

FINAL AWARD DENYING COMPENSATION  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 98-165895

Employee: Eleanor Boone

Employer: Chrysler Corporation

Insurer: Self-Insured Employer administered through  
Sedgwick Claims Management

Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund

Date of Accident: Alleged October 1, 1998

Place and County of Accident: Alleged St. Louis County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated February 21, 2008, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Matthew D. Vacca, issued February 21, 2008, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 17th day of October 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

\_\_\_\_\_  
William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

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Attest:

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Secretary

## AWARD

Employee: Eleanor Boone Injury No.: 98-165895  
Dependents: Before the  
Employer: Chrysler Corporation **Division of Workers'  
Compensation**  
Additional Party: Department of Labor and Industrial  
Relations of Missouri  
Jefferson City, Missouri  
Insurer: Self Insured Employer administered through  
Sedgwick Claims Management  
Hearing Date: January 2, 2008 Checked by: MDV: ms

### FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No
2. Was the injury or occupational disease compensable under Chapter 287? No
3. Was there an accident or incident of occupational disease under the Law? No
4. Date of accident or onset of occupational disease: Alleged October 1, 1998
5. State location where accident occurred or occupational disease was contracted: St. Louis County
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? No
8. Did accident or occupational disease arise out of and in the course of the employment? No
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted:  
Not Applicable
12. Did accident or occupational disease cause death? No Date of death? N/A
13. Part(s) of body injured by accident or occupational disease: None
14. Nature and extent of any permanent disability: None
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

Employee: Eleanor Boone

Injury No.: 98-165895

- 17. Value necessary medical aid not furnished by employer/insurer? -0-
- 18. Employee's average weekly wages: \$735.23
- 19. Weekly compensation rate: \$490.18/294.73
- 20. Method wages computation: Agreed

**COMPENSATION PAYABLE**

- 21. Amount of compensation payable: -0-
  
- 22. Second Injury Fund liability: No
  
- Total: -0-
  
- 23. Future requirements awarded: None

Said payments to begin and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: N/A

**FINDINGS OF FACT and RULINGS OF LAW:**

Employee:	Eleanor Boone	Injury No.:	98-165895
Dependents:		Before the	<b>Division of Workers'</b>
Employer:	Chrysler Corporation	<b>Compensation</b>	
Additional Party:		Department of Labor and Industrial	
		Relations of Missouri	
		Jefferson City, Missouri	
Insurer:	Self Insured Employer administered through Sedgwick Claims Management	Checked by:	MDV: ms

**ISSUES**

The issues presented for resolution are occupational disease, medical causation, liability for temporary total disability benefits, past and future medical care, the nature and extent of any permanent disability and the liability of the Second Injury Fund.

**SYNOPSIS**

Employee claims she is totally disabled and unable to work because standing and walking during her three and a half year stint at Chrysler caused injury to her left and right feet in October of 1998. She alleges that these foot injuries are combining with prior disabilities to cause permanent total disability.

### **PRELIMINARY MATTERS**

Three claims were tried together, 97-475032, 97-475042 and 98-165895. Pursuant to 8 CSR 50-20.050(1)(2) and (3), one master transcript will be generated and it will reside with the earliest claim, 97-475032. Three separate awards will issue under separate injury numbers.

### **FACTS**

1. Claimant worked only three and one half years on the assembly line for Chrysler, having last worked in April 1999. Although she suffered no discrete accidents while working at Chrysler, she alleges she sustained injuries to no less than 13 different parts of her body and is now totally disabled from working.
2. Claimant was first hired by Chrysler towards the end of 1995 as a temporary worker. Claimant became a full time worker in February of 1996, and her last day worked was in April 1999.
3. In her first Claim, Employee alleges on May 1, 1997 she injured her neck, shoulders, upper back, arms, elbows and wrists while performing the pit job.
4. In her second claim, Employee alleges in September of 1997 she injured her right hip, body as a whole, shoulders, upper back, both arms, elbows, and wrists while performing the hoist job.
5. In her third claim, Employee alleges that in October of 1998 she was subjected to long term standing and walking, causing injury to her left and right foot.
6. Claimant has a history of Workers' Compensation Claims, some of which form her allegations against the Second Injury Fund.
7. For her claim against the Second Injury Fund, Claimant alleges low back injuries in 1985 and 1986, left knee surgery in 1987 and 1988, neck, shoulders, upper back, arms, elbows, and wrists from May 1997, and right hip, body as a whole, shoulders, upper back, arms, elbows, and wrists from September 1997. As a result, Claimant alleges a complete inability to compete in the open labor market.
8. Claimant has a high school diploma, she has been in the police reserve, she has been a security guard at Normandy Senior High School and she has worked as a nurse's assistant and in telemarketing.
9. Her first job at Chrysler was as a "floater" doing various jobs, working with seats, filling the vehicles with gas, driving vehicles off the line and performing the pit job.
10. Later Claimant was assigned full time to the pit job. This job involved using an air gun that Claimant alleges would jerk her around. Claimant would use the air gun on the pit job to tighten bolts on the transmission motor mount, two bolts on the parking brake and two bolts in the rear shocks. It is on this job she alleges her first injury at Chrysler. She worked in this position for eight months.
11. Claimant woke up one morning with a "crick in her neck" which she attributes to the work in the pit job. This crick in the neck incident happened in April 1997. Dr. Ibrahim determined that it was the result of a chronic degenerative spine.
12. Next, Claimant was moved to the motor hoist job. In this job she was required to tighten the motor down to the motor mount. Here she stood on a rubber mat, there were no steps or inclines, and she was not required to stand on tip

toes. Claimant alleges that the motor hoist didn't work properly. While it would raise and lower the motor, it wouldn't move it from side to side and Claimant therefore had to push it. Claimant says this job injured her hips, back, feet, neck, and shoulders. She worked in this job for four months.

13. Claimant testified some of her foot pain began on the pit job but was impeached by her deposition testimony where she indicated she experienced no foot pain on the pit job.

14. Dr. Schlafly diagnoses some groin pain and perhaps a hip strain as a result, but her gynecologist suspected a hernia. No hernia was ever discovered and Dr. Schlafly ultimately determined Claimant to be suffering from a hip sprain.

15. Dr. Aubuchon says her foot complaints are not work related. Dr. Aubuchon says claimant does not have Tarsal Tunnel Syndrome. Dr. Leuchtefeld says Claimant has flat feet which caused plantar fasciitis, a congenital condition.

16. EMG studies of the tibial nerve were negative.

17. Dr. Marne excised a neuroma of the foot which he believed was work related.

18. Dr. Musich's said Claimant's neck, back, upper extremities, hips, cervical disc, myofascial pain syndrome and arthritis were work related.

19. Claimant received unemployment insurance and sub pay when she quit working at Chrysler.

20. Claimant says she can't work because she hurts pretty bad.

21. Employer offered Claimant light duty work with PQX (permanent restrictions). Claimant refused the job saying she was unable to do the work but did not attempt it.

22. Claimant complains that her problems have been getting worse even though she hasn't been working.

23. Claimant performed the pit job for eight months and the motor hoist job for four months. The motor hoist job involved work at torso level.

24. Claimant said at trial heel spurs developed on the pit job, but at deposition she testified she had no foot problems on the pit job. The medical records indicate Claimant's foot problems began before her work at Chrysler.

25. Dr. Leuchtefeld saw Claimant November 17, 1995, and he took a history that she had pain in both feet since May of 1995, since working as a security guard and walking on that job. This examination was before Claimant began work at Chrysler.

26. He diagnosed Claimant with bilateral plantar fasciitis. This condition existed prior to employee ever working for Chrysler but she claims the symptoms began at Chrysler.

27. Following her complaints to her back at Chrysler, Claimant was sent to Dr. Wagner for physical therapy for her upper body complaints and she received injections to her upper back and neck.

28. Claimant never had any low back, wrist, neck, shoulder, hip, elbow, or upper back surgeries performed as a result of any of her claimed injuries. She had foot surgery to alleviate the pre-existing plantar fasciitis and excise a neuroma.

29. Claimant tripped and twisted her ankle after her foot surgery sometime in 1999 or 2000 coming out of her apartment.

30. Dr. Marne also records Claimant twisted her ankle coming out of a Shop-n-Sav.
31. Doctor's records also note that Claimant had foot pain after helping her sister prepare for a wedding in April 1999.
32. Dr. Marne said claimant needed no physical restrictions to perform her job.
33. Claimant has not looked for work and she is unaware of any physical restrictions that the doctors have placed upon her ability to work.

### **RULINGS OF LAW**

1. I find no disability relative to Claim number one. Claimant woke up one morning with a "crick in her neck". None of the competent evidence supports any permanent partial disability. There is insufficient evidence to tie her symptoms to eight months work on the pit job and insufficient objective evidence of any work related injury. Claim one is denied.
2. In Claim number two, the motor hoist job, Claimant has failed to present competent and substantial evidence of a sufficient nature that establishes a medical causal relationship with her problems and her performing of the motor hoist job for four months. Claimant has a pre-existing seriously degenerative spine. Claimant failed to separate out the two back conditions, if in fact there is a back condition derived from the workplace. Claimant's complaints of ill being were generalized, not focused, and I fail to see a clear mechanism of injury for any work related damage to all the body parts claimed to have been injured, nor any clear delineation of disability attributable to the work as opposed to pre-existing conditions.
3. In claim number three, Claimant has failed to establish that she sustained an occupational disease, or that any of her complaints are medically and causally related to the work at Chrysler. Her testimony seemed to indicate that it was the hoist job that caused her foot problems, which I find incredible. The records indicate Claimant had a pre-existing plantar fasciitis and long standing foot problems of an idiopathic nature. She is also extremely obese. No significant credible evidence ties the work performed at Chrysler to any of her myriad health problems.
4. I don't believe Claimant's experts. They issue bare opinions of disability without explaining the mechanism of these injuries, their separation from Claimant's preexisting, concurrent and continuing health problems including obesity and degenerative arthritis or bother to explain why so many symptoms continue unabated without relief even when at rest and when not working. Their testimony is simply Claimant hurts, she has a job, and therefore she hurts because of her job. I do not find this persuasive. No causal link has been established. See, Smith v. Climate Engineering, 939 S.W.2d 429, 433-434 (Mo.App. E.D.1996)
5. Claimant testimony was unclear and meandering, and she seems disposed to blame the work at Chrysler for all of her physical problems thereby rendering it impossible to separate out any actual work related injuries from her numerous non-work related injuries and diseases. See, Griggs v. A.B. Chance Co., 503 S.W.2d 697 (Mo.App. 1973). None of these claims or her testimony rang true. Her testimony was unreliable and not credible.
6. Claimant only worked at Chrysler for three and one half years but has the complaints of a heavy laborer who had worn out every body part after forty years of hard labor. It is very hard to imagine the truth of her claims under the best of circumstances, and even more so when these stale claims are so dramatically, incoherently, and incredibly presented. Her testimony has no weight or credibility, Richard v. Treasurer, 179 S.W.3d 299, 305 (Mo.App. W.D. 2005). All the claims are denied.

Date: \_\_\_\_\_

Made by: \_\_\_\_\_

Matthew D. Vacca  
*Administrative Law Judge*  
*Division of Workers' Compensation*

A true copy: Attest:

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*Jeffrey W. Buker*  
*Director*  
*Division of Workers' Compensation*