

## COURT OF APPEALS OF VIRGINIA

Present: Judges Humphreys, O'Brien and Senior Judge Bumgardner

NESTLE USA, INC. AND  
ACE AMERICAN INSURANCE COMPANY

v. Record No. 0528-15-1

KEITH P. ELLIS

MEMORANDUM OPINION\*  
PER CURIAM  
JULY 14, 2015

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Tenley Carroll Seli; Billy & Seli, PC, on brief), for appellants.

(Adam B. Shall; Philip J. Geib, P.C., on brief), for appellee.

Nestle USA, Inc. and Ace American Insurance Company (employer) appeal a decision of the Workers' Compensation Commission awarding benefits for an injury to the left shoulder of Keith P. Ellis (claimant). Employer contends the commission erred in holding (1) claimant's claim for medical and indemnity benefits for his left shoulder is not barred by the statute of limitations; (2) the exception addressed in Corporate Res. Mgmt, Inc. v. Southers, 51 Va. App. 118, 655 S.E.2d 34 (2008) (*en banc*), was applicable to claimant's claim for medical and indemnity benefits for his left shoulder; and (3) there was credible evidence that claimant sustained a compensable injury by accident to his left shoulder on November 3, 2011. We have reviewed the record and the commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Ellis v. Nestle USA, Inc., VWC File No. VA00000538586 (Mar. 5, 2015). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented

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\* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

in the materials before the Court and argument would not aid the decisional process. See Code  
§ 17.1-403; Rule 5A:27.

Affirmed.