cause of this situation. The work injury of February 2011 materially aggravated the situation.

Respondents' Exhibit 2, p. 3.

Schweitzer stated that "[l]ong term, this knee will likely require surgical intervention in the form of a partial or total knee replacement." Id. In a May 3, 2011 addendum to this report, Schweitzer indicated that the claimant, prior to the February 12, 2011 accident, "was symptom free though he had extensive arthritis of the knee," Respondents' Exhibit 2; however, the doctor indicated that the knee "would have soon become problematic and require surgery, even without this newest injury." Id.

During 2011 and 2012, Duffy's treatment of the claimant consisted of injections, including Synvisc injections. In an office note dated July 19, 2012, Duffy indicated that the claimant's knee condition was progressive and would require additional treatment in the future. See Claimant's Exhibit B.

On April 21, 2016, Matthew D. Skolnick, M.D., performed a respondents' medical examination. In his report, Skolnick opined that:

> The progressive degenerative arthritis in the knee is related to the [February 12, 2011] injury …, superimposed on his pre-existing asymptomatic degenerative condition. The progression of this condition is a "natural" phenomenon, in most cases, but is also aggravated by the injury in question. I would apportion this progression 50% to the underlying degenerative condition and 50% to the incident of February 12, 2011.

Claimant's Exhibit A, pp. 3-4.

The commissioner noted that when Skolnick conducted his April 21, 2016 examination, he had the benefit of Schweitzer's report of April 28, 2011, and the addendum of May 3, 2011. The commissioner further noted that Schweitzer's April 28, 2011 report referenced the claimant's right knee injury of 2007.[2]

In 2016 and 2017, Duffy again treated the claimant with injections. In 2017, Duffy recommended that the claimant undergo a total knee replacement. In an office note dated January 2, 2018, Duffy stated:

> The need for a total knee arthroplasty is causally related to the 02/12/2011 work-related incident. The 02/12/2011 incident rendered a previous asymptomatic condition symptomatic. It has continued to be symptomatic. He has been treated conservatively with viscosupplementation and anti-inflammatory medication as well as therapy dating to 2011.

[2] In ¶ 18 of her Finding and Decision, the commissioner indicated that the date of Schweitzer's report was December 28, 2011; we deem this harmless scrivener's error. See D'Amico v. Dept. of Correction, 73 Conn. App. 718, 729 (2002), *cert. denied*, 262 Conn. 933 (2003).

Claimant's Exhibit B.

On October 4, 2017, the claimant underwent a third RME with Peter Jokl, M.D. Jokl indicated that he had reviewed x-rays taken on February 18, 2016, February 13, 2017, and May 30, 2017, but no imaging studies from 2011 or from the 2007 injury. Jokl indicated that based on the "limited" medical reports provided, the claimant "had a preexisting condition of obesity and degenerative changes. The incident which occurred on 02/12/2011 aggravated but was not a substantial factor to his present osteoarthritic condition of his right knee." Respondents' Exhibit 1, p. 5. Jokl further noted that Schweitzer's 2011 RME documented the claimant's 2007 right knee injury, and "[t]here is also [a] history of chronic obesity. All of these contribute to the degenerative changes in his right knee. From reviewing the medical records, the incident which occurred on 02/12/2011 aggravated but was not a substantial contributing factor to his present knee condition, which was preexisting." Id.

Following Jokl's October 4, 2017 RME, the claimant underwent a commissioner's examination with Michael J. Kaplan, M.D., on March 29, 2018. In his report, Kaplan stated that although the claimant had sustained "some symptomatic worsening from the injury, it is not … causal to the extent that the replacement can be considered as a consequence of that injury, but rather is degenerative in nature." Administrative Notice Exhibit 2, p. 2. Kaplan diagnosed the claimant as suffering from "degenerative joint disease with some symptomatic worsening, which was essentially a self-limited issue and for which he had previous and documented problems before." Id.

Based on the foregoing, the commissioner concluded that the claimant's testimony was credible and persuasive. In addition, she found Duffy's opinion credible

and persuasive, noting that his opinion "comports with the balance of the evidence, including the diagnostic imaging of March 3, 2011, which indicates a torn meniscus." Conclusion, ¶ D. The commissioner further found that Duffy's opinion was consistent with the testimony offered by the claimant relative "to the chronology of his symptoms in his right knee, and the medical records which document the lengthy course of treatment with conservative measures to manage symptoms." Id.

The commissioner noted that the opinions of Jokl, Skolnick and Schweitzer all acknowledged that trauma from the injury sustained on February 12, 2011 had aggravated the claimant's knee symptoms, and she found those opinions credible and persuasive. However, although the commissioner found Schweitzer's April 28, 2011 RME report persuasive, she did not find his May 3, 2011 addendum persuasive. She also found Kaplan's opinion unpersuasive, concluding that "his opinion that the claimant's condition was a 'self-limited issue' [was] inconsistent with both the claimant's testimony and the claimant's medical records." Conclusion, ¶ G. The commissioner did find persuasive Duffy's opinion that the claimant's need for a total right knee arthroplasty was causally related to the work injury sustained on February 12, 2011. The commissioner determined that Duffy's opinion was consistent with both the objective findings shown on the March 3, 2011 MRI "and the testimony of the claimant regarding the chronology of his symptoms." Conclusion, ¶ H.

The commissioner concluded that, based on the evidence submitted, the claimant had satisfied his burden of proof that his right knee condition and need for surgery were the result of the accepted work-related injury sustained on February 12, 2011. She also

determined that the claimant was entitled to a second opinion with a doctor of his choosing relative to the treatment of this accepted right knee injury.

The respondents filed a motion to correct, which was granted in part and denied in part, and this appeal followed.[3] On appeal, the respondents contend that the commissioner erred in concluding that the February 12, 2011 work-related injury was a substantial factor in causing the claimant's right knee condition and need for surgery. They also claim as error the commissioner's conclusion that the claimant is entitled to a second opinion with a doctor of his choosing relative to treatment for this accepted knee injury. In addition, the respondents argue that the commissioner erroneously concluded that the claimant's testimony was credible and persuasive and erred in adopting Duffy's opinion rather than that of Jokl or Kaplan. Finally, the respondents aver that the commissioner's conclusions were not supported by the evidentiary record, and the commissioner's decision to deny the respondents' motion to correct, and grant the claimant's objection to that motion, also constituted error.

We begin our analysis with a recitation of the well-settled standard of deference we are obliged to apply to a trial commissioner's findings and legal conclusions.

> [T]he role of this board on appeal is not to substitute its own findings for those of the trier of fact. Dengler v. Special Attention Health Services, Inc., 62 Conn. App. 440, 451 (2001). The trial commissioner's role as factfinder encompasses the authority to determine the credibility of the evidence, including the testimony of witnesses and the documents introduced into the record as exhibits. Burse v. American International Airways, Inc., 262 Conn. 31, 37 (2002); Tartaglino v. Dept. of Correction, 55 Conn. App. 190, 195 (1999), *cert. denied*, 251 Conn. 929 (1999). If there is evidence in the record to support the factual findings of the trial commissioner, the findings will be upheld on appeal. Duddy v.

[3] On March 11, 2019, the commissioner granted two proposed corrections in order to correct a scrivener's error in the finding indicating that the 2009 MRI had occurred on February 12, 2009, rather than February 11, 2009.

> Filene's (May Department Stores Co.), 4484 CRB-7-02-1 (October 23, 2002); Phaiah v. Danielson Curtain (C.C. Industries), 4409 CRB-2-01-6 (June 7, 2002). This board may disturb only those findings that are found without evidence, and may also intervene where material facts that are admitted and undisputed have been omitted from the findings. Burse, supra; Duddy, supra. We will also overturn a trier's legal conclusions when they result from an incorrect application of the law to the subordinate facts, or where they are the product of an inference illegally or unreasonably drawn from the facts. Burse, supra; Pallotto v. Blakeslee Prestress, Inc., 3651 CRB-3-97-7 (July 17, 1998).

McMahon v. Emsar, Inc., 5049 CRB-4-06-1 (January 16, 2007).

We turn first to the respondents' contention that the commissioner erred in concluding that the injury sustained by the claimant on February 12, 2011, was a substantial factor in causing the claimant's knee condition and need for surgery. The respondents point out that although medical reports in evidence document the existence of a meniscal tear in the claimant's right knee in 2007, and again in 2011, there were no medical reports in evidence which would substantiate the presence of a meniscal tear when the claimant returned to Duffy on March 14, 2016, or thereafter. As such, it is the respondents' position that the commissioner's conclusions relative to the effects of the February 12, 2011 injury were not supported by the evidence.

The respondents also point out that although the commissioner professed to rely upon the claimant's testimony relative to the chronology of his right knee symptoms, the commissioner did not mention in her findings the incident in 2016 which prompted the claimant to return to Duffy. She also did not address testimony from the claimant indicating that he had sustained at least two other knee injuries prior to the injury of February 12, 2011. Finally, her findings did not address the implications of the three-year gap in treatment between April 2013 and March 2016.

We recognize that the commissioner's factual findings did not reference the claimant's testimony relative to the prior injuries of 2007 or 2009, the three-year gap in treatment between 2013 and 2016, or the incident in 2016 which ostensibly prompted the claimant to return to Duffy.[4] Nevertheless, having reviewed the evidentiary record in its entirety, we find, contrary to the respondents' assertions, that the reports and testimony offered by Duffy provided a more than adequate basis for the commissioner's conclusions regarding the issue of whether the February 12, 2011 injury constituted a substantial contributing factor to the claimant's knee condition and need for surgery. For instance, we note at the outset that in progress reports dated December 5, 2017, January 2, 2018, March 1, 2018, and July 23, 2018, Duffy stated the following:

> The need for a total knee arthroplasty is causally related to the 02/12/2011 work-related incident. The 02/12/2011 incident rendered a previous asymptomatic condition symptomatic. It has continued to be symptomatic. He has been treated conservatively with viscosupplementation and anti-inflammatory medication as well as therapy dating to 2011.

Claimant's Exhibit B.

In addition, Duffy's deposition testimony provided a sound basis for the commissioner's conclusions. Duffy explained that while the tears in the posterior horn of the medial and lateral meniscus demonstrated in the March 3, 2011 MRI were "probably degenerative," Claimant's Exhibit C, p. 9, and the loss of medial joint space height suggested the presence of some arthritis, the fact that the claimant's articular cartilage was still intact at that time was "consistent with there really not being a lot – any significant arthritis present on the study." Id., 10. However, when the claimant presented

[4] We note that the commissioner's findings specifically referenced several medical reports which discussed the 2007 and 2009 injuries, see Findings, ¶¶ 4, 5, 6, 7, and there is no dispute that the claimant was suffering from degenerative knee disease prior to the 2011 injury.

in March 2016, the doctor reported that x-rays taken on February 18, 2016 were "notable for posttraumatic [sic] with bone on bone and patellar femoral changes as well" id., 16, suggesting that following the 2007 and 2011 incidents, "additional damage was done to the knee. The articular cartilage began to degenerate." Id.

At the time of his deposition on September 27, 2018, Duffy testified that he was still recommending that the claimant undergo a total knee replacement, given that the March 2017 Synvisc joint injection had not been particularly effective and the claimant had essentially "failed seven years of conservative treatment." Id., 19-20. Duffy stated that "[w]here [the claimant] has been able to tolerate his condition and his pain, now he has been unable to tolerate it." Id., 20. He further indicated that his "opinion is consistent with the IME physicians who have seen him who have stated that [the February 2011] incident aggravated his prior condition and therefore in my opinion the aggravation is a significant factor in the need for his total knee arthroscopy by definition." Id.

Duffy also testified at some length regarding the opinions proffered by the other experts in this matter. He indicated that while he agreed with Jokl's assessment that the 2011 incident aggravated the claimant's knee condition, he felt that Jokl was "contradicting himself" by then asserting that the incident was not a substantial contributing factor to the claimant's knee condition. Id., 21. He also disagreed with Jokl's characterization of the claimant's pre-existing knee condition as "osteoarthritis," which Duffy defined as "arthritis that would come from normal daily wear and tear…." Id., 22. Rather, he opined that the knee condition aggravated by the February 12, 2011

incident was actually "post-traumatic degenerative arthritis" which, in his opinion, had been set in motion by the 2007 work injury.[5] Id., 22, 23, 24.

In a similar vein, Duffy disagreed with Kaplan's opinion that the claimant was suffering from "severe degenerative arthritis." Id., 24. Although he agreed with Kaplan's assessment that the 2011 injury caused "symptomatic worsening" of the knee, he testified that was "having trouble understanding" Kaplan's assertion that the 2011 injury was not "causal to the extent the replacement would be considered as a consequence of that injury, but rather as degenerative in nature." Id. Duffy also disagreed with Kaplan's assessment that the "symptomatic worsening … was essentially a self-limiting issue," id., 25, remarking that "it is not self-limiting because it is persistent. He has been treated now from 2011 through 2018 for it. So if it was self-limiting, he wouldn't be treating." Id.

Under cross-examination, Duffy conceded that because the 2009 MRI revealed "some thinning of the articular cartilage," id., 32, he "would have to say [the claimant] had some wear and tear there." Id. However, the scan did not exhibit "any significant arthropathy" and he attributed any inconsistencies in the results to "the different machines that are doing it." Id. Duffy testified that he believed the 2009 knee incident was self-limiting given that the claimant was able to return to full duty afterward.

Duffy also offered testimony under cross-examination regarding Schweitzer's May 3, 2011 addendum in which Schweitzer had opined that the claimant's arthritis "would have soon become problematic and required surgery, even without his newest injury. The current treatment is a function of his underlying pre-existing arthritis." Id.,

[5] In progress notes commencing on May 4, 2011 and continuing until August 20, 2018, Duffy consistently diagnosed the claimant with, inter alia, "post-traumatic" degenerative disc disease. Claimant's Exhibit B.

39, *quoting* Respondents' Exhibit 2. Duffy disagreed with Schweitzer's opinion that the knee "would have soon become problematic," describing the statement as "conjecture" and "editorializing," id., 40, and noting that the claimant "could have kept on working for quite a while without it become symptomatic." Id. Duffy testified that he had seen "plenty of people who have degenerative arthritis in their knee and you say, oh. He should have a knee replacement. They go on forever and never need it." Id., 41.

Duffy also offered testimony relative to the gap in medical treatment between 2013 and 2016, opining that "medically speaking," the claimant's knee condition continued to worsen during this period. Id., 16-17. In addition, Duffy offered the following testimony:

> You have to understand throughout all of this we took him out of work for a little bit way back in the beginning. He is working. He doesn't care. If you watch him walk you have to wonder: How does he go to work? [How] does he climb? How does he do this stuff?

Id., 26.

The claimant also testified at trial regarding the three-year gap in treatment, stating that he stopped treating with Duffy in 2013 because "I wanted to get back to work, and my knee sort of felt as though I could go back to work at that time." September 18, 2018 Transcript, p. 16. The claimant testified that since 2011, he has a "constant pain on the side of [his] knee that – it goes away, but it's always there. It's like a dull pain that just seems like it's never going to go away." Id., 19. The claimant indicated that his knee had worsened over time, stating that "[i]t seems like the more I use my knee, the more it swells up and becomes very painful. Some days I come home, I got to put ice on it to get the swelling to go down." Id. The claimant testified that he was

currently icing his knee three days out of five, and had been icing his knee "on and off" for the prior seven years. Id., 20.

As discussed previously herein, all the experts who proffered opinions in this matter agreed that the incident of February 12, 2011 constituted an aggravation of the claimant's pre-existing knee condition. On April 28, 2011, Schweitzer found the claimant had sustained "a material aggravation of his pre-existing knee condition." Respondents' Exhibit 2, p. 3. On April 21, 2016, Skolnick stated that the progression of the claimant's "pre-existing asymptomatic degenerative condition" had been "aggravated by the injury in question." Claimant's Exhibit A, p. 3. In his report of October 9, 2017, Jokl stated that "[t]he incident which occurred on 02/12/2011 aggravated but was not a substantial contributing factor to his present osteoarthritic condition of [the claimant's] right knee." Respondents' Exhibit 1, p. 4. On March 29, 2018, Kaplan indicated that he agreed with Jokl's diagnosis of "pre-existing arthrosis with some symptomatic worsening as a consequence of the injury he sustained on 02/12/2011." Administrative Notice Exhibit 2, p. 2.

We recognize that neither the respondents' experts nor the commissioner's examiner opined that this aggravation constituted a substantial contributing factor to the claimant's knee condition or need for surgery. In his May 3, 2011 addendum, Schweitzer stated that the claimant's need for treatment was "a function of his underlying pre-existing arthritis." Respondents' Exhibit 2. Skolnick apportioned the progression of the claimant's knee symptoms equally between the claimant's underlying degenerative condition and the February 12, 2011 incident. See Claimant's Exhibit A, p. 4. Jokl, in both his RME report and his deposition testimony, stated that that the February 12, 2011

injury was not a substantial contributing factor to the claimant's knee condition. See Respondents' Exhibit 1; Respondents' Exhibit 9, p. 16. Kaplan opined that the "symptomatic worsening from the injury [was] not causal to the extent that the replacement can be considered as a consequence of that injury…." Administrative Notice Exhibit 2, p. 2. However, it is well-settled that:

> The question of proximate causation … belongs to the trier of fact because causation is essentially a factual issue…. It becomes a conclusion of law only when the mind of a fair and reasonable [person] could reach only one conclusion; if there is room for a reasonable disagreement the question is one to be determined by the trier as a matter of fact. (Citations omitted; internal quotation marks omitted.)

Sapko v. State, 305 Conn. 360, 373 (2012), *quoting* Stewart v. Federated Dept. Stores, Inc., 234 Conn. 597, 611 (1995).

Thus, although Schweitzer, Jokl, Kaplan and, to a lesser extent, Skolnick proffered medical opinions which sought to limit the scope of the injury which occurred on February 12, 2011, the commissioner retained the discretion to determine, based on her review of the totality of the evidence presented, whether that injury constituted a substantial contributing factor to the claimant's knee condition and need for a right knee arthroplasty. "It is the quintessential function of the finder of fact to reject or accept evidence and to believe or disbelieve any expert testimony…. The trier may accept or reject, in whole or in part, the testimony of an expert." (Internal citations omitted.) Tartaglino v. Dept. of Correction, 55 Conn. App. 190, 195 (1999), *cert. denied*, 251 Conn. 929 (1999).

The respondents have also claimed as error the commissioner's rejection of the opinion proffered by Kaplan, the commissioner's examiner. We recognize that this board has previously stated that:

> when a commissioner orders a medical examination, there is usually an expectation among the parties that said examination will provide strong guidance to the commissioner. Where a commissioner chooses not to adopt the diagnosis of the physician performing that examination, he or she should articulate the reasons behind his or her decision to disregard the examiner's report.

Iannotti v. Amphenol/Spectra-Strip, 13 Conn. Workers' Comp. Rev. Op. 319, 321, 1829 CRB-3-93-9 (April 25, 1995), *aff'd*, 40 Conn. App. 918 (1996) (per curiam). See also Gagliardi v. Eagle Group, Inc., 4496 CRB-2-02-2 (February 27, 2003), *aff'd*, 82 Conn. App. 905 (2004) (per curiam).

Our review of the finding in the present matter indicates that the commissioner deemed Kaplan's opinion unpersuasive because his "opinion that the claimant's condition was a 'self-limited issue' is inconsistent with both the claimant's testimony and the claimant's medical records." Conclusion, ¶ G. We find that this statement by the commissioner adequately addresses the concerns relative to commissioner's examinations discussed in Iannotti, supra; although the respondents might have preferred that the commissioner offer additional elaboration regarding her reasons for disregarding Kaplan's opinion, she was under no compunction to do so.

The respondents also take issue with perceived inconsistencies in the claimant's reports to various medical providers relative to his history of right knee injuries, noting, inter alia, the claimant's failure to advise Skolnick of any prior right knee injuries at the examination of April 21, 2016. The respondents point out that although the claimant testified at trial that he had sustained multiple right knee injuries before the 2011 incident, none of the reports issued by Schweitzer, Skolnick, Jokl or Kaplan reflect that the claimant had sustained more than one prior injury to his right knee.

We recognize that the medical reports cited by the respondents do not reference the claimant's knee injury of 2009, about which the claimant testified at the formal

hearing. Given that the claimant presented to these physicians for the purposes of a respondents' and/or commissioner's examination, the extent to which a verbal history from the claimant may have been taken is unclear. However, we note that the evidentiary record in this matter includes Concentra reports for several dates in February 2009, an MRI report dated February 11, 2009, and a medical report from T. Michelle Mariani, M.D., dated February 19, 2009, documenting an office visit for this particular injury. These records could certainly have been submitted to the providers who performed the medical examinations for the respondents and the commissioner to ensure that the providers were in possession of a complete and accurate history.

At any rate, it is certainly not an infrequent occurrence that inconsistencies arise in the recitation of a claimant's medical history. In light of the well-settled precept that credibility assessments are the sole province of the fact-finder, see Briggs v. McWeeny, 260 Conn. 296, 327 (2002), this board is generally inclined to defer to the commissioner in determining whether such inconsistencies should prove fatal to a claim. In this matter, they clearly did not. Given that credibility determinations are "uniquely and exclusively the province of the trial commissioner," Smith v. Salamander Designs, Ltd, 5205 CRB-1-07-3 (March 13, 2008), this board will not reverse such a determination on review.

Finally, the respondents contend that the commissioners' denial of their motion to correct, save for the granting of two proposed corrections in order to correct scrivener's errors, constituted error. Our review of the balance of the proposed corrections indicates that the respondents were merely reiterating the arguments made at trial which ultimately

proved unavailing.[6] As this board has previously observed, when "a Motion to Correct involves requested factual findings which were disputed by the parties, which involved the credibility of the evidence, or which would not affect the outcome of the case, we would not find any error in the denial of such a Motion to Correct."[7] Robare v. Robert Baker Companies, 4328 CRB-1-00-12 (January 2, 2002).

There is no error; the February 27, 2019 Finding and Decision of Carolyn M. Colangelo, Commissioner acting for the Fifth District, is accordingly affirmed.

Commissioners David W. Schoolcraft and Daniel E. Dilzer concur in this opinion.

[6] We do believe that the interests of accuracy would have been better served had the commissioner granted the respondents' proposed correction requesting acknowledgment of the three-year gap in treatment and the incident which occurred at the claimant's home in 2016 and ostensibly prompted the claimant's return to Duffy. However, we note that none of the physicians implicated any 2016 event as causing the need for the surgery in question.

[7] In their brief, the respondents assert that the claimant "has chosen to forego a second opinion at this time and wishes to proceed with total knee replacement to be performed by Dr. Duffy." Appellants' Brief, p. 17. In light of this assertion, we decline to reach the respondents' claim of error relative to the commissioner's authorization of a second opinion. We would note, however, that the provisions of General Statutes § 31-294d (c) state: "The commissioner may, without hearing, at the request of the employer or the injured employee, when good reason exists, or on his own motion, authorize or direct a change of physician, surgeon or advanced practice registered nurse or hospital or nursing service provided pursuant to subsection (a) of this section." As such, § 31-294d (c) would appear to afford a commissioner a great deal of latitude in rendering decisions regarding a claimant's access to medical care providers. Moreover, given that it is generally made quite clear to a claimant that he is not attending a respondents' or commissioner's examination for the purposes of receiving treatment, it is hardly surprising that a claimant seeking a second opinion would prefer to solicit such an opinion from a physician of his own choosing.