

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

BRUCE MORRIS	)	
Claimant	)	
V.	)	
	)	AP-00-0496-330
BRANINE CHEVROLET BUICK INC.	)	CS-00-0491-939
Respondent	)	
AND	)	
	)	
SERVICE AMERICAN INDEMNITY COMPANY	)	
Insurance Carrier	)	

ORDER

Claimant appeals the May 5, 2026, preliminary hearing Order entered by Administrative Law Judge (ALJ) Brian Brown.

APPEARANCES

Jeff K. Cooper appeared for Claimant. Michael L. Entz appeared for Respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Board adopted the same stipulations and considered the same record as did the ALJ, consisting of the transcript of Preliminary Hearing from December 9, 2025, including Exhibits 1-4 and Exhibits A, B, C and F. Exhibit D was admitted solely for impeachment purposes. Exhibit E was a Workers Compensation Appeals Board decision and the ALJ took judicial notice of the decision. The Board also considered the documents of record filed with the Division and the parties' briefs.

ISSUE

Whether the August 5, 2025, work accident was the prevailing factor for Claimant's dental injuries?

FINDINGS OF FACT

Claimant works as the service manager for Respondent, overseeing the shop. On August 5, 2025, Claimant went to speak with an employee about work done on a vehicle. Claimant testified he was trying to explain to the employee the work was done incorrectly. The employee disagreed and raised his voice as the discussion continued. Claimant told the employee he was fired. The employee turned around and punched Claimant multiple times in the left shoulder and face. Claimant did not fight back. Claimant testified he was hit three to five times. He fell backwards hitting a counter before falling to the ground. The police were called and the employee was arrested.

Claimant went to Stormont Vail Emergency Room (ER) on August 5, 2025, presenting with eye pain from being punched in the face earlier in the day. Claimant reported no other injuries, but did have a small cut inside his mouth. A CT scan was done of his head showed no fractures, but indicating a preorbital contusion. He was found to have a "Small abrasion visualized no chipped or loose teeth or malocclusion. No laceration or active bleeding."¹

Claimant was diagnosed with a corneal abrasion. He was discharged with prescribed eye ointment and instructions to ice the eye and take Tylenol or Motrin for pain. Follow-up with ophthalmology was recommended if symptoms did not improve. Claimant was instructed to return with any new or worsening symptoms.

Later on August 5, 2025, Claimant returned to the ER with a dental injury that he noticed while eating lunch. Claimant bit into a burrito and felt one of his right molars crack. Imaging obtained at the first ER visit did not show any fractures to the jaw. Claimant was diagnosed with dental pain and fractured dental restoration without loss of material. He was encouraged to follow-up with a dentist and to take anti-inflammatory medication in the meantime.

Claimant went to Topeka Smiles on August 7, 2025, for a comprehensive oral examination and x-rays of his teeth. Claimant reported he had recently been punched in the face 4-5 times after firing an employee. According to Claimant, his last dental visit was sometime in the 80's and he had never had a professional cleaning. He felt he had a broken lower right tooth, and needed treatment but he also had a lot of pain all around his mouth. Claimant reported he brushes twice daily but does not floss. Claimant did not have any prior problems with his teeth.

Claimant was examined and it was recommended he have crowns put on four of his teeth (#15, 18, 30, and 31). Tooth #3 was missing a DL cusp, but could be filled. The priority was saving tooth #31 and then have a healthy cleaning, fillings and crowns on the

¹ P.H. Trans., Ex. B at 9 (Stormont Vail records).

other damaged teeth. The reasoning for the crowns was gross decay and fractured cusps. Claimant paid for the dental work as workers compensation was denied. This treatment resulted in a bill of \$2,767.00.

Dr. Pedro A. Murati examined Claimant on October 10, 2025, at the request of his attorney. Claimant's chief complaints were right eye watered and felt like something is stuck in it; left shoulder pain; right-side neck and low-back pain; and avoids certain foods secondary to broken molar. Claimant reported he was punched in the right eye 4-5 times and being shoved in the left shoulder causing him to fall back against a desk/counter top. Claimant developed a black eye and facial swelling.

Claimant reported problems with ADLs, like brushing his teeth, bathing, showering, dressing, eating, seeing, standing walking, climbing stairs, lifting or carrying groceries, tasting and sleeping. He was unable to wipe after defecating, grasp heavy objects and perform moderate and vigorous activities.

Dr. Murati examined Claimant and diagnosed:

1. S/P broken molar.
2. Occipital neuralgia.
3. Total anosmia.
4. Trigeminal neuropathy.
5. Left impingement syndrome.
6. Myofascial pain syndrome of the left shoulder girdle extending into and including the thoracic paraspinals.
7. Probable lumbar radiculopathy.
8. Right SI joint dysfunction.

Dr. Murati opined the diagnoses were within all reasonable medical probability a direct result of the work-related injury on August 5, 2025. He recommended Claimant obtain the crown for the broken molar. Dr. Murati recommended treatment for his injuries other than the dental injuries such as an MRI, referral to ENT, physical therapy, injections and medications.

Dr. Murati opined under all reasonable medical certainty and probability the prevailing factor in the development of his conditions was the accident at work.

Claimant had a dental evaluation with W. Stewart Dexter, D.D.S. on February 2, 2026, at the request of Respondent. His clinical findings were: "generalized wear facets, large alloy restorations on #15 and #18, peg-shaped lateral incisor at #7, transposition/ectopic #6 positioned near site #4, and diastema between #8 and #9 with labial freneum". Dr. Dexter opined "Dental history indicates infrequent routine dental care,

though clinical examination shows no high caries risk and only limited periodontal bone loss."²

Dr. Dexter recommended orthodontic realignment, upper and lower removable partial prostheses, and all-ceramic crowns for #15 and #18. He opined

Because this office did not treat the patient prior to the reported incident, it is **not possible to state definitively** that the assault directly caused the fracture of the teeth. However, **trauma to the head and neck region can generate lateral forces to the dentition**, and it is not uncommon for tooth fractures associated with trauma to **present later when functional forces are applied**.

If forces were sufficient to produce facial contusions, they may also have been capable of transmitting stress to the teeth that could contribute to structural damage. While causation cannot be confirmed with certainty, the described mechanism of injury **is consistent with a potential contributing factor** to dental fracture.³

The ALJ found in a prior order dated December 15, 2025, Claimant was injured in the course of his employment with Respondent, and the accident was the prevailing factor causing the claimed non-dental injuries and conditions diagnosed by Dr. Murati and Dr. Galate. Respondent was ordered to provide names for a treating physician. The dental issues were deferred until Dr. Dexter's report was submitted. Upon receipt of Dr. Dexter's report, the ALJ issued another Order finding there is insufficient evidence establishing Claimant's work accident was the prevailing factor causing his alleged dental conditions, and therefore the request for authorized dental care and payment of the Topeka Smiles charges was denied.

PRINCIPLES OF LAW AND ANALYSIS

Claimant argues the Board should reverse the ALJ's Order and direct Respondent to authorize the request medical treatment and pay the outstanding Topeka Smiles balance.

Respondent argues the ALJ should be affirmed.

"Burden of proof" means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more

² Dr. Dexter report dated 2/2/26 at 1.

³ *Id.* at 2.

probably true than not true on the basis of the whole record unless a higher burden of proof is specifically required by this act.”⁴

“The burden of proof shall be on the claimant to establish the claimant’s right to an award of compensation and to prove the various conditions on which the various conditions on which the claimant’s right depends. In determining whether the claimant has satisfied this burden of proof, the trier of fact shall consider the whole record.”⁵

“An injury by accident shall be deemed to arise out of employment only if: (i) There is a casual connection between the conditions under which the work is required to be performed and the resulting accident; and (ii) the accident is the prevailing factor causing the injury, medical condition, and resulting disability and impairment.”⁶

“Prevailing” as it relates to the term “factor” means the primary factor, in relation to any other factor. In determining what constitutes the “prevailing factor” in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.⁷

Prevailing factor requires the work accident be the primary factor not the only factor. There are two factors for Claimant’s dental injuries, poor dental hygiene and the work accident. Prior to being assaulted there is no evidence Claimant had dental problems. Within hours of being assaulted Claimant took a bite into a soft burrito and fractured a tooth. It is found and concluded the assault is the prevailing factor for Claimant’s dental injuries.

The ALJ ruled Dr. Dexter, the only dentist who provided an opinion on the causation of Claimant’s dental problems, did not provide an opinion using language denoting certainty or probability. There was reliance on phrases like, “not being able to definitively state”, “can generate”, “could contribute” and “cannot be confirmed definitely” caused the ALJ to find Claimant had not meet his burden of proof.

This is a close case, but this Board member disagrees with the ALJ’s analysis. As said earlier, the evidence should establish an accident is the primary factor and not the only factor. Dr. Dexter’s use of phrases like “can generate”, “be capable”, “can generate lateral forces to detention” and “the mechanism of the injury is consistent with a potential contributing factor” is language indicating the accident is a factor in causing Claimant’s dental injuries. In applying the reasonable standard, Claimant with a less than stellar

⁴ K.S.A. 44-508(h).

⁵ K.S.A. 44-501b(c).

⁶ K.S.A. 44-508(f)(2)(B).

⁷ K.S.A 44-508(g).

dental hygiene record, reported he did not have dental problems prior to the accident. Claimant is then hit in the face at least 3 times and within 24 hours of the assault he develops fractured teeth. Such circumstances constitute a reasonable medical probability Claimant's accident was the prevailing factor for Claimant's dental injuries.

DECISION

WHEREFORE, it is the finding, decision and order of the undersigned Board Member the Order of ALJ Brian Brown dated May 5, 2026, is reversed. Claimant's dental injuries arose out of and in the course of Claimant's employment.

IT IS SO ORDERED.

Dated this _____ day of July, 2026.

REBECCA SANDERS
BOARD MEMBER

c: Via OSCAR

Jeff K. Cooper, Attorney for Claimant
Michael L. Entz, Attorney for Respondent and its Insurance Carrier
Hon. Brian Brown, Administrative Law Judge