

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

Injury No.: 96-438133

Employee: Joan Panhorst
Employer: Metalcraft Enterprises, Inc.
Insurer: American Manufacturers Mutual Insurance Company
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund
Date of Accident: Alleged on or about July 1, 1996
Place and County of Accident: Alleged Franklin 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 September 22, 2006, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Leslie E. H. Brown, issued September 22, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 14th day of August 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

NOT SITTING

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Joan Panhorst

Injury No. 96-438133

Dependents: ----

Employer: Metalcraft Enterprises, Inc.

Additional Party: State Treasurer, as custodian of the Second Injury Fund

Insurer: American Manufacturers Mutual Insurance Company

Hearing Date: June 28, 2005 and July 15, 2005

Before the
**DIVISION OF WORKERS'
COMPENSATION**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Checked by: LEHB/bfb

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 on or about July 1, 1996
5. State location where accident occurred or occupational disease was contracted: Franklin County, Missouri
6. Was above employee in employ of above employer at time of alleged accident or occupational disease?
Yes
7. Did employer receive proper notice? Yes
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:
factory work
12. Did accident or occupational disease cause death? No Date of death? ----
13. Part(s) of body injured by accident or occupational disease: alleged mental injury
14. Nature and extent of any permanent disability: ----
15. Compensation paid to-date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? None

17. Value necessary medical aid not furnished by employer/insurer? ----
18. Employee's average weekly wages: \$280.46
19. Weekly compensation rate: \$186.67/\$186.67
20. Method wages computation: by agreement of the parties

COMPENSATION PAYABLE

21. Amount of compensation payable:

Unpaid medical expenses: ----

---- weeks of temporary total disability (or temporary partial disability)

---- weeks of permanent partial disability from Employer

---- weeks of disfigurement from Employer

---- Permanent total disability benefits from Employer beginning ----, for Claimant's lifetime

22. Second Injury Fund liability: No

TOTAL: DENIED CASE

23. Future requirements awarded: ----

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:

Joseph Dolgin, Attorney for Claimant

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Joan Panhorst

Injury No: 96-438133

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Department of Labor and Industrial Relations of Missouri
Jefferson City, Missouri

Dependents: ----

Employer: Metalcraft Enterprises, Inc.

Additional Party State Treasurer, as custodian of the Second Injury Fund

Insurer: American Manufacturers Mutual Insurance Company

Checked by: LEHB/bfb

This is a hearing in Injury Number 96-438133. The claimant, Joan Panhorst, appeared in person and by counsel, Attorney Joseph J. Dolgin. The employer/insurer, Metalcraft Enterprises, Incorporated/American Manufacturers Mutual Insurance Company c/o Broadspire, appeared by and through counsel, Attorney Timothy M. Tierney. The Second Injury Fund appeared by and through counsel, Assistant Attorney General Jennifer Sommers.

The parties entered into certain stipulations, and agreements as to the complex issues [\[1\]](#) and evidence to be presented in this hearing.

STIPULATIONS:

On or about July 1, 1996: a. the claimant was in the employment of Metalcraft Enterprises, Incorporated in Franklin County, Missouri; b. the employer and employee were operating under and subject to the provisions of the Missouri Workers' Compensation Law; c. the employer's liability was insured by American Manufacturers Mutual Insurance Company c/o Broadspire; d. employee's average weekly wage was \$280.46, the rate being \$186.67 over \$186.67. e. The employer had notice of the injury. f. A Claim for Compensation was filed within the time prescribed by law. g. No temporary total disability benefits have been paid. h. No medical aid has been provided.

ISSUES:

1. Whether or not the claimant suffered an occupational disease arising out of and in the course of her employment
 - a. Question of compensability under Section 287.120, the subsections concerning the mental mental injury
 - b. If there was a physical mental injury, then has this claim already been resolved
2. Medical causation
3. Liability of past medical expenses in the amount of \$4,977.21
 - a. Reasonableness and necessity
4. Future medical care
5. Nature and extent of permanent disability - whether partial or total
 - a. If found to be permanently and totally disabled, whether the employee was at a permanent total disability status as of August 7, 1997 forward to the present and into the future
6. Liability of the Second Injury Fund

EXHIBITS:

The following exhibits were admitted into evidence without objections:

Claimant's Exhibits:

- No. A: Deposition transcript of Dr. Ralph L. Bidy, M.D. taken on behalf of the claimant on June 8, 2005 (Admitted subject to the objections therein)
- No. A-1: Medical bill of Crider Medical Center (Attached to No. A).
- No. B: Record of the Crider Center
- No. C: Deposition transcript of S. Parvatikar, M.D., taken on behalf of the claimant on August 30, 2002 (Admitted subject tot the objections therein)
- No. D: Deposition transcript of James Israel, CRC, CVE taken on behalf of the claimant on July 13, 2004 (Admitted subjected to objections therein)
- No. E: Records of Dr. John Crane, November 21, 1996 through March 26, 1998
- No. F: Records of Dr. Eddie Paulk, D.O. (Stipulation – for a time period of January 24, 1994 through January 30, 1996; as some of the pages it's difficult to determine the month because the copies cut off, but we have the date and year)
- No. G: Records of Dr. Alfred Fischer, D.C. (**Rulings:** a. Employer/Insurer's and Second Injury Fund's objections on grounds of the Seven Day Rule/hearsay to Dr. Fischer's narrative reports of 11-5-98 and 11-25-98 are overruled; b. Second Injury Fund's objection on grounds of hearsay in regards to a handwritten note by the claimant at page 4 of the record is sustained.)
- No. H: Record of Dr. Jesse Susi, M.D. of Mid County Orthopaedic Surgery and Sports Medicine, December 20, 1997 through June 20, 2000
- No. I: WITHDRAWN (Records of St. John's Mercy Medical Center, MRI imaging of the left shoulder)
- No. J: Record of M. R. Jones, D.C. [**Ruling:** Second Injury Fund's objection a letter by Dr. Jones, D.C. dated February 16, 1998 (the very front page of the exhibit) on grounds of -- hearsay, appears to be a report not prepared to treat the claimant or kept in the usual course of the doctor's practice -- is sustained.]
- No. K: Record of St. John's Mercy Medical Center from August 1, 1997 through March 20, 2000
- No. L: WITHDRAWN (St. John's Mercy Rehabilitation record)
- No. M: Records of Dr. Shankar Rao, M.D.
- No. N: Records of Dr. Sanjay Ghosh, M.D.
- No. O: NOT OFFERED (Records of Dr. Steven Radel, M.D./St. John's Mercy, from November 15, 1989 through July 27, 1992; MR. DOLGIN - part of the record of St. John's Mercy Hospital)
- No. P: Stipulation for Compromise Settlement in Injury No. 96-440491
- No. Q: Stipulation for Compromise Settlement in Injury No. 94-182442

No. R: Stipulation for Compromise Settlement of the claim against the Second Injury Fund on Injury No. 96-440491

Employer/Insurer's Exhibits:

No. 1: Deposition transcript of Dr. Wayne Stillings, M.D. taken on behalf of the employer/insurer on July 22, 2004 (Admitted subject to the objections therein).

No. 2: Records of Dr. Radel dated 11-15-89 through 7-27-92

Second Injury Fund's Exhibits:

Roman Numeral I: Records of St. John's Mercy Rehabilitation, April 12, 2000 through June 19, 2001

FINDINGS OF FACTS AND RULINGS OF LAW²

ISSUES: Whether or not the claimant suffered an occupational disease arising out of and in the course of her employment; and subissues – a) Question of compensability under Section 287.120, the subsections concerning the mental mental injury and b) If there was a physical mental injury, then has this claim already been resolved

The claimant, Joan Panhorst, testified about the injury for which she is seeking compensation from Metalcraft. Panhorst testified that she worked for Metalcraft from January 21, 1990 until her termination on August 11, 1997. Testifying as to the nature of the business of Metalcraft, Panhorst stated that they did aluminum and steel, "like make legs like for a table", and sweeper handles; it was mainly with steel and aluminum. My job with Metalcraft was just a worker on different jobs, the claimant said. You would go in and the supervisor would tell you that day the job that he wanted you on; you may work on the same job a couple days, but then they would also move you around. It was all physical type labor, she agreed. At one time the plant manager wanted to know if I would clean the men's restrooms even, which is not part of my normal duties, Panhorst noted.

"Starting to work at Metalcraft I didn't have no injury, but I was stiff and sore", Panhorst testified, but the first real injury I had was May of 1991, I think. I had got my finger in a roll bender and I had to have I think five stitches put in it, she said. I did not file a workers' compensation claim, Panhorst said. Explaining why she did not file a claim, Panhorst testified my supervisor, Melvin Duvall, come down, then the president, Connie Laudy, and Chester Nichols, the vice president and quality control, and the set-up man, Jim Leaky, all come down there, and that was before they took me up to the doctor. And the first thing that was said to me after they got down there was, Chester Nichols said to me – "Anybody that uses that machine without a safety guard should automatically be terminated". And I said – "a safety guard; and I looked at Jim Leaky and I said Jim, a safety guard, where's the safety guard at, I've been working here how long, over a year and a half, I ain't never seen a safety guard"; they looked at Jim and he said there's never been a safety guard. Panhorst stated that a doctor put five stitches in the finger, but she couldn't get any pain pills or nothing. I told the doctor about the office at the workplace that they had pain pills in a little package, and he said it wouldn't hurt for me to take a couple packs of that because if you have pain that day they usually helped out and worked. So when Melvin Duvall, who had taken me to the doctor, got back to work I went ahead and went in his office and then he went to the assistant supervisor right there and when I was coming out the door, I hadn't stepped out of the office yet, the assistant supervisor, Jo Ann Feaserman at the time now Jo Ann Monday, she came up to me and told me that if I filed a workmen's comp claim against them they would find a way to get rid of me, Panhorst stated. And I said a workmen's comp claim, who said anything about a workmen's comp claim; but just remember if you do, we'll find a way to get rid of you; I said, whatever, Panhorst testified. I did not file a workers' comp case as a result of the cut on my finger, Panhorst said, I needed my job. When I went back to work, Melvin Duvall, my supervisor, said - "For your punishment I ought to put you back on the roll benders."; I said, "I'll go back on the roll bender.", and he said, "You ain't scared of it?"; I said, "No, I need my job too bad. I'll go back if that's what you want me to do." This was not a more difficult job than the job I was doing, the claimant stated.

I sustained another injury while working for Metalcraft at the end of 1991, Panhorst said. It was a swelling of my right arm, she stated. Panhorst agreed that she had surgery to one of her hands. It was a result of that injury on the job, she said, it kept getting worse from 1991 on. I finally went to the doctor, Dr. Susi, and he scheduled it for the first month the third day of 1995 and operated on carpal tunnel on my right hand. I did not file a workers' compensation claim myself in connection with this injury because the supervisor told me that sometimes a workmen's comp claim deny it and I would have to pay for it myself, Panhorst stated. Dr. Susi filed a claim, Panhorst stated, I went to him and filled out the paperwork but only put on there what my regular insurance would pay; but then he wanted to know what happened and I told him, but I didn't know it was workmen's comp doctor at the time, nobody told me that before I went to him. And Dr. Susi said I had to go back and tell them at work that he was a workmen's comp doctor and that he was going to turn it in, the claimant said. After the carpal tunnel syndrome surgery, Panhorst stated, about three weeks later Arville Koppelman called me and told me that they were busy, that they needed me back to work, that I would be doing a light job of putting in small bags bolts and nuts and screws and stuff, about five per bag, that they would send with the things they made like tables and stuff. When I went back to work I was put on a packing machine, packing table, packing stuff out, she said. Agreeing that this had an adverse effect on her arm and hand, Panhorst stated after a couple days my right arm was just killing me again. I dropped on the floor an eight-foot box with six sets of doubles poles in it, so I had somebody weigh it and it weighed ten pounds, the claimant said. She agreed that this was more than her hand could handle, and stated that it

really hurt and this increased the pain in her hand. Panhorst agreed that, as indicated in the records, the carpal tunnel release procedure was performed on January 3, 1995. She was asked if anyone at work had ever told her about filing a workers' compensation claim for the carpal tunnel. No, they were mad, she answered, they didn't want me to. They had a bonus at the end of the year, if nobody got hurt you got a gift certificate or a bonus; that's what the incentive was, the claimant said. Dr. Susi turned that in, I never turned it in; I would have gone on my regular insurance, Panhorst stated

At the end of 1994 when they found out that I was going to have something done -- and beginning of '94, I can't remember the date, it was February or March, I had my first breakdown, Panhorst testified. My nerves, because my hand hurt me so bad that I was sleeping on the couch with an arm brace at that time laying on a pillow, and I couldn't move around at night so my hand would quit hurting before I went to work the next morning, Panhorst stated, and by the end of that year I just had to have something done. She was asked if the nervous condition that she had talked about, was that a result of the way she was treated after she injured her hand. "I was scared to death", Panhorst responded. This is because I was already told not to file a workmen's comp, and Dr. Susi said he was going to turn it in; I was already scared then, and I begged him not to, the claimant said, and Dr. Susi said it was law, he had to. And so when I went back and told him and had a meeting with -- Chester Nichols called me in the office, and Chester Nichols and Linda Paley, the human resource person, were there, and when Chester Nichols got the insurance company or workmen's comp people on the phone, I'm not sure which, but he said -- she couldn't have got hurt at work out here, she hasn't even been working here a year; and I'm shaking my head, yeah, I have; and I looked at Linda Paley for her to verify that I had been there since 1990, and she just sat there and stared, Panhorst testified. Agreeing that when she returned to work after the carpal tunnel the type of work they had her doing had an effect on her nerves, Panhorst stated - you just had your hand operated on, knowing that it was going hopefully to do good, that you was rid of that pain, and they promised that I could go back to work and work on light duties filling bags. And then I don't even think it was four weeks that I was off; Dr. Susi wanted me to take off longer but I explained to him that Arville Koppelman had called me, and Dr. Susi already knew what they said to me about workmen's comp so he said since they were going to put me on light duty because I could knit or crochet, something light, I don't knit but that's what he explained to me, that filling bags, he would let me go back to work but not to do anything heavy, the claimant said. And you cannot refuse; whatever job they give you, you can't say I'm not going to do it, you do it, the claimant stated. This had an effect on my psychological condition, and that's aside from any physical problems that I was having, Panhorst agreed.

Before I injured my hand or thumb I did not have any problems doing the work that I had to do at Metalcraft, Panhorst said. In fact, when I started, I started out on nights and Jim Leakey would set up the machines real good, he was the set up man on nights and also he was my supervisor. There wasn't maybe half a dozen to a dozen people working on the second shift, so the poles was coming off pretty good; and when I started Melvin Duvall told me that if I wasn't a fast worker he wouldn't keep me, Panhorst stated. And I knew that I needed that job, so I went in there and gave it a hundred percent; and after the third day, the lady that does it too, part-time on the automatic, asked me if I was trying to get everybody to hate me out there. Agreeing that there was an instance where she was told or instructed to do a job in a certain way and then one of the supervisors came and told her to do it in a different way, Panhorst testified -- "I was on a drilling machine and they was two sets on the drill and I was told that I could not drill on all but only on one; I had to drill on one and it don't drill by itself, you have to hold it, it will go down into the steel and you try not to get many burrs on it because they don't want many burrs on it. The next morning I was jumped because I didn't get as many out as the night shift." So I went to the machine to see and it was set on level 2. So I went back, you had to get the tool and dye guy down, Tom Duvall, and he said Joanie quit worrying about what people do on night shift, you was told to run it on one, run it on one. So I ran it on -- but the people on night shift got to run it on 2; they could go faster and leave more burrs on it, but I always ran it on one, Panhorst testified.

Panhorst stated that she is familiar with an individual by the name of Tony Branson at work, and explained that Branson was a forklifter who moved materials around. I never had any problem with him until one day, the claimant said. One day he was standing over by me to impress this girl, Tara, that was working with me, and when I reached down into the carton, it was pretty deep, and it was about twenty-five inches wide -- but, anyhow, he thought it was funny, he held my head down in there and I tried to get up a second time and he was laughing and holding me down harder. I tried to get up a third time and Tara could tell that I was hurting, so he let me up, and he was laughing, Panhorst said. I went on in the bathroom because it not only hurt my neck and back, it embarrassed me, she said, I was old enough to be his mother. Panhorst agreed that this embarrassment increased her anxiety.

The claimant agreed that someone at work used cuss words to her. It was a young girl in quality control, Panhorst stated, and I was doing exactly what the supervisor at the time told me to do, plus I'm chatting with manager, Arville Koppelman, and that was the way I was supposed to run; I said that quality control, John, said I'm not supposed to run like that, and he said -- "I was the boss and I told you run them like that". So when quality control come by she said, "You better start listening to what I said."; and I said, "John said I should run", and she said "Well, fuck, John. You better start listening to Tom Duvall." But Tom Duvall wasn't my supervisor, I couldn't listen to him, he worked in tool and dye, the claimant stated. Panhorst was asked if this had had any affect on her psychologically. All the time, the claimant answered, the right hand never knew what the left hand was doing out there; one person'll tell you one thing, and the next person would tell you another thing, and then the first person would be brought in front of me and said how come you told her that, and they would say, "Well, I didn't tell her that." Panhorst was asked if she had seen or heard this happening to anyone else other than herself. Not that I can remember; I was so nervous and upset, I didn't watch anybody else, Panhorst answered.

Panhorst stated that she had had treatment for depression or psychological problems before she went to work for Metalcraft. In 1983, I think, I asked for XENIX, she said. And my oldest daughter just was going to graduate from high school, and the husband who she's married to today, they was going to get married and I knew how hard it was to start out right away; I wanted her to go to college at East Central, but you got to leave them make up their own mind, but it made me nervous, the claimant testified. She was asked about after 1983. My dad died in 1989 and that -- him and mom was married fifty something years, she responded. She was queried if she had gotten over any feelings about this before she started having problems with Metalcraft, and Panhorst answered that it was emotional but she had gotten over it. I had gotten over this before I went to work for Metalcraft, she said, then my mother died in April of 1991.

Panhorst agreed that she has seen various doctors for her psychiatric problems, including a Dr. Rao and a Dr. Paulk who is just a regular M.D. Panhorst agreed that, as reflected in Dr. Paulk's records, she had told the doctor that the situation at work got so bad she wished she was dead. The claimant agreed that she had requested of Dr. Paulk to be admitted to a stress unit in 1994. I didn't know what to do anymore, she explained, but I don't think I went in the hospital that time. But I knew that if I didn't get some psychological help with the things that was going on; I knew I was not going to make it, she stated. Dr. Paulk referred me to a psychiatrist, to Dr. Rao, Panhorst stated. I seen Dr. Rao I think through two years and a month or two, the claimant said.

Aside from the things I've already told you I really did not have any other problems with people at work, Panhorst stated. I mean, different things that was said, somebody would start up something, but I tried to always stay from any of that; I didn't want to get involved in any of that, "knife stabbing", she said. They would like hide parts on people, Panhorst said. And I just tried to stay to myself and do my job best of my ability, she said.

Panhorst agreed that she has been treated by Dr. Crane, Dr. Paulk, Dr. Fischer, Dr. Susi and by Dr. M. R. Jones. She agreed that most of these treatments were for physical problems that she had had, but some of them had to do with psychiatric treatment for her psychological problems. The claimant agreed that she saw Dr. Rao at St. John's Mercy back in 1997, and visited there from 1997 through March 30, 2000 seeing Dr. Rao and Dr. Ghosh. I saw Dr. Jatala, too, the claimant said. She agreed that some of the doctors she saw for physical problems she also had complaints about her psychological problems that she was having. Panhorst agreed that she was sent by her attorney to Dr. Parwatar for an examination, and to Dr. James Israel, a vocational expert.

Before I went to work at Metalcraft where I had these psychological problems I did not have any problems doing my activities of daily living, the claimant said. I ran a restaurant in 1989; I was always a hard worker; always worked, Panhorst stated.

Panhorst agreed that her present primary complain was with respect to her depression as a result of the way she was treated at Metalcraft. The claimant agreed that as to her medication, depending on what Medicare or Medicaid does, she would be having prescriptions for psychiatric medications and she would be asking the employer to be reimbursing them to her or to pay them directly as long as they're related to her psychiatric treatments by a psychiatrist.

Panhorst stated that as far as her physical injuries were concerned, she was aware that she did settle some claims for physical injuries, but as far as her depression is concerned she has (not) received any payments.

On cross-examination by the employer/insurer, Panhorst stated that when she worked at Metalcraft they said there were a little over a hundred people working there. She was asked if there had been people at the plant that she liked and trusted. Oh, yeah, there were people there that I liked, Panhorst answered. I really didn't dislike anybody, she said. Panhorst was asked if, overall, did she find the people at Metalcraft to be trustworthy and honest folks, and she responded -- "No, sir". Out of a hundred people, I would say it was maybe fifteen or twenty that I didn't think were honest or trustworthy, Panhorst said. She was asked who were her top five people she didn't like, she didn't find to be honest and trustworthy at Metalcraft. Melvin Duvall, Chris Barker; Jo Ann Monday, David Door, David Yates, Panhorst answered. Melvin Duvall was my supervisor, she stated, he was a supervisor at Metalcraft. When asked if Duvall was a supervisor directly over a job she did or was he a tool and dye guy, Panhorst answered - There was no plant manager at that time, so Duvall was the plant manager, supervisor. You reported to him in the morning, you didn't just go to your job; you had to report to him to find out what job he wanted you to do that day, the claimant said. Jo Ann Monday was assistant supervisor, Panhorst stated, she got Melvin's job right after he left. I don't remember how long I worked with her, the claimant stated, I think she was supervisor until -- I can remember her being off from work more than me in 1996, and she was supervisor till then. But when she come back she wanted her job back, but they didn't give it to her; she was demoted, Panhorst noted. Chris Barker was -- at one time they had building 1, building 2, a building 3, and then building 4, and he was over -- well, I think, they got rid of building 3, then he was over at that and then he went to building 4, Panhorst testified. David Door was my last supervisor on the night that I left, she said. David Yates was in ordering supplies, the claimant stated. When asked if Yates was a supervisor or just a co-worker, Panhorst answered - No, he wasn't a co-worker, he worked in the office; he ordered supplies, like if I needed sanding paper, he would be the one that would order it.

Panhorst was queried during cross examination if her testimony had been that before she went to Metalcraft things were pretty good. Yeah, except when my father died and my mother, she answered. I mean my marriage was fine; I just went to work at the restaurant, she stated. She was queried - Your husband was a good husband, you liked your husband; correct? I loved my husband, Panhorst responded. Agreeing that she had testified in one of her depositions that her husband was "her all", Panhorst further stated - And I never would have thought in a hundred years that he would have left me. Focusing on before Metalcraft,

Panhorst agreed that life was pretty good, she had nice kids, nice family, had a good husband, and she had a home that she was proud of. She agreed that her home was paid for, they owned it, then Panhorst further stated – “Until I went to work at -- open up a restaurant, then we had to mortgage it”. She was queried - But that was another good thing; correct, because one of the things that you loved to do was you love to cook? I loved to cook and bake, yes, she answered. When queried, that restaurant, that was a dream for you, Panhorst responded - It was a life dream. She agreed that in one of her depositions she had indicated that she worked twelve, fourteen, fifteen hours a day at that restaurant. Not too long into my dream of owning the restaurant, my husband became ill; Panhorst agreed. His heart muscle was dying off, she said. Panhorst stated that her husband had only thirty-five percent of his heart muscle left, and if he quit work at that time he could live until retirement age, but he couldn’t do much. So I had to sell the restaurant to -- but I loved him so much that his health and stuff was more important then, Panhorst said. She was queried - he couldn’t quit until you got the mortgage off the house; right? He would not quit, Panhorst answered. She agreed that she sold the restaurant to get the mortgage off the house. Agreeing that left her in a position where her husband wasn’t employed, and at that point she wasn’t employed, Panhorst added that it was only for about a month, maybe two, then she went to work at Metalcraft. The claimant was asked if she had gone out and found a job at Metalcraft because she needed to work to help her husband. My husband found me the job, she responded. She was queried - You needed to work not only for your husband, but also for yourself, you all needed the medical benefits; correct? They wouldn’t put him on their insurance because of his previous medical condition, but least I had insurance, she answered. He did not eventually come on to their insurance, Panhorst said, they wouldn’t let him. As far as I know and can remember he was never on the health insurance. Panhorst admitted that this could be something that she was mistaken about. But I don’t think so, she said. Panhorst was queried - If the 08/01/97 records of Dr. Crane, which is Exhibit K, indicate that you felt you needed a job for health insurance for both yourself and your husband, at that point that would be inconsistent with your recollection? My mental state wasn’t that good, she answered, if I said for me and my husband that was wrong, it was just for me. My husband was already on social security disability and Medicare or Medicaid, I don’t know which one it was; he was accepted on Medicaid or Medicare I think in ’89 or ’90; I can’t remember which, she stated.

Panhorst testified that it would not be a fair statement that working in the factory was not something that she liked. Dr. Jatala wrote that down, she said, out of all the doctors that I seen, he was the only one that wrote that and that’s not what I said. The claimant was asked what did she tell Dr. Jatala, and she answered:

“As much -- well Dr. Rao would always take a good half an hour with me and listen. When Dr. Jatala -- that’s why I didn’t go to him very often. I finally called the social worker and said Dr. Jatala is writing down stuff, he’s not listening to me, instead of taking a half an hour with me, he’s only taking fifteen minutes. He’s taking like four people, because one day the one lady said he’s running late, my appointment’s at two-fifteen, and another lady said your appointment is at two-fifteen, it was already two-fifteen, and a lady had just went in, and another one said your appointment is at two-fifteen, mine’s at two-thirty, and I said yours is at two-thirty, another one said mine is a quarter to three, another lady said mine’s at three. So that day we decided all four of us was supposed to go in and see him. When we went in he was already writing down the medication stuff while I was trying to talk to him. Four people that one day that I went in had the others after that. I didn’t stay with him very long because he wrote – “not happy with job”, I said it’s not the job, I don’t mind doing any of the jobs there. And, in fact, if I was able to do them today there would not be one job I mind me doing, it was not the job, it was how I was treated.”

Dr. Jatala, a psychiatrist -- I only went to him -- Dr. Rao, I went to him for over two years and a month; Dr. Jatala, I might have went to him six, eight months, but that was all; I couldn’t talk to him, he didn’t want to listen, Panhorst said. Dr. Jatala said don’t tell them at work what medication you’re on, they don’t need to know that, she stated. A 3-27-96 entry was noted -- “I never liked to work in a factory, I have no choice.” – and Panhorst was asked if Dr. Jatala made that up. Yes, he took it out of context, she answered, I might have said I don’t mind the work but some of the people out there. Out of all the psychiatrists that I’ve seen, and there’s been quite a few, not another one has ever said that I hated that job, Panhorst stated. She was reminded of her testimony at her last deposition taken on 6-26-03, on page 61:

Question: “Now that first time, I’m just reading someone else’s notes, so you know how those doctors write?” Answer: “Yeah. It appears to say not happy at work; is that correct? Is that what you read it to be.” Answer: “Not happy at work.” Question: “Do you recall telling a mental health care provider in March, 1996 that you were not happy at work?” Answer: “More than likely I was not happy at work.”

I was not happy at work, Panhorst stated at the hearing. No, I wasn’t happy at work, they was driving me insane, the claimant stated. She was queried - So if Dr. Bidy was asked in his deposition on 6-8-05, page 30, question: “Okay. And she was unhappy with having to do factory work and unhappy with the pressure of being the sole provider in the household?” He responded, answer: “She has talked of that many times. “ That would also be inconsistent with what you recall? That’s not the way I said it, Panhorst responded. Panhorst stated that she disagreed with some parts of Dr. Bidy’s testimony. When asked if she disagreed with the part where Dr. Bidy says she talked to him many times about being unhappy having to do factory work, Panhorst responded - No, I was unhappy with the things that went on at the factory. I was unhappy with the way things went on at the factory, I was not unhappy with the factory work; you can ask anybody at the factory, I was a good worker, Panhorst stated. She admitted that at the beginning, she was unhappy with the stress of being the sole provider for the family. I did not feel like I was stuck at Metalcraft, Panhorst stated, I felt like I could leave Metalcraft at any time, but with the injuries I received and the state of mind I was always in, I was scared to leave because I did not know what else I could find. I didn’t mind doing the work out there, I just wanted them to

leave me alone, the claimant stated. I was happy from the time I started working at Metalcraft with the jobs I was doing, Panhorst stated, I never complained about any job I was doing. What I complained about is the harassment and how I was treated out there after I had injuries, she said. She was asked, and the harassment came about after you had injuries, and Panhorst responded - And I tried to find different jobs but with all the things that I had wrong with me, I couldn't find different employment. The injuries I'm talking about, Panhorst said, is when I had my right hand operated on and they threw such a fit claiming that I didn't deserve workmen's comp because I had only worked there a year, and I had worked there since 1990. Panhorst agreed that the filing of the claim and the pain that she had as a result of the problems with the right hand, those all kind of came together and caused her anxiety and depression. But I was scared to say anything, she added, I had mentioned it to my supervisor, Melvin Duvall, and he told me to get used to the pain because Tom was making all the dyes harder to pull off and pull on; but that wasn't true. After I worked on that machine for the third day, a girl that was working on automatic did the same job I did, only mine was manual; she told me to work on her machine, I said, "Dorothy if I do, if Melvin sees me, he'll fire me", the claimant testified.

During cross examination, Panhorst was asked if prior to 1994 had she ever been diagnosed with anxiety or depression. I told you in 1983, and again, my dad died in 1989, I think it was '89, I'm not sure, but my mother died in April of 1991, she answered. Other than in 1983 and 1989 there were no other times I was diagnosed or treated for anxiety or depression, Panhorst said. I had three major surgeries in one year, and I thought I was -- before that I thought there was something wrong but come to find out I had a gall bladder that was full of stones; so I wasn't -- it wasn't in my head, I was definitely sick, and then also a month after they did gall bladder surgery, then they also did partial hysterectomy, and then November or December of that same year then I had to have a complete hysterectomy, the claimant testified.

The claimant agreed, during cross examination, that her right wrist had been operated on and those medical bills were paid for by Metalcraft, and that she was off work for four weeks after that surgery, and she got paid for that time off. Panhorst was asked if she was written up as a result of that injury. Not that I know of, she answered. She was asked if her pay had been cut as a result of that injury. I didn't get a pay raise after that; I think they come around and gave me two cents, Panhorst responded. I can't remember everything straight, she added. Agreeing that she settled her carpal tunnel claim, Panhorst added that this was without an attorney. She agreed that after she settled that case she continued to work at Metalcraft. Panhorst was asked if after she got the settlement check did anybody at Metalcraft write her up. She answered: "Sir, I asked for my personnel records to see if I was wrote up and I was denied. The only thing I got out of my personnel records when Linda Poehle mailed it to me was my absentee slips, and I know I had told her on different times about different things, and none of that was in my personnel files when she mailed them to me."

During cross examination, Panhorst was asked if she ever felt like she fit in at Metalcraft, and she answered - Yes. When queried if she had told Dr. Crane that she didn't fit in at Metalcraft, Panhorst responded - Around certain people, yes, I didn't feel like I fit in around certain people at Metalcraft. The claimant further testified:

"Roland Thompson, I felt good around Alice Parr, she always was the one after I had my hand operated on, always told me to watch my back because they was trying to find a way to get rid of me. Shirley Helmers, I got along with, yet to this day I see her. I don't know; they got a bunch of new workers out there now, trying to think back on some of the other ones. Roland Thompson still works out there, and he told his sister that they did me wrong. Leon Barr, I see him; Harris Feaserman. No, I did not fit in with some of the people out there."

So, she agreed, she fit in with eighty-five of those people, that there were only fifteen of them that she didn't feel comfortable with. The claimant was asked why the notes of Dr. Crane from about 12-3-96 indicated that she had advised the doctor that she was harassed because she wouldn't lie, cheat, steal, and gossip. Tom Duvall, Jo Ann Monday and David Yates, they would gossip, and I didn't want to listen to it, Panhorst stated, I didn't want to talk about anybody, all I wanted to do was my job to the best of my ability. She stated there was some feeling in a factory that if you didn't go along with the lies, cheating, stealing, and willingness to have sexual affairs, you just didn't belong. I mean, I didn't pay any attention to it, Panhorst testified, different ones would say something to me, and I'd keep my mouth shut because I did not want to get involved in it. One night leaving work a guy stuck a piece of toilet paper, a roll of toilet paper, under his arm and walked out with it." She was asked if that man had harassed her for not doing the same thing. No, Panhorst answered, because he knew that I wouldn't say nothing, and do nothing. I just wanted to do my job to the best of my ability, pick up my paycheck and go home, she said. It was noted that Panhorst had testified on direct examination that when she first started she came in and she wanted to do her job and wanted to work hard, and did work hard, and as a result of that, people thought she was showing off or showboating. Yeah, they did, the claimant answered. She further testified:

"One lady -- I shouldn't say everybody; no, no, no, just the one lady. She had worked on that machine for thirteen years, Marlene Coshow, and Dorothy Leakey told me that I better slow down because I did twice as many as she did on nights as she did on days, and you could tell it pissed her off because at lunchtime or break time or something she would try to come around and look at my counter to see how many I had done, if I wouldn't click it off before I left work."

It was noted that in her depositions Panhorst used the term on more than one occasion "the wannabes"; she was asked who were the wannabes. I don't remember, Panhorst responded, oh, Tim Duvall's wife at the time, they're now divorced. She was asked to define a "wannabe" in the context of Metalcraft. Panhorst answered: "Somebody that wants to be a supervisor and is not, one that

wants to tell you to do one job and they don't have any business of telling you to do that job, but also if you don't do that job the way they want it, then they will say well, you're supposed to do that job, and then when you go get the supervisor and come back, that wannabe will say oh, no, I didn't say anything like that to her." When asked if the wannabes were her main tormentors, Panhorst responded - I stayed clear of them, sir. It was noted that in her 4-25-00 deposition, page 88, the following question and answer occurred: "Okay. In your sense, I mean did -- who was the main tormentor, in your opinion, of you can you single out someone to say that this person was really the person behind it or the person giving you the most abuse?" The answer was: "No, wannabes." She was again asked, at the hearing, if the wannabes were her main tormentors. That was 2000 and this is 2005, Panhorst answered, and I went through a lot of therapy to try to forget this stuff. I don't remember, she said. Panhorst stated that she liked Chester Nichols. When I first started working out there, I told them, Chester and I were just like that [indicating]. And he absolutely had a fit when he found out, Panhorst testified, he said - you don't tell them that. But I just did it so people would leave me alone, she stated, thinking that Chester and I were like that [indicating]. Panhorst further testified: "I didn't mind Chester. I tell you one time we was at a meeting and he said I did some parts wrong. And I said, 'well, I hope you don't take me off that job because I would like to prove to you that I can do the job right, and that you would know that I was working hard and I would know that you liked me'. He said, 'that will never happen', and everybody laughed." Panhorst was queried - So you didn't like Chester or you did like Chester? She answered: "He was a moody person. I tried -- when I seen him I would say hi Chester, or I didn't see him that much. But he would come out on the floor sometimes where I was working and stand there and watch me. I can't remember if I -- I didn't like the way he treated me, I didn't like the way he lied, but to say that I disliked the man, that I hated him, no." Panhorst agreed that at one point Arville had told her that Chester had told Arville that she was okay, she was a good worker, she was a fast worker, and she was a dedicated worker. This was when I wanted a pay raise one time, she added. Panhorst further testified:

"I wanted a pay raise and Melvin Duvall said I didn't deserve one, so I went to Arville. He said, 'Chester always talked good about you'. I had to cater Chester Nichols' sister's wedding party in St. Louis, and I said -- Melvin Duvall said that if I wasn't at work that Saturday that I was automatically terminated. And I said, 'Arville, I got to do that reception because of who it is for.' And he said, 'I agree with Melvin, if you're not here Saturday like you're supposed to be, that's terms for termination'. And I said, 'but it's who it's for, I got to do it'. And finally after three or four times of me saying that, he said well, 'Joanie, who is it for', and I said, 'Chester Nichols' niece, his sister, Charlotte's daughter', and he said, 'oh, Chester always talked good about you. I'm sure if Melvin says no again, go back to Chester'. And so I went and talked to Chester, and I had asked Chester while I was in there, 'just one more thing I wanted to ask you', and he said, 'what is it', and he said I could do the wedding, that he would take care of it. And -- now that's the way things went on out there; one would tell you one thing, then the other one would tell you one thing. Anyhow, I said, 'there's one more thing I want to ask you, Chester, I was supposed to get a pay raise and Melvin said that you -- that I didn't deserve one', and I told him that. He said did you say -- he said, 'did he say why'. I said, 'yes, he said that you said I didn't deserve one and I want to know why'. Chester he said he didn't say that."

Panhorst agreed, during cross examination that at some point she started keeping a log while she was working at Metalcraft. She testified:

"About three or four months after I started working out there, Shirley Helmers did a job and she was also in charge of quality control, and every night she took a piece of paper, a carbon copy, and another piece of paper and wrote down everything she did. In fact, Melvin Duvall was -- made fun of it because sometimes her paper would be full then she would start writing around the edges of it. And in the mornings one of the people that was always in his office, said he laughed and threw it in the waste can. But Shirley, her copy, she told me that whatever year she started out there, she had a carbon copy of it, because she said, Joanie, sometimes when a bad part is done, if you don't keep track of that part and the day you did it and the box number that you put it in, and when you have it taped up and ready to ship, you have to sign it, so you make sure if two people packed in that, you make sure you write that down. So that first book I kept from probably May until November I'd lost, I forgot it at work and left on the table, but nobody seen it, I never did get it back. So I started keeping what job I was on that day, what time I started it, what my rate was, what a lot number I was on, what was -- there was code numbers on the paperwork also that you had to write down, and how long you were on that job, and if you went to a different job, then I would start on; that's what the log book was about, of what all I did. And when my hand hurt I would make sure I write that down. But other than that. There was a lot talk about my log book, but --"

She was asked if the nature of her log book changed with time, and Panhorst answered: "I had logged in numbers until I went to Dr. Jatala, and he said don't do no more log book because you don't need to keep track of that, and then you worry about if you make your rate or you don't make your rate and so it was after then that I didn't keep a log book after that." Not during that time did I do anything in addition to just tracking rate and lot numbers, the claimant stated. But sometimes I would go home, and I have a desk right as you walk in the door, and I would write down things on that, she added. Panhorst stated that she did not remember what kind of things she would write down then. It was noted that she had started taking notes in a logbook in January of 1994. I took notes all the time, Panhorst responded. Stating that she remembered having her deposition taken and producing some notes at that deposition, Panhorst further testified:

"Yeah, that's what I told you, that I did that when I got home, I wrote them down in my log book. It was mainly like I told you, what time I started, what the date, what the rate was that day, what the number of the work order I was on,

if I shipped out a box and had my initials on it or if I shipped out a box, I would put shipped out box number and put the number, and I would just put J. P., but if somebody else helped me, then I would put C. K. or something, you know, whoever helped me.”

Panhorst’s deposition testimony was noted: Question: “Why did you first start taking notes in January of 1994?” Answer: “Because my arm was giving me so much pain and I was getting harassed like for saying anything about my arm, and I wanted to make sure that I had them wrote down so Dr. Rao would know what I was talking about.” When asked if that sounded correct, Panhorst responded – “Not my notebook -- not my logbook, I wrote it down in a notebook.” She was asked if the notebook was different from the log book. Panhorst answered:

“I kept a log book on my work bag that was just for work. If I had other things that I wanted to talk to Dr. Rao about or Dr. Jatala about or the case worker, I would jot down, and then by the telephone I would have, when I went in like if on, let’s say, with -- I would abbreviate a lot of their names, like Kenny Coshow rubbed up against me and made a sly remark, which that’s what he did.”

Panhorst stated that it was her testimony that having her hand operated on did not cause her to be anxious and depressed, but they didn’t want me to file workmen’s comp and I felt harassed and that caused me a lot of psychiatric pain.

The claimant agreed, during cross examination that at sometime in 1996 she settled her work comp case on the right wrist. I don’t think it was in that same time frame that I started having some problems with my other hand or my left arm, Panhorst stated. When queried – Wasn’t it about the time you settled, not the same time that you developed problems in the right, Panhorst responded – “I don’t think so”. I think it was in 1996 when I developed problems in the left upper extremity, she testified, it was when I was working on the -- I had my hand operated on, I think it was February of ’96 on the small belt sander. Panhorst further testified:

“And on the belt sander, I had tried to tell them for over a year that they had ordered the wrong sandpaper, it was leaving too big a marks in the pole, and it wasn’t good for the poles. And David Yates come downstairs and said, “what kind of shit are you trying to start now”. And I said I had talked to Gerald Starkey first and he come back and said, “Joanie, that’s the same sandpaper that David Yates has been ordering for the last year”. And I said, “duh”. So then he sent David Yates down and David Yates said, “don’t tell me that that’s the wrong sandpaper, that’s the sandpaper that I ordered for the last year”. And I knew not to say anything to David Yates because he gets so irate, so mad. So I went into maintenance, I thought the maintenance man would know what kind of sandpaper should be used on that pole, so asked him to come over to the belt sander, and I asked him would he check, took a piece of the sandpaper and went back to some book, and he come back and said, “oh, Joanie, you got the wrong sandpaper on this”. I said, “duh”. I said I tried to tell Gerald Starkey and he wanted David Yates, and David Yates said it was the right sandpaper, so then she went over and got -- he went and got Jo Ann Monday, at the time she was the supervisor, and that’s how that got straightened out.”

Panhorst agreed that before she left Metalcraft she was having problems with the left arm, left arm and neck. Stating that the pain problems that she had with the left arm and neck did not make her anxiety or depression worse, Panhorst further testified – “What made the pain worse was scared of saying anything and worrying about it because if you said anything that hurt you, when I had the right hand, they would put you on a machine that would make you hurt for days at a time.” Panhorst agreed that by the time she left Metalcraft she had problems with the right hand, the left arm and her neck, and she was having the anxiety and the depression.

During cross examination, Panhorst agreed that Rosie Swaller was a friend of hers. Rosie Swaller started working out there on nights when I worked, and she was a friend, Panhorst stated. Agreeing that she had had a confrontation with Rosie, Panhorst testified:

“Bill Swaller, her husband, his grandma and my dad were sister and brother, so his mom and I were first cousins, so Bill and I second cousins. Did I have a confrontation with her? She was on a real hard job, I can’t remember the name of it, and that week I got to do an easy job of putting stickers on poles and she kept calling me the sticker lady, I mean she wasn’t nice about it, you could tell she was mad, and she had a hard job, I can see where she would be aggravated, I mean, looking right across and can see me just putting stickers on and she’s doing heavy lifting. But as far as until that time, I brought food out there, Rosie ate it, they ate cupcakes and cookies, she liked watermelon and cantaloupe and bananas together, and I liked that, so I would always bring enough for her. We got along until that last week in -- or maybe the second week in July, I can’t remember the date, but she got real upset. And I told Bill, I said, “Bill” -- I thought I went to her husband and said, “Bill, I don’t know what Rosie -- what’s going on, I know she’s got a heavy job, but please, please tell her to leave me alone or I’m going to have to report her to the supervisor”. And that did it. The next day I went in, I knew her car was out there earlier because it was on a Thursday and I went out to pick up my paycheck and they were already out there, so I knew there was something going on, and that night that I got -- think it was a level 2, I never was wrote up on a level 1, but they come with the level 2 and one more level and I would be terminated, and -- but nothing was wrote down on that piece of paper except the initials AK and Dave Door wanted me to sign it, and he was supposed to write his statement, I wasn’t going to sign a blank piece of paper.”

Panhorst was further queried - So you had some kind of altercation with Rosie, and after that you were written up or they attempted to write you up? She answered:

“Well, I didn’t ever say anything to Rosie because she was working hard, but I went to her husband, Bill, and Bill and I got along, we were second cousins, I knew him since baby on, so I went and told him, I said, “Bill, please get Rosie to stop harassing me”. I said, “I don’t have nothing to do with picking the jobs”. I said, “if she doesn’t I’m going to have to tell the supervisor”. And that’s what I said, and the next day they went out and because Rosie knew that if I went to the supervisor, the supervisor would believe me.

“That night Dave Door wanted me to sign that blank piece of paper, and he wasn’t going to let me leave work until I signed it. I said, ‘Dave, I ain’t going to sign that paper until you write down what you want’. And I went on home with the piece of paper, he didn’t try to stop me. He said he hated to do what he had to do. And I went on back out to the factory a little bit later, I was a nervous wreck, and Alice Parr said, “I told you to watch your back, they’re trying to find a way to get rid of you”. And I said ‘why, I didn’t do nothing wrong’. And she said it had to do with what I said to Bill. I said, ‘I didn’t say anything wrong to Bill, Rosie had said stuff to me worse than whatever I said to Bill’. But that I would tell the supervisor and –“

Panhorst was asked how long after the conversations with Bill and Rosie did she end up in the hospital. She answered:

“The next morning. I didn’t go to sleep all night. I kept trying to call Alice Parr at home because she would have known what was being said out there, and I couldn’t get nobody. She wasn’t home from work yet.

“I just didn’t know what I was going to do. I don’t know. I went down to the river. I needed that job and I worked hard. And I got down there, and I was going to drive into the river. And then all I could think of was my three kids, they wouldn’t understand why I didn’t want to live anymore. The paper that Dave Door give me that night, it was not signed by him and it had no statement on it, but the one that he turned in to his lawyer, it was completely filled out, but I had no signature of mine on it because he said I refused to sign it, but luckily I took the original one home with me.

Agreeing that she did not return to Metalcraft after this hospitalization, Panhorst testified:

“No, I was in the hospital until August 4th, and then I went home and went to Dr. Crane’s office, and then went to Mary Bredenberg, my hands shook so bad, I couldn’t hold a glass of water, as I had it with two hands and a straw. Anyhow, Dr. Crane didn’t want me to go back yet then because I worked with machinery on the job, and he thought my shaking would be too bad, but I would have went back. And, in fact, the day that I got a letter on August 7th saying if I wasn’t back by the 11th of August of ’97 that I was automatic terminated. But I went to Dr. Crane that day and asked him and he said no, not yet. So my husband took a letter out to the workplace, and they terminated me anyhow, even with a doctor’s excuse, saying that I wasn’t capable of working because of my hands shaking so bad that he didn’t think that I could handle operating the drill or punch unit or roll bender or anything else I did out there.”

Panhorst agreed she was upset that she was terminated from Metalcraft. She was asked - once you got away from Metalcraft did your anxiety and your depression get better or worse or stay the same. It never did get better, she answered. Days when I don’t have to think about this or Metalcraft or seeing somebody, I’m better, she said.

Panhorst stated, during cross examination, that she would disagree with Dr. Parwatikar if Dr.. Parwatikar had testified that she had some marital problems from 1989 to 1991. She stated that she would disagree with Dr. Rao’s comments if the records of Dr. Rao indicated that there was a lot of stress in her home and that her home was unstable. Panhorst further stated: “It was unstable because of me. Not because of my husband.” The claimant agreed that her husband has dated since the divorce. When asked if this had created any stress for her, Panhorst answered: “The first two years after he left I was not in good shape. But I have -- I have accepted it now.” Panhorst denied that at one point the police had to get involved because of problems she was having with her husband and/or his girlfriend. Panhorst further stated:

“Her boyfriend was a cop. And she had said that she was happy to find a boyfriend that didn't drink. And I called and told her that she should have been married to him when he was in his twenties. He drank then. But, no. That -- I never was ever wrote up in a summons or handed a paper saying I was in trouble.”

Panhorst was queried - Did her boyfriend, the policeman, ever come out to your house and ask you to leave them alone? She answered:

“Yeah. He -- that's what I said. That he -- he come out to the house. But it was her boyfriend not the City of New Haven. In fact, I don't live in the City of New Haven.

He didn't -- really didn't have any jurisdiction coming out there. I live in Franklin -- out of the city limits. He really didn't have rights to come out there. But I listened to him and that was fine. I wasn't -- I mean, I never did hate her or upset with her. But –“

Panhorst agreed that prior to August of 1997 the company had never written her up for any disciplinary actions or indicated that her job was in jeopardy in writing; that she was not written up by the company until August of 1997, and at that point she ended up being terminated. Panhorst further stated "But when they wrote that up they wrote me up on a level -- they didn't write me up on a Level 1. They wrote me either up on a Level 2 or 3. And if -- where was Level 1 at? They'd never wrote me up on Level 1. So why would they --" Panhorst then stated that they really didn't write her up. She was queried - Well, they tried to write you up at that point? The only thing that was on that piece of paper was A.K., she answered, there was nothing else wrote on that paper. Panhorst was asked if at that point she felt that she was capable of working, wasn't she in fact working. "I was working that night", she answered. Panhorst agreed it was her intention to come back to work the next day. She was queried - And then when you were terminated from there and you left there you went to unemployment and you filed for unemployment; correct? Panhorst answered:

"That night I went back out to the factory. After I got the letter. And showed about half a dozen people that -- and nothing was wrote on that paper. And Alice Power said, "Joanie, I told you they were trying to find a way to get rid of you." And I left there and drove around for a while. And they knew they was trying to get rid of me. And so I drove downtown to the river. And there was a ramp there. And I wanted to drive in. My husband was still with me at that time. But I had three kids. And if I drove in they wouldn't have known why. Because that paper didn't have anything on it. So I sat there for a long time. Trying to think what I was gonna do. So then I went on home. And called my oldest daughter and asked her to come in and sit with me. Because I felt like I wanted to just end it all."

Panhorst agreed, during cross examination, that after she was terminated from Metalcraft she applied for unemployment benefits and received them. She stated that she really did not feel she could work. Panhorst was queried - if you felt you couldn't work why would you file a lawsuit -- or attempt to file a legal action indicating that they wrongfully terminated you from the plant? She answered: "Because they did. They wrongful terminated me from the plant. How else would you put it?" The claimant was asked if she had had any resentment or anger about her termination, and she answered - "I was hurting so bad by the end of '96. I did resent the place. But not the job." She was asked if that termination in and of itself was stressful. Panhorst answered: "The pain itself was stressful. And the termination was horrible. Because I wanted that job. I had health benefits."

During cross examination, the claimant was asked if Dr. Radel, Dr. Ghosh or any of the physicians she'd seen back in the 1970's, 1980's or 1990's had prescribed any Xanax or Valium, or any drugs like that to her knowledge. In the 1980's they did, Panhorst answered. She further testified:

"My mother only had one child in the hospital. Was my youngest brother. She's never had a nerve problem. Never seen a psychiatrist. Never -- never had any problems with her nerves. But in 1980 she was diagnosed with cancer. They had to take out so much of her colon. At the Deaconess Hospital. And back then they didn't test the blood. And she got Hepatitis. And end up dying in '91 over it. So I could have took nerve pills. Plus my young -- oldest daughter just got out of high school and wanted to get married. And I wanted her to go to college. But I end up letting her have her way. But yeah, probably in '80 I probably took Xanax or something with my mom. But she had never ever had a nerve problem. Never ever went to a psychiatrist. She was a strong-willed lady that --"

Panhorst was queried - With that being the case do you know why Dr. Bidy would have testified that you had advised him your mother did have psychiatric issues? "I never said that", Panhorst responded. My mother had migraine headaches when she went through the change of life, but she never had psychiatric help, she stated. The claimant was asked if she had any other family history of psychiatric issues. She testified:

"It said in Dr. Bidy's -- that my grandfather committed suicide. Neither one of them committed suicide. I don't know where that come from either. The woman that admitted me at the hospital that day was taking care of three other people. And she would let me sit and wait for a while and then come back. I wouldn't have said my grandfather committed suicide because he didn't. They both died of natural causes."

When queried if she didn't know where Dr. Bidy got that history, Panhorst responded - "You mentioned it to Dr. Bidy. He didn't mention it". She was further queried - And if the records of Dr. Bidy from May 4, 1999 indicate that you provided him with a history of grandfather committing suicide and cutting his throat you don't know where he got that from either? "No", Panhorst answered. The claimant was queried - So if the records of Dr. Bidy of 5/4/99 indicate that you had thoughts of cutting your throat you'd also disagree with that comment? Panhorst stated that she would disagree, that she never thought about cutting her throat. She was questioned about her 4/25/2000 testimony, page 85, that she had mentioned in the record that her grandfather had committed suicide. Panhorst responded that she did not know. It was noted that she had testified at her deposition - "I don't know if it's a fact but we were always told that. But we wasn't allowed to talk about it so I don't know if he really did it or if he really didn't." Panhorst testified at the hearing: "I don't -- I done checked since then and neither grandfather committed suicide"; "Don't know where it come from"; "And I have checked now and both of them died of natural causes". Panhorst stated that she checked after seeing Dr. Bidy's deposition, that she asked family members. When asked if her daughter has any psychiatric issues, Panhorst responded - "Yes, she really does now. Ever since 1994." Panhorst stated that she did not know if either of her sisters had ever been diagnosed with depression. It was noted that the records of Dr. Rao of 2/25/96 indicated a history of Panhorst's sister having depression; when asked, you don't know where the doctor would have got that from, Panhorst responded: "No. Unless it was when

mom was sick. And got Hepatitis. I think we was all a mess then. But my sister did -- young -- old -- middle sister didn't live here then. But we was all pretty upset.” She was asked if she has any aunts or uncles that have any psychiatric histories. “No, not really”, Panhorst answered. She was queried - If the records of Dr. Bidy indicate on his intake sheet when he first saw you that you had advised him you had an aunt who'd gone through electro-convulsive therapy for depression you don't have any recollection as to how he would have gotten that history? Panhorst responded: “My one aunt -- my one aunt on my dad's side, I don't think -- she didn't -- she wasn't a invalid but she was slow. So maybe that's where that come from.”

Panhorst was queried - Do you believe Metalcraft would have harassed you had you not had the injury to your arm? She responded: “Well, they got rid of somebody else over it. They got rid of somebody else over workman's comp.” She was asked again - had you not hurt your arm, do you feel you would have been harassed by Metalcraft? Panhorst answered: “I was already harassed by Metalcraft. By the pain in my arm.” The claimant was asked - Would Metalcraft have treated you the way they treated you, in your opinion, had you not had pain complaints in your arm? Panhorst answered: “I don't have no opinion. I have no idea.”

On redirect examination, Panhorst was asked about her testimony on cross examination about ordering supplies, about sanding paper. The claimant explained that the poles she used the sandpaper on sometimes would have holes and you had to take and make that hole where it had no burrs on it. But you don't want to scratch up the pole, she stated, because that sand paper if it scratches too much then sometimes, if it's plated, it will show up, or if it's painted gray it will show up; so your sand paper, it's really necessary to use the right sand paper. The claimant agreed that these poles are used for chairs, for sweepers, and on two-wheelers. We put the spring button in and everything, Panhorst added. Agreeing that the work that she did was hand intensive, Panhorst testified:

“Yeah. But I kept telling them about the sand paper. But nobody would listen.

“And, I mean, I went to Joe Starkey. He was the man that picked up the work and set the work. And he's -- at one point he said: ‘Joanie, that's the same sand paper that he's been ordering for at least the last six months.’ And I just couldn't get nobody to listen. So I -- I really washed my hands and how I did it. Barely, you know --“

It was noted, on redirect, that Panhorst had testified that she loved her husband. She was asked to describe their relationship up until the time she suffered these injuries, and Panhorst testified:

“Well, we went out to eat. We never argued. That was one of the things the kids were so surprised about. That I had to go to Dr. Ghosh because my arm and shoulder was hurting me so bad. And he put some kind of shots in my neck. And he said that it -- if it wasn't better in 42 or 72 hours to come back and he would put some more in. That was on a Friday. And that Saturday -- that Saturday all day my arms just still killed me. And (Rick, my husband) said: ‘Joan, I thought the doctor said you would feel better in 24 hours.’

“My husband. He got aggravated that I hurt all the time from Metalcraft. And he -- I know he got tired of hearing about it. Anyhow, when he said that I said: ‘Rich, why would you talk to me like that? I would never talk to you like that.’ That was on a Saturday and by that Monday he was gone.”

It was noted that there was some testimony as to what Dr. Jatala wrote down in his records and that Panhorst had testified that she didn't agree with what the doctor had written down about her job; Panhorst was queried if she would say that it was her job that aggravated her or the way she was treated on the job. Panhorst answered: “I never minded any job. Even if it hurt me. It was the way I was treated and penalized if I said something about that hurting my arm. Or if the machine wasn't set up right. They could set a machine up that it wouldn't run right. And that happened. Several times too.”

Panhorst was asked, during redirect examination, if she felt she was treated differently than other people at Metalcraft. She answered:

“Once I filed the workman's comp claim I was. Yes. After I had my finger cut and didn't miss work or file a workman's comp; no, I wasn't then. In fact, that day that happened they called Chester Nichols and Connie Loudly (phonetically) was the president. And Melvin Duvall. And Jim Leekey (phonetically) was the setup man, and myself. And before they even took me to the doctor they to have the stitches put in this finger (indicating) Chester Nichols told me that -- he said: ‘We ought to dismiss you for not -- on working on that machine without a safety guard.’ And I said: ‘How long have I been working there?’ Was over a year. And I don't know how many months, maybe five months. And I looked at Jim Leekey and I asked him, I said: ‘Jim, I never did see a safety guard for this machine. Where's the safety guard at? And he said: ‘There was never a safety guard on that machine.’ So that kind of bothered me that Chester would be that willing to terminate me when I -- there wasn't even a safety guard for that machine. But they didn't really give me any trouble until the end of '94. And I didn't mind working out there at all. It kind of bothered me the way they treated me over the -- having my hand operated. And then I started in 1990. And then Chester said I hadn't even -- end of '94 said I hadn't even worked there a year. But it really didn't bother me until 1996. That's --“

Panhorst agreed that there were generally periodic pay raises given at Metalcraft, and that she received a two cent pay raise. Stating

that that was not the same pay raise that everybody else got, Panhorst further testified that Joann Monday, who at that time was not the plant supervisor but she was who I had to report to, "said that she had to keep me above the rest. But that I only got two -- two percent or two cents pay raise. I didn't say anything, I was just glad to have a job." Panhorst agreed that Monday had indicated that other people had gotten a larger pay raise. She further testified: "I was told. Some got a quarter and some got 50 cents. And I think a couple of them got 75." Panhorst stated that she did not receive the Christmas bonus that was generally given, and explained:

"I -- they said that -- a Christmas bonus was paid to you regardless. But since I missed at Christmas -- I knew my Christmas pay -- holiday pays wouldn't be paid. But your Christmas bonus is what you do from January 1 until the end of December. And several people out there kept telling me I would get my Christmas bonus. But since I missed -- had a breakdown in '96 and I was off from, I think, November the 22nd or 26th until the first of the year. He kept my thousand dollar Christmas bonus."

First stating that she did not know if this happened to other people, Panhorst then testified about a situation involving Joann Monday, the supervisor at the time, with respect to the Christmas bonus: "(Monday) left the factory and she was off more that year than I was and she got her Christmas bonus." Panhorst agreed that when she was being harassed about her wrists there was some mention of a gentleman named Kenny Cushell. Kenny Cushell was the head man in maintenance department, she stated. Panhorst further testified:

"He always liked to rub up against a person. And he did it several times to me. And I tried to ignore him. And this one particular time he had this X-rated magazine with this woman in a bathing suit. Only it was made out of like fishnet or wiring. And he wanted to know if I would model that for him. And I said: 'I don't think there's enough fishnet that would cover me. And, no, I would not model it for him.'"

It was noted that there was some mention in the records of Panhorst hating her job or hating Metalcraft, and she was asked if this was a correct statement from her. Panhorst responded: "Not until 1996. I despised the place. But not until 1996 when they put me through so much. And probably if I lived to be a hundred I would say the same thing. It was horrible." Panhorst stated that the "f" word was used at Metalcraft all the time. She further stated: "And I was told by John Penny, at the time was the supervisor, right before I left, that that word was okay to use in a factory. It was used in all factories." She was asked if this was after she had complained about the use of that word, and Panhorst responded: "Yeah, I didn't -- well, a lot of women didn't like that word. I mean -- they would say F-you. You know, just -- I didn't like it."

During redirect, Panhorst was asked about some records of Dr. Rao which stated that there was a lot of stress in her home, that her home was unstable, and that she had indicated that was because of her condition. Panhorst responded: "Yes. Mainly after '94. Like I said, that year I laid on the couch. And I mean I -- it hurt. It really hurt. My hand -- the pain ran up in through here (Indicating). And I never did think carpal tunnel did that. But --" She agreed that it went up to her elbow. Panhorst further stated: "And this one when that started it didn't act like this one (Indicating). But -- I had to have both operated on."

Panhorst agreed, during recross examination, that she had testified that concerning the two cent raise, Joann Monday had told her the two cents kept you above the rest. She was queried - So after you got a two cent raise you were making more than your co-workers? Panhorst answered: "As far as I know. That's all she said." She further testified: "Everybody was real hush hush about what they got pay raised. Or what they got -- but a couple of them told me that they got a quarter and 50 cents. So -- and one girl said she got 75. And she started a long time before -- after me." It was noted she had testified on redirect that she had worked on the sander and they were giving her the wrong sand paper to use; she was asked when was this. I don't remember what year that was, Panhorst stated. She agreed that it was after she developed her hand problems. Panhorst stated that she believed it was after the company began to harass her, and after one lady in particular, Alice Power, told her - if you're not careful the company is going to get rid of you. "...Alice Power, kept telling me that: 'Joanie, watch your back. Because they're trying to find a way to get rid of you'", Panhorst said, "(t)hat's all I know". Panhorst was queried - You indicated you got in trouble while working the sanding machine and that it was the wrong sand paper, how many times did they write you up on a Level 1 write up for that? They never did write me up on Level 1, the claimant answered. She was queried - They didn't write you up? "No, they didn't write me up", she admitted.

On cross examination by the Second Injury Fund, Panhorst agreed that as of the day before she got fired from Metalcraft, it was her intention to continue to work at Metalcraft. Panhorst was queried - Before you got what we'll call the Level 3 write up, or the piece of paper, the day you got fired had you ever received any other write ups from any supervisor or anyone else at Metalcraft during the entire time you worked there, either a Level 1, Level 2 or Level 3? No, Panhorst answered. In 1994, I was called up to the manger; but no, I didn't ever get no write up, she further stated. I never received any other write ups - either 1, 2 or 3 - on me for not doing what I was supposed to do before the very last day, the claimant agreed. She was asked - If you are being reprimanded at Metalcraft for not doing your job duties, or not doing what you're supposed to do, is that when you get a write up? I don't know, Panhorst answered. The claimant was asked if Metalcraft wants to discipline an employee, i.e. for not making quota, what do they do. They fire them, Panhorst answered. When asked - what's the point of write ups then, what are those for, Panhorst answered: "I don't know. Because I had never had one."

During cross examination by the Second Injury Fund, Panhorst was queried - Since leaving Metal Craft in 1997 have your

psychological problems that you're experiencing gotten worse, gotten better, or stayed about the same? Gotten worse, the claimant answered. Panhorst explained: "I don't like to be around people much. And I stay home a lot."

Panhorst was asked, during cross examination, when she filed her claim for wrongful discharge to try to get her job back at Metalcraft was it her hope that that would cause her to get her job back at Metalcraft. Yeah I was trying to get back at Metalcraft, Panhorst answered, "'cause I never really did mind the job". She further stated: "Well, I probably still wouldn't have trusted some of the people out there. But I never did mind the work." Panhorst stated that the job duties she was doing when she first started at Metalcraft in 1990 were essentially the same jobs duties she was doing in 1997 when she got fired. I was working the same kind of hours in 1997 as I was working in 1990, the claimant said. "After I -- my hand got to hurting real bad I didn't get much overtime. But -- besides the maintenance people. I think I was the only person that they ever brought off the floor to clean the men's restroom."

On redirect examination, Panhorst agreed that the employer took her off the floor to clean the men's room. She was asked to explain the occasion for this, and Panhorst answered: "Well, they had some some people coming that they wanted it clean. And Orville knew I was a hard worker and --" Panhorst was asked if she considered this a sort of a type of punishment for her. I don't know, Panhorst responded. She was asked if she enjoyed that work, the cleaning of the men's room. I did it; I cleaned it good, Panhorst responded.

Dr. S. Parwatarikar, M.D., testified by deposition on behalf of the claimant (No. C). A psychiatrist, Dr. Parwatarikar, identified Employee's Deposition Exhibits 2 and 3 as reports he had prepared after evaluation of Panhorst in relation to her case; the doctor agreed that his evaluation included a review of medical records. It was noted that Dr. Parwatarikar had seen Panhorst in August, 1999, and the doctor was asked if there would have been any benefit to seeing Panhorst more recently. "Well", Dr. Parwatarikar answered, "the only thing I would have determined is whether the disability had gotten worse or remained the same, or what type of treatment she is receiving". (Parwatarikar Dp. pg. 13) The doctor agreed that the disability he found in August, 1999 as reflected in his report was permanent.

Dr. Parwatarikar, who stated that his testimony would be in accordance with his reports, wrote in his report about the medical records and reports he reviewed, Panhorst's complaints, the onset of her current problems, Panhorst's psychiatric and medical histories, her Alcohol and Drug history, Developmental and Social history, Educational history and Marital history. Panhorst's mental status examination was discussed. The results of Panhorst's Minnesota Multiphasic Personality Inventory test was discussed by Dr. Parwatarikar:

Overall, she had a tendency to express underlying psychological problems in terms of somatic complaints and has difficulty in accepting psychological problems and have a tendency to be dependent. There is a strong need for sympathy, attention and affection. This leads to problems with insecurity whenever such needs are not fulfilled leading to physical problems or complaints. The validity scales did not reveal any tendency to exaggerate or malingering (fake symptoms).

Dr. Parwatarikar's diagnosis was: Axis I – Dysthymic disorder, Generalized Anxiety Disorder and Pain Disorder with Psychological and Medical Components related to Bilateral Carpal Tunnel Syndrome; Axis II – Personality Disorder, not otherwise specified (With Features of Dependent and Obsessive Compulsive Type); Axis III – History of Bilateral Carpal Tunnel Surgery, Status Cholecystectomy, Hysterectomy, Appendectomy, Lumpectomy and Car Accident in 1989; and Axis IV – Discussed below.

Presence of a Mental Disorder

Ms. Panhorst currently presents the symptoms of depression and anxiety.

Her depressive symptomatology includes a pervasive depressed mood, insomnia, loss of energy, loss of self esteem, poor concentration and feelings of hopelessness. Her symptoms have been manifested by excessive anxiety and worry about her inability to work and social withdrawal. She is restless. She has difficulty in concentrating. She has irritability, muscle tension and sleep disturbance. This particular anxiety appears to be unrelated to any significant triggering mechanism and is not related to any physiological effect of substances or general medical condition. This has lasted for over 4 years with some intermittent, but no substantial improvement, with medications.

In addition to the anxiety disorder and depression, she also has expressed pain in one or more anatomical sites which also has become predominant focus of clinical presentation. This pain has caused significant distress and impairment in her social, occupational and other areas of functioning, psychological and physiological factors appear to be present in the manifestation of the pain syndrome and considering and considering her desire to return to work and lack of manifestations of malingering on psychological testing indicates that this pain disorder is independent of the mood and anxiety disorder. This pain disorder has lasted for more than six months and is chronic.

Since the depression, anxiety and pain disorder have caused her significant amount of impairment in her social and occupational functioning, these are considered to be disabilities.

Relationship to the Injury at Work

Ms. Panhorst reports that she has had at least three separate injuries on her job, however, but it was not until 1997 that she decided to file for workers' compensation. Her history also indicates that she has had difficulty in her psychological functioning since 1991 which according to her description was related to the stress and an injury at work which had occurred in 1991 which in turn became a hindrance to her work and was not properly addressed resulting in an exacerbation of symptoms in 1994 following carpal tunnel syndrome.

The review of records also indicates that on two separate occasions in 1975 and subsequently in 1986 she had received treatment for some anxiety or depression from her family physician and both of them appear to be related to stresses in her personal life. However, they were not long lasting and she was able to recover from these episodes of anxiety and depression.....Prior to her work related problems, which were documented in 1991, she apparently had no significant emotional complaints to warrant therapy between 1983 through 1991. Dr. Radel had given her some antianxiety and antidepressant medications during these occasions. It appears that around the time of her first anxiety, she also had gall bladder problems which could have resulted in gastrointestinal disturbances and thus the perceived anxiety was related to underlying physical condition. The later anxiety and depression was related to her mother's death in the 1980's and alleviated by short term therapy.

Based on this reasoning, it is this writer's opinion, within a reasonable degree of psychiatric certainty, that her current depression, generalized anxiety disorder and pain disorder are related to the injuries at work.

In an addendum report, Dr. Parwatikar wrote: "It is my opinion within a reasonable degree of psychiatric certainty that Ms. Panhorst's problems at work were a substantial factor in her complaints/and or condition as set out in my (prior) report....".

On cross examination by the employer/insurer, Dr. Parwatikar stated that Panhorst did not give a date as to the onset of her problems after hurting her right hand on the job. The doctor further stated: "It was an ongoing thing for her. In fact, the chronology of events was continuing from 1991 through 1994, which resulted in her having dropping things at work, and then led to the carpal tunnel syndrome diagnosis." (Parwatikar Dp. pg. 15) Dr. Parwatikar agreed that in his report he had written that prior to 1991 Panhorst had no significant emotional complaints between 1983 and 1991, further testifying – "Emotional in the sense of resulting in a psychiatric diagnosis". (Parwatikar Dp. pg. 15) The doctor agreed that by her own history Panhorst was on anti-depression medication and anti-anxiety medication in the 1970's and again in the 1980's due to her family situation and problems; "This was given to her by her primary care physician", Dr. Parwatikar further noted. (Parwatikar Dp. pg. 16) The following testimony then occurred:

- Q. So she sought treatment for emotional problems in the 1970's?
A. She did not seek treatment, but the physician felt that she was having some problems and that's why he prescribed her medication.
- Q. So she was treated for emotional problems in the 1970's?
A. Yes, ma'am.
- Q. And again throughout the decade of the '80's she was treated for psychological problems?
A. Yes, ma'am. There were three occasions where she was treated with anxiety and antidepressant medication. (Parwatikar Dp. pg. 16)

Panhorst's medical records were noted, and Dr. Parwatikar admitted that there was indication of Panhorst having symptoms of or being prescribed medications for anxiety or depression in 1981, 1983, 1986, April 13, 1987, September 15, 1989, February 15, 1990 and 1991 due to the death of her mother. Dr. Parwatikar noted, though: "But obviously she was taken off pretty quickly because the next note does not indicate that they were continued". (Parwatikar Dp. pg. 20)

Dr. Parwatikar was queried if he had confirmed Panhorst's history of her complaints at work and the environment at work. "No. Ma'am", the doctor answered. (Parwatikar Dp. pg. 21) Dr. Parwatikar further stated: "For the diagnosis you don't really need accurate history. The causation of the condition, probably would be bolstered by getting more history, yes." (Parwatikar Dp. pg. 21) The history was basically from Panhorst, Dr. Parwatikar agreed, "(a)nd whatever the records were that were presented to me". (Parwatikar Dp. pg. 21) Dr. Parwatikar agreed that he did not perform a physical examination of Panhorst to determine what kind of physical complaints she had.

On cross examination by the employer/insurer, Dr. Parwatikar elaborated on his opinion that since it was a primary care physician diagnosing anxiety and depression for Panhorst in the 1970's, 1980's and early 1990's he did not attribute much to the seriousness of it: "Based on that and secondly, there was really no indication that it had affected any of her major life functions." (Parwatikar Dp. pg 22) Dr. Parwatikar explained that by major life functions he meant that the disorder was not severe enough to cause disability in that it did not effect the components such as effecting Panhorst's work, or the personal function component such as an effect on hygiene, or the third component interpersonal relationships, or the fourth component social things. Dr. Parwatikar

agreed that it was his opinion that a person who is depressed and has anxiety but can perform their regular functions may have a disorder but does not have a disability, that you needed all four components jeopardized in order to have a disability,.

Dr. Parwatikar agreed, during cross examination, that he was not aware of any actions taken by the employer that were not done in good faith with respect to reprimands or promotions or demotions or anything that Panhorst received. (**Ruling:** Claimant's objection is overruled. Parwatikar Dp. pg. 31) I never reviewed any of the reprimands or discussed with Panhorst the verbal reprimands she received; it was just Panhorst's subjective belief about what she felt was happening to her at work, Dr. Parwatikar agreed. I do not recall Panhorst relaying to me any examples of any kind of extraordinary or unusual behavior that occurred at work, the doctor admitted.

During cross examination, it was noted that in Dr. Bidy's record in a 5/04/99 entry that Panhorst admitted at that time to having bizarre thoughts of cutting her throat; Dr. Parwatikar was queried if he was aware that that was how Panhorst's grandfather had committed suicide, and the doctor answer – "No, sir". (Parwatikar Dp. pg 32) Dr. Parwatikar further testified: "If I had that information, my opinion would be that there is some genetic predisposition for her depression and that particular situation had brought that up". (Parwatikar Dp. pg 33). It was noted in Dr. Bidy's 04/01/99 report that Panhorst had relayed that her husband had left her for no reason; Dr. Parwatikar noted that Panhorst had relayed to him that her husband had left not only because of the pain she was having but also because she was having problems with her depression, and she was not able to work which was causing a lot of financial difficulty, and not being able to provide for the family, and that was all involved in the divorce. Dr. Parwatikar admitted that "(w)hatever (Dr. Bidy's) information is in his report is different than what she told me". (Parwatikar Dp. pg 26)

Dr. Parwatikar agreed, during cross examination, with her grandfather committing suicide and a maternal aunt who was diagnosed with depression that "this would definitely bolster my opinion that (Panhorst) was suffering from depression at this point (of May 1999)", and that Panhorst would have a predisposition for depression. (Parwatikar Dp. pg 33) The doctor was asked if what occurred in the 1970's, 1980's and 1990's were the type of events that would promote this depression. "That was not really a depression because that didn't fit the criteria of DSM-IV", the doctor said. (Parwatikar Dp. pg 34) It could be an adjustment disorder, Dr. Parwatikar further stated, "(f)or example, a person can go through a grief situation, which is a very short-lived situation, which is not considered to be depression". (Parwatikar Dp. pg 34) It was noted and the doctor agreed that it was in May of 1991 that Dr. Radel had given Panhorst Xanax for symptoms of anxiety since the death of her mother; Dr. Parwatikar agreed that he was saying that it is not unusual for someone to have a brief period of time when they mourn the death of a loved one. When queried if his opinion would change if Panhorst's mother had died in 1981, the following testimony occurred:

A. Yes and no. If she had continuously felt depressed since 1981 through 1991, then it would be considered to be a depressive symptom or anxiety disorder.

But what happened is that even though a traumatic event occurs in our life, something else can bring that particular memory to surface, and then you can really feel that particular situation happening again, and your anxiety or depression can occur.

Q. Right.

A. So it is possible that something else might have triggered this particular feeling of the mother's death at the time in 1991. (Parwatikar Dp. pg. 35)

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Q. (By Mr. Banahan) You would agree (a ten-year period that she was still grieving for her mother's death) is beyond that period?

A. (By the Witness) If she was indeed treated from 1981 to 1991, then your opinion is correct.

Q. Then if we go back, you would agree that she received treatment in '80, '81, '86, '87, '89, '90 and '91. That would at least indicate a history of treatment ongoing for that ten-year period.

A. None of these were related to her mother's death. There were different situations that could have caused different anxiety reactions at that time.

Q. How do you know, when she saw the doctor and he prescribed the Xanax, and she is saying she's depressed in let's say '86 or '87 or '89, that those had no relationship to her mother?

A. That's one of the problems in determining whether she had a diagnosis of depression or anxiety or not. Because these are primary care physicians who really do not go into the details of what is causing her depression.

Q. Okay.

A. So I don't know. As far as I'm concerned, looking at the records, I don't know –

Q. Okay.

A. -- whether the diagnosis of depression or anxiety was appropriate or not.

Q. Right. But that's my point. You can't rule out that the diagnosis of anxiety and depression weren't related to ongoing grieving of her mother?

A. No, I can't. (Parwatikar Dp. pp 36-37)

During that ten-year period Panhorst was taking Valium and Librium which can be for anxiety, Dr. Parwatikar agreed; the doctor further noted, though, that at that particular time those medications were probably given for spasms, that generally they don't use Valium and Librium anymore, that they have other medications like Xanax and Ativan or things like that. When further queried, but back in 1983 would Valium and Librium been used for anxiety, Dr. Parwatikar answered: "Again, primary care physicians will use Librium and Valium for different reasons. I don't know what the reasons were." (Parwatikar Dp. pg. 38) Dr. Parwatikar agreed that during that ten-year period Panhorst was taking Xanax, Buspar and Prozac, and further noted that these medications "are psychotropics, or medications that are prescribed for 'psychiatric' problems". (Parwatikar Dp. pg. 38) The doctor admitted that it would be safe to say that he could not rule out that Panhorst had a diagnosis of depression and anxiety before 1990. The doctor further admitted that it was possible events such as the death of her mother, her husband's disability, having to mortgage the home, rid herself of the family restaurant, get a job, and support her husband would all be things that would exacerbate or aggravate her depression if it in fact existed before 1990, and not just situationally so that it went away. Dr. Parwatikar agreed that the loss of her husband would also be something that would greatly exacerbate or aggravate Panhorst's underlying condition. Dr. Parwatikar admitted that with his Axis I diagnosis of Dysthmic disorder, one of the criteria that has to be met for this diagnosis is that the person has to be depressed for at least two years. "...The reason I gave the diagnosis was because she was continuously depressed from 1994", the doctor said. (Parwatikar Dp. pg. 40) Dr. Parwatikar agreed that the personality disorder of Axis II would be a pre-existing condition.

During cross examination, Dr. Parwatikar was questioned about Panhorst's MMPI, about the generalizations of the results and whether or not they matched up with Dr. Parwatikar's psychiatric evaluation. Agreeing that the L score indicated a person who would feel vulnerable to being criticized and judged, Dr. Parwatikar further stated - "That's a function of a dependent personality". (Parwatikar Dp. pg. 42) When queried - so subjectively Panhorst would take things and perhaps feel that she was being criticized and judged, the doctor responded: "Either that, or she would take other people's criticism or opinion about her very seriously." (Parwatikar Dp. pg. 42) The doctor agreed that people with similar case scores would have only partially effective coping mechanisms, and that this was true with Panhorst. Dr. Parwatikar agreed that persons with Panhorst's clinical scale results are individuals who tend to present themselves as physically ill, exhibiting a variety of somatic complaints, some of which are very likely a response to psychological stress. When asked if some of Panhorst's physical complaints might be traced to some stressors that occurred in her life, Dr. Parwatikar answered: "Either that, or the anxiety which is precipitated by the symptoms themselves could be exaggerated because of her tendency to do that." (Parwatikar Dp. pp 43-44) It was noted that Dr. Parwatikar did not diagnose Panhorst as severely depressed. The doctor responded: "It was kind of a chronic and severe depression, not amounting to a major depression. But it is a severe depression, otherwise it would be just an adjustment disorder." (Parwatikar Dp. pg. 44) Dr. Parwatikar agreed that major depression is a DSM-IV type diagnosis, and that he did not give that diagnosis. Dr. Parwatikar stated that Panhorst has a psychiatric diagnosis which is independent of any kind of physical problems she may be having now. Only in Axis I is the pain related to Panhorst's physical problem, the doctor said, "(b)ut the dysthymia and her anxiety disorder is not". (Parwatikar Dp. pg. 47)

On cross examination by the Second Injury Fund, Dr. Parwatikar agreed that the history he had taken from Panhorst at the 1999 appointment was that she was let go from the employer, Metalcraft Enterprises, Inc., in 1997. "I believe five years" is how long Panhorst worked for that company, the doctor said. (Parwatikar Dp. pg. 53) Dr. Parwatikar agreed that it would be fair to say that being fired was depressing to Panhorst and she harbored a great deal of resentment from being fired. When asked if it was also fair that Panhorst felt she had not been treated fairly, the doctor responded - "That was her perception". (Parwatikar Dp. pg. 53)

In the discussion of Panhorst's MMPI results during cross examination by the Second Injury Fund; Dr. Parwatikar explained: "Somatic means physical." (Parwatikar Dp. pg 56) Noted was that it said -"Overall she has a tendency to express underlying psychological problems in terms of somatic complaints", and Dr. Parwatikar agreed.

During cross examination by the Second Injury Fund, Dr. Parwatikar agreed that he had reviewed treatment records concerning Panhorst, including those of Panhorst's family doctor, Dr. Radel, and records of Dr. Paulk; it was noted, and Dr. Parwatikar agreed, that Panhorst had communicated her history to him as not being significant for anything psychiatric until she started working for Metalcraft; when asked, from his review of the medical records, if these records reflected a consistent history as Panhorst had relayed to him, and Dr. Parwatikar answered: - "All I can tell you is that even though the medications were prescribed, not even a single time was a consultation with a psychiatrist requested or sought." (Parwatikar Dp. pg. 57)

Dr. Parwatikar agreed, during cross examination by the Second Injury Fund, after Panhorst left employment at Metalcraft she had gained weight of 50 to 70 pounds between 1998 and 1999, and Panhorst was having more and more problems psychologically. The following testimony then occurred:

- Q. Let me give you a hypothesis. It's clear from your conversations with her that she fell (sic) ill-treated at her employment and that was a great source of stress for her, isn't that correct?
- A. Yes, ma'am.
- Q. But yet wouldn't that situation have remedied itself once she was removed from that environment?
- A. On the contrary, removal from the employment merely just accentuated her feeling of rejection. And because of her being a

dependent person, her depression gets worse.

Q. So are you saying when she left, her situation deteriorated even more?

A. Yes, ma'am. (Parwatikar Dp. pg. 61)

Dr. Parwatikar stated that he agreed with Crider Center's opinion that Panhorst's depression worsened in 1996 and has been constant ever since without a break for even two weeks. The doctor noted that three of the highest stressors that can occur in a person's life are "(l)oss of a loved one, loss of a job, divorce". (Parwatikar Dp. pg. 65) Dr. Parwatikar agreed that when he saw Panhorst, Panhorst was going through the loss of a long-standing marriage and the loss of a job.

On redirect examination, Dr. Parwatikar agreed that with respect to any possible prior stressors, it was still his opinion that the events that Panhorst complained of at work are still a substantial factor in Panhorst's condition as he found it. It was noted that the doctor had been queried during cross examination that Panhorst had not discussed with him reprimands at work, but at page 16 of his report it was indicated that Panhorst had relayed that because of conflicting expectations of different supervisors she was not able to follow anything, and became more and more confused, depressed and withdrawn.

Dr. Ralph L. Biddy, M.D. testified by deposition on behalf of the claimant. (No. A) The doctor stated that he has been a psychiatrist since 1959, is board certified, and works at the Crider Center; Dr. Biddy agreed that he was "counting the days" until his upcoming retirement. The doctor explained that the "Crider Center is a not-for-profit corporation that is dedicated to providing psychiatric services to the mentally ill people of the four areas." (Biddy Dp. pg. 8) Dr. Biddy agreed that Panhorst was one of the mentally ill individuals.

"It's been several years" that I have been treating Panhorst, Dr. Biddy stated, and agreed that he first saw Panhorst on April 8, 1999. (Biddy Dp. pg. 8) "I have seen her continuously since that date", the doctor said. (Biddy Dp. pg. 9)

It was noted that the doctor was sent a letter by the claimant's attorney requesting certain information, and Dr. Biddy agreed that he prepared a response letter dated May 11, 2005. Dr. Biddy agreed that in the letter he wrote that he would testify Panhorst is suffering from a serious depressive disorder that she reports began during her employment at Metalcraft some years ago; the doctor also agreed that this was in his record. Dr. Biddy agreed that at the time he saw Panhorst on April 8, 1999 Panhorst was already showing severe depression, significant anxiety and very poor self-esteem, frequent crying and fatigue, a thought flow abnormality, some thoughts of suicide, and mixed feelings of hostility, rage and depression. Agreeing that he had commented in his letter that Panhorst's condition was improved, but she had waxed and waned, Dr. Biddy explained:

"Well, over the course of these six years, let's say, I have seen her take serious dips in her depression to the point that I struggled with whether to hospitalize her or not, and at other times we were able to get her to where she could enjoy taking care of grandchildren and was able to take care of herself and even have a very limited interaction with other people other than family." (Biddy Dp. pp. 11-12)

Dr. Biddy agreed that, as stated in his letter, it is his opinion that Panhorst connects all of her physical and emotional distress to the circumstances and conditions in which she worked and was terminated from the employment at Metalcraft. The doctor was asked if Panhorst's pain would either be part of or give rise to her depressed state. "It can't be separated from her depressed state", Dr. Biddy responded. (Biddy Dp. pg. 18)

I am not aware of what Panhorst's condition or situation was before I saw her, Dr. Biddy agreed. "Only by her reporting", the doctor added. (Biddy Dp. pg. 14) Dr. Biddy was queried if anyone had sent him any records pertaining to Panhorst's treatment prior to him seeing her. "There are some records from Dr. Crane whom she saw, but they're very -- very sketchy, I would say, and were not very enlightening to me", Dr. Biddy responded. (Biddy Dp. pg. 14)

On cross examination by the employer/insurer, Dr. Biddy agreed that the time when he first Panhorst in April 1999 a health questionnaire was completed concerning Panhorst in which it was listed that Panhorst had an eating disorder, that she ate compulsively; the doctor agreed that a question on the health questionnaire was -- for which of the following have you been previously diagnosed or received treatment -- and the only indication of any prior diagnoses or treatment that Crider Center was informed of by Panhorst was the eating disorder.

Dr. Biddy agreed, during cross examination, that in addition to reviewing Dr. Crane's records, he had also seen records from Arthritis Consultants, and a record from a Lisa Bell of Bell Psychological Services prepared on 02/15/99. Dr. Biddy agreed that in Bell's report, in the history of present illness section, there was an indication that Panhorst stated that as early as 1994 her physician had recommended that she see a psychiatrist because of suicidal ideation. Dr. Biddy stated that he did not have an opportunity to review the reports of Dr. Parwatikar or Dr. Stillings or Dr. Rao.

During cross examination, Dr. Biddy agreed that when he first saw Panhorst on April 8, 1999 it was his opinion that she was severely depressed. The doctor was queried -- you don't know when the onset of that depression occurred precisely? "Precisely, no", Dr. Biddy answered. (Biddy Dp. pg. 27) The following testimony then occurred:

Q. Do you know when she first started taking psychiatric medications?

A. Well, I assume now that it was under Dr. Crane's control. That was the time.

And she never --

But if she had any treatment prior to that, I am unaware of it.

Q. Okay. So she never provided you with any history of having taken Valium and such in the '70's and the 80's?

A. No. I -- if she had, it was -- I have no recollection of any of that.

Q. And given -- given the mental picture that you have of Miss Panhorst, would it surprise you that she had been taking psychiatric medication since the '70's or the 80's?

A. No. It would not surprise me.

Q. And why is that?

A. Because she has been continuously ill ever since I saw her.

Q. Okay. And --

A. The pattern of illness is chronicity.

Q. Okay. And the pattern of the nature of the illness that she has, is that a chronicity that you would expect to develop at an early time in her life and persist throughout or --

A. I won't say I expect it, but I would not be surprised by it. It would be quite consistent. (Bidy Dp. pp. 28-29)

The doctor was asked what Librium was prescribed for, and Dr. Bidy answered -- "It's an anxiety medication." (Bidy Dp. pg. 36) When asked if he would be surprised to know that Panhorst was taking Librium in 1983, Dr. Bidy responded: "Not really. No." (Bidy Dp. pg. 36) It was noted that Dr. Bidy had said Panhorst's condition seemed to wax and wane over time, and the doctor was asked -- would certain events or factors in Panhorst's life make her more prone to those bad periods? Dr. Bidy answered: "Yes. I can see the connections at times." (Bidy Dp. pg. 29) The following testimony then occurred:

Q. Okay. So periods of stress, physical, emotional, financial, legal, they would all come together to -- to exacerbate or aggravate her depression?

A. I have seen that in her case.

Q. Okay. And by history provided to you, prior to her going to work at MetalCraft, she had some difficulties at least financially? Her husband was on disability?

A. I believe that's true. Yeah.

Q. Okay. And at one point she had tried to start a business that she was unable to sustain because of her husband's disability and the need to find a job with benefits?

A. Yes. She told me about that.

Q. Okay. And she was unhappy with having to do factory work and unhappy with the pressure of being the sole provider in the household?

A. She has talked of that many times.

Q. Okay.

A. That's true.

Q. Okay. And would it be fair to say that when you take the stress of being the sole provider and being put in a position of having to be the sole provider and work in a position that you don't really want to work in so that you can support your spouse of some 34 years and that spouse decides they're going to leave you, that would also be a stressor?...

Q. Do you have any knowledge of whether he left her or she left him?

A. I believe he left her.

Q. Okay. Going back to the question I asked you, assuming all of that to be correct, would that present a great deal of stress in this individual's life?

A. Yes.

Q. And that would make her more prone to -- to a depressive episode?

A. One of other -- on of the things, yes.

Q. Okay.

A. -- certainly.....

Q. Okay. And that -- that -- to be married to somebody for 34 years and to have that activity -- unspecified activity occur and have that result in the dissolution of your marriage, would -- in terms of stressors, is that a pretty big one?

A. It's a pretty good size. Yes.

Q. Okay, that in and of itself could cause a depressive episode?

A. It could contribute. I don't like the work cause.

Q. Okay. Can you say what caused depression in this individual?

A. No. I can't.

Q. Okay. If I understand what your reports say, in this 5/11/05 report, it's a whole bunch of things coming together that cause her to be psychiatrically in the condition she's in today?

A. Yes and no. Yes, all of those things. There were many things going on, many contributing factors.

Q. Okay.

A. I just don't like the word cause.

Q. Okay. And you say many contributing factors. Can you identify what those contributing factors are for me?

A. Well, I think her ability to be offended by things that some people would not take offense at, her sensitivity, her physical problems, and the nature of arthralgia and joint and muscle problems, her failures at being the independent supporter of the family, her rejection or perceived rejection by the people at work, employees and superiors, her perception of being unfairly treated and not listened to and not dealt with in her mind honestly or frankly. I think from her perception, all of these are the cause of her depression. (Bidy Dp. pp. 29-31; 32-33)

Dr. Bidy agreed that when he said from Panhorst's perception, he made no independent investigation into whether or not any of the things she relayed to him were beyond mere perception or were in fact reality. The doctor was asked to elaborate on what he meant by Panhorst's sensitivity, and Dr. Bidy responded: "Let's say it's the kind of emotional sensitivity to -- she can almost become paranoid about what people meant when they said this or did that and how -- and of the unfairness of life and events toward her." (Bidy Dp. pg. 34) In laymen's terms, the doctor agreed, Panhorst is thin-skinned. Dr. Bidy stated that this layman's diagnosis of being thin-skinned, he did not know where it came from; the doctor agreed that he did not know if Panhorst had this as a child or as a teen or as an adult. "It is of the nature of something that has been with her for a long time, yes", Dr. Bidy further stated. (Bidy Dp. pg. 34) The doctor stated -- "I have no way of knowing" if the rejection that Panhorst felt at Metalcraft, whether she was treated any differently by Metalcraft than any other employee at Metalcraft. (Bidy Dp. pg. 34) Dr. Bidy gave the following testimony:

Q. Okay. And when we look at the things that we have talked about, the pain problems, the sensitivity, the perception of rejection by others in the workplace and the failures that you listed, are you able to separate any of those out and say, This one is more significant than this one, or apportion them as causes or contributions to her depression?

A. No. I pretty much take it as a whole. (Bidy Dp. pg. 36)

Dr. Bidy agreed, during cross examination, that at least a component of what is going on with Panhorst is the physical pain she feels. It was noted, and Dr. Bidy agreed, that Panhorst had had some physical injuries, and had had some surgical procedures. The doctor was queried.- So a component of what you are treating her for at this point in time is exacerbation or aggravation of that depression caused by her physical pain and limitations associated with it? Dr. Bidy answered: "I don't know if the word "that" applies. She does have physical pain and muscular weakness and diminished physical strength. Where it comes from and what it's due to, I don't have an opinion about, -- but it's there." (Bidy Dp. pg. 36) The doctor was further queried -- And does it contribute to her depression? Dr. Bidy answered: "Oh, it contributes to her depression. Yes." (Bidy Dp. pg. 36)

On redirect examination, Dr. Bidy was queried -- even though Panhorst may have had other stressors, would it still be his opinion that Panhorst's employment at Metalcraft and the situation and problems that she had were still a substantial cause of Panhorst's need for psychiatric treatment. "Yes", the doctor answered. (Bidy Dp. pg. 40) Dr. Bidy was questioned with regards ^[2] to the February 15, 1999 psychological consultation report of Lisa Bell/Bell Psychological Services, and the following testimony occurred:

Q. All right. And a history of present illness was given by Mrs. Panhorst by stating that her emotional difficulties began in 1994 due to problems with her employment. She reported circumstances at her place of employment which she felt were harassment by her supervisors for her need to have an operation on her hand in a hostile work environment. She stated that her supervisors did not want to hear about her physical problems and their interference with her job performance. She alludes to ideas of being picked on by supervisors because of her gender as well, and she stated that her physician recommended that she see a psychiatrist in 1994 because of her suicidal ideations.

So apparently what she told Dr. Bell basically is the complaints that she told you about arising out of her employment with Metalcraft; is that correct?

A. That's correct. (Bidy Dp. pg. 41)

Additional information from the Bell February 15, 1999 report about the history of present illness section was noted; Dr. Bidy stated that the report was a part of his record.

The following was written in Bell's February 15, 1999 psychological consultation report:

History of Present Illness

Mrs. Panhorst stated that her emotional difficulties began in 1994 due to problems with her employment. She reported circumstances at her place of employment which she felt were harassment by her supervisors for her need to have an operation on her hand, and a hostile work environment. She stated that her supervisors did not want to hear about her physical problems and their interference with her job performance. She alluded to ideas of being picked on by supervisors because of her gender as well. She stated that her physician recommended she see a psychiatrist in 1994 because of her suicidal ideations. She began to see a Dr. Rau, and Dr. Tichoto in St. Louis for psychotropic medications. Mrs. Panhorst continued to work in the same employment situation until 1997 when she was hospitalized for suicidal ideation at St. John's Mercy in Washington. She stated that she was not released to return to work by her psychiatrist, and was terminated within a week of her discharge from the hospital. Her perceptions of her employment situation included the notion that she was terminated from her job in 1997 because she was filing a Worker's Compensation claim, and also that she was unable to return to work due to emotional stress. Mrs. Panhorst has not made attempts to return to work since August 1997.

In addition to receiving outpatient treatment from the psychiatrists in St. Louis, Mrs. Panhorst has engaged in outpatient treatment through Dr. Crane's office, receiving both psychiatric and counseling service. She is not currently under the care of a mental health professional. Mrs. Panhorst had been taking Zoloft for a period of time, but is no longer taking this medication since Dr. Crane had told her that her emotional problems were employment related. She could not recall how long ago she had stopped the medication. The report which was sent to me by SSD indicates that she was under the care of Dr. Crane from November 1996 until March 1998. Mrs. Panhorst reported that she did not feel improved under the care of Dr. Crane, or Dr. Tichoto, but did feel better while talking to the counselor and Dr. Rau. Her symptoms have not abated to a significant degree over time, and she reported that she has not experienced a period of two months in the last two years, or longer without her symptoms of depression.....

Mrs. Panhorst reported that she experiences fewer symptoms when she is at home during the day. She tries to engage in household chores, but reports that her physical problems interfere with the timely completion of tasks. She visits on the telephone with her children, or her two friends on a daily basis, and attends church weekly. She finds it difficult to leave her home to discomfort with crowds of people, but will venture out of her home when necessary to grocery shop, or go to the doctor. She also attended school function for her grandchildren on occasion.

Past History

...Mrs. Panhorst married in 1964, and had three children as a result of her marriage. She has six grandchildren. She reported that she ran a beauty shop from her home off and on until she became employed by Metal Craft in 1990. Other employment history includes a factory position in 1986 for seven or eight months. She was terminated from that position for making threatening statements to a coworker. She also had bought a restaurant, and catered weddings for a short period of time, but quit due to her husband's ailing health, and their lack of medical benefits.

Mrs. Panhorst became employed by Metal Craft in 1990, and stated that she quickly discovered conflicts associated with working in this environment. By 1994 she reported severe emotional distress with associated suicidal ideation. She continued to work at Metal Craft until 1997 when she was terminated by the company for not returning to work as requested. When asked why she stayed in an employment situation when she claimed to be so miserable she stated that she did not know what else she could do with her life because she had been a hairdresser for so many years. She attempted to change careers by escorting wide load trailers, but found that she could not drive due to her physical problems with her arms....

In addition, Mrs. Panhorst reported that she and her husband have been separated since September 1998. Her husband apparently left the marriage due to disagreements with her. Her perception is that he left because of her emotional and physical health. She filed for divorce due to a disagreement regarding the sale of their home following the separation. The overall relationship was described in somewhat negative terms....

Bell's diagnosis on February 15, 1999 was: Axis I - Major Depressive Disorder, Dysthymia, Adjustment Disorder; Axis II - Rule out personality disorder NOS (Avoidant Features); Axis III - Left arm pain by report; Axis IV - Occupational, Economic, Primary Group Problems; Axis V - Current GAF = 45, Highest Past year = 45.

On further cross examination, Dr. Biddy was queried - as indicated in Bell's February 1999 report, the history Panhorst had also relayed to him was that Panhorst had a physical problem, and as a result of the way she was treated by her employer as a result of the physical problem she developed depression? "Yes", Dr. Biddy answered. (Biddy Dp. pg. 45) The doctor further stated: "And along with the poor treatment, that led eventually to her discharge. It seems all part of a wrapped package." (Biddy Dp. pg. 45)

When queried -- so it would appear that absent the surgery we wouldn't be here -- Dr. Biddy responded: "Absent the wrist problem -- and the harassment about --"; "You know, but there's another thread in there, and the other thread is that they picked on her because she was a woman, because she was heavy, because of the way she did her work." (Biddy Dp. pp. 45 and 46) The doctor was queried -- And that was her perception" Dr. Biddy answered: "That's correct. That's all have is --". (Biddy Dp. pg. 46) Dr. Biddy admitted - "I know that there was some legal action that did not yield any benefit to her"; the doctor admitted that he had not seen any of the deposition testimony from the plant people. (Biddy Dp. pg. 46) Dr. Biddy was asked when did Panhorst develop

depression, and the doctor answered: "I – the only thing I know for my knowledge from her is the depression started when she was working at MetalCraft." (Biddy Dp. pg. 47) The following testimony then occurred:

Q. Okay. And if the records of other treating physicians -- let me get you some names here and be specific -- Dr. Radel and Dr. Ghosh indicate that she was being treated for anxiety and depression as early as the '80's, that would be inconsistent with the history that you had?

A. Yes.

Q. Okay.

A. I just simply did not have that history. (Biddy Dp. pp. 47-48) (**Ruling:** Claimant's objection is overruled. Biddy Dp. pg. 48)

During cross examination, Dr. Biddy was asked what causes depression. "Unknown", Dr. Biddy answered. (Biddy Dp. pg. 49) The following testimony then occurred:

Q. Not known. So how do you know that work or treatment at work caused it here?

A. I didn't make that statement.

Q. What is your statement?

A. My statement is that she believes that.

Q. Okay. Within a reasonable degree of psychiatric certainty, do you know what caused depression in Miss Panhorst?

A. No more than anyone else.

Q. Okay. Can depression be generic or familiar?

A. Correct.

Q. Okay. And does she have a family history of depression?

A. I don't remember. I'm sorry.

Q. Did you know her grandfather committed suicide?

A. I don't remember that.

Q. Do you know that her mother had psychiatric issues?

A. I'm sure she referred to that.

Q. Okay. How about her daughter? Did she have psychiatric issues?

A. She presents to me that the daughter has psychiatric issues, but not that she's being treated.

Q. Okay. Assuming that's all correct, grandpa, mom, daughter, would there be a genetic component to depression in Joan Panhorst?

A. I would have to assume so. (Biddy Dp. pp. 49-50) (**Ruling:** Claimant's objection is overruled. Biddy Dp. pp. 49-50)

Dr. Wayne Stillings, M.D. testified by deposition on behalf of the employer/insurer. (No. 1) A board certified psychiatrist, Dr. Stillings stated that he evaluated Panhorst on March 1, 2000 and issued a report. I reviewed records at the time of the initial evaluation, and then upon subsequently reviewing additional materials I prepared supplemental reports dated January 22, 2001, November 19, 2001 and May 14, 2002, Dr. Stillings said.

Dr. Stillings stated that he took a personal history from Panhorst, including "the psychosocial, developmental, educational, employment, marital histories, etc." (Stillings Dp. pg. 6) Discussing significant things from a psychiatric standpoint in Panhorst's family history, Dr. Stillings noted:

"According to Ms. Panhorst, she has a maternal aunt who had ECT, electroconvulsive therapy. She said her family pedigree was negative otherwise, but the record review reveals that she told another psychiatrist that, in fact, her grandfather had suicided. So we have a family history that shows that there is some genetic loading for psychiatric disorders." (Stillings Dp. pp. 9-10)

When asked if Panhorst had mentioned anything about prior psychiatric treatment, Dr Stillings answered that she did mention one thing, "(t)hat she said the onset of her emotional problems first occurred in her life in 1994". (Stillings Dp. pg. 10) She did not mention anything prior to 1994, the doctor said, "(t)hat's when she consulted Dr. Rao, a psychiatrist for, 'nerves'". (Stillings Dp. pg. 10) Dr. Stillings testified about the mental status exam he conducted on Panhorst at the initial evaluation:

"She's was an alert, cooperative, obese, whiny, white female. There was no evidence of psychomotor retardation or acceleration. Speech was normal. There was no formal thought disorder. Her speech was quite circumstantial. At times she sat with her eyes closed. She was very angry with Metalcraft. She was extremely angry wither ex-husband. She attempts to attribute all of her problems to her employment at Metalcraft. She was evasive regarding her 1996 work injury. She was evasive about her marital problems, divorce, and related financial issues. Her affect was histrionic and displaced underlying hostility." (sic)

“Her mood was euthymic, which means she was not depressed. She denied any kind of psychotic symptoms, obsessions, compulsions, phobias, suicidal, homicidal ideation. She was fully oriented to time, place, and person. Memory functions were intact. Cognitively she was intact. Verbal comprehension and concentration were fine. Her general fund of knowledge was adequate. Proverb interpretation was appropriate. Intellectually she functions in the normal range. Incite and judgment are questionable.” (Stillings Dp. pp. 10-11; 11-12)

Dr. Stillings explained what he meant when he had said Panhorst’s incite and judgment were questionable:

“Well, I don’t think Ms. Panhorst has a good understanding of how she operates psychologically and how her psychological stresses cause her to have physical complaints that are beyond what, you know, she really has from an organic standpoint.” (Stillings Dp. pg. 12)

The MMPI psychological test and the pain rating chart test were administered to Panhorst, the doctor said. Discussing the results of the MMPI test, Dr. Stillings testified:

“This is a valid profile.....the profile is marked by the, ‘Conversion V.’ That’s a term of art, which just means, if you look at the profile, the first three scales form kind of a V shape.

“Which means that there are elevations on Scale 1, which would be hypochondriasis scale, and Scale 3, the histrionic or hysteria scale. This person has a pronounced hysterical and histrionic construct to her personality. Therefore, she will grossly overreport subjective, emotional, and physical complaints well beyond those which can be physically or organically confirmed....

“She would use these complaints to manipulate others and her surrounding for secondary gain. She has a tendency to somatize. (Which means) (c)onvert psychological conflict or express it as physical complaints. Typical complaints will include weakness, fatigue, multiple aches and pains, dizziness, numbness, blurred vision, insomnia, anorexia, feelings of depression, etc. Her depression scales are normal. Approximately 25% of these women have had hysterectomies.

“....She has excessive needs for attention and affection. She is insecure. Emotional dependency is a source of inner conflict for her. She is generally socially adaptable and appropriate. She will be viewed as getting along well in the world. Nonetheless, her emotions are not well modulated and they will be exaggerated, histrionic in flavor. She reported 22 vague, diffuse symptoms in nine organ system groups that cannot possibly fit known medical syndromes. Her Gilberstadt P-1 scale is elevated. This is scale that underscores her histrionic nature.” (Stillings Dp. pp. 13-15)

Dr. Stillings testified as to his conclusions regarding a diagnosis, causation and treatment recommendations after the initial evaluation:

“With respect to psychiatric diagnosis, her diagnoses are, number one, other conditions that may be a focus of clinical attention, being -- that being histrionic personality traits. And number two, partner or relational problems with respect to her mental history.

“Well, other conditions -- it’s technically an Axis I psychiatric diagnosis, okay. But if you want to just classify it as histrionic personality traits, you could place that on Axis 2. Partner relational problems with regard to her marriage is an Axis 1 diagnosis.

“Now, with regard to the other part of your question, it’s my opinion that Ms. Panhorst had no psychiatric illness causally related to or aggravated by the conditions of her employment with Metalcraft. Next, she does not need psychiatric treatment in relation to the conditions of her employment with Metalcraft. She probably will not benefit from psychiatric care for her histrionic personality feature. And the need for this is not occupational related. However, she might get better if her psychiatrist would explain to her just how she relates to stress and how she converts her psychological stress and life stressors into physical complaints and she understood better how her bodily functions work and how her brain tends to misinterpret them, she might get better. So it would be a special kind of treatment. But the need for that is not related to this particular incident or conditions of her employment. Next, her prognosis is primarily self-directed.” (Stillings Dp. pp. 17-18)

Dr. Stillings addressed the findings of Dr. Parwatar, stating that in his opinion the subjective evidence does not support Dr. Parwatar’s diagnoses, and explained:

“Well, you wouldn’t expect to develop major psychiatric disorders such as dysthmic disorder or generalized anxiety disorder in relation to a minor incident on 11/22/96 or in conjunction with the conditions of her employment a year or two before that, which she described to me in very vague terms. There were insufficient stressors or insufficient conditions of her employment to cause any major psychiatric disorders such as these two. I could find nothing extraordinary or unusual about her description of the work place. I think as one of her treating doctors put best, that Joan had to learn how to deal

with just everyday, occupational situations in a work place. Also, it's unusual for a generalized anxiety disorder to begin in a woman who's in her mid 50's. It just doesn't happen. Generalized anxiety disorders almost always occur by age 20 or earlier. It's a disorder that begins early in life. So I think just by our scientific understanding of this particular disorder and looking at when it was first reported to her, according to Dr. Parwatikar, doesn't make sense. It doesn't follow the rules." (Stillings Dp. pp. 19-20)

Dr. Stillings stated his review of Dr. Parwatikar's report did not change any of his opinions rendered in his initial report. The doctor stated that he had an opportunity to review the results of the MMPI that was administered by Dr. Parwatikar, and that it was a valid profile. Agreeing that he had issued two supplemental reports addressing these MMPI results, Dr. Stillings testified as to what the 1999 MMPI showed:

"Well, it's essentially the same code type of configuration as the one she generated at my behest on 2/23/00. And again, the important features on both of those MMPI's is the clear personality, histrionic personality structures, and absence of mood disorders like dysthmic disorder, and an absence of anxiety disorders, including generalized anxiety disorder. Also the D-3 scale was normal. D-3 is depression related to physical malfunctioning such as carpal tunnel syndrome and pain syndrome. So with a normal D-3, that would strongly argue against those diagnoses." (Stillings Dp. pg. 22)

Dr. Stillings stated that the review of Dr. Parwatikar's report and medical records revealed an additional prior treatment history which he felt was significant. "Dr. -- she related to Dr. Parwatikar that she took antianxiety and antidepressant medication in the 1970's and 1980's prior to seeing Dr. Rao in 1994", Dr. Stillings noted. (Stillings Dp. pg. 22) When queried – did Panhorst fail to mention this history to him, Dr. Stillings answered – "Correct." (Stillings Dp. pg. 22) The doctor was asked if this additional treatment history had affected his previous opinion, and Dr. Stillings answered:

"It affected it only to the extent that it solidified it, that I thought she had preexisting histrionic personality features. And the fact that she had some treatment back in the 70's and 80's is consistent with a personality type disorder, because those start early in life, by late adolescence or early adulthood. And back in the 70's, she would have been in early adulthood. So that really dovetails right into my diagnosis. And you have to remember that just because it says she was treated for anxiety and depression, that's not a diagnostic statement. That's just merely what people present to their doctors and say I'm anxious, I'm depressed. But people who are histrionic are always complaining of being anxious and depressed. Typical presentation." (Stillings Dp. pg. 23)

Dr. Stillings stated that he also reviewed the handwritten notes of Panhorst, and that his opinion expressed in his 03/06/00 report did not change. Dr. Stillings agreed that the diagnosis of histrionic personality he had provided he considered a preexisting condition.

On cross examination by the claimant, Dr. Stillings stated that when he saw Panhorst in March 2000 she had told him that she was treating with Dr. Bidy. It was indicated that Dr. Stillings had not seen Dr. Bidy's records. Dr. Stillings agreed that he had the medical records of Dr. Ghosh, Dr. Rao, Dr. Susi, Dr. Paulk, Dr. Crane, Dr. Fisher and Dr. Jones up to the time he had seen Panhorst, and that he had not seen any records dated after he had seen Panhorst other than Dr. Berkin's records.

During cross examination by the claimant, Dr. Stillings agreed that Panhorst had relayed to him such circumstances as: a. she had filed a workers' compensation claim based on injury to her nerves and head, and she explained that she was harassed about everything and that in February of 1996 she had asked her employer not to put her on the floor sander because it hurt her arms too much but they put her on the floor sander, and she had had prior injuries to her arms and hands; b. she had some conflict at work, that when she was doing what she was supposed to be doing the vice-president would come and tell her that she was being too meticulous and she shouldn't be that worried about doing the work as she had been told to do it but should rather get the work done. Another circumstance noted was that from August 1996 to November 1996 everything Panhorst did was wrong according to the vice-president and her supervisor; assuming this to be true, at least in Panhorst's mind, this could cause certain frustrations in the average person, Dr. Stillings agreed.

Dr. Stillings was asked, during cross examination, if the fact that Panhorst had some prior treatment for anxiety and antidepressant medications would that make Panhorst more susceptible to having psychological problems as a result of difficulties at work, does that lay a foundation for it. The doctor answered:

"I don't know. It's hard to assess without seeing some records from them, from there, or at least talking to her in more depth about it. But I didn't get a chance to talk to her about it because I didn't know about it. She didn't tell me.....I think, though, what's become evident from all the treatment she had prior to 11/96 in the two years preceding that, she has, you know, a significant preexisting psychiatric disability." (Stillings Dp. pp. 57-58)

Dr. Stillings was queried – would the fact that Panhorst had continued to receive psychiatric treatment after he had seen her in 1990 virtually up to the present time by Dr. Bidy be of significance to him? The doctor responded:

"Well, sure. The significance is simply that she has significant preexisting psychiatric problems. Those have persisted even though she's not at Metalcraft and she's being treated now for her preexisting psychiatric problems, which are persistent and

chronic by nature.” (Stillings Dp. pg. 59)

On redirect, the doctor was asked, when he said preexisting did he also mean preexisting Panhorst’s employment at Metalcraft. Dr. Stillings answered:

“Yes. Yes, clearly her preexisting psychiatric problems go back to the 70’s, and that’s consistent with personality problems because they usually are fixed and present by your early 20’s.” (Stillings Dp. pg. 61)

Dr. Stillings admitted, on further cross examination, that he did not have any treatment records concerning Panhorst from the 1970’s. The first treatment records that I have on Panhorst, Dr. Stillings stated, were “Dr. Radel, 11/89”. (Stillings Dp. pg. 61)

It is found, that the evidence indicates the claimant is alleging mental injury as a result of work-related stress. Missouri Workers’ Compensation law specifically addresses such injuries in Section 287.120 RSMo:

8. Mental injury resulting from work-related stress does not arise out of and in the course of the employment, unless it is demonstrated that the stress is work related and was extraordinary and unusual. The amount of work stress shall be measured by objective standards and actual events.

9. A mental injury is not considered to arise out of and in the course of the employment if it resulted from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination or any similar action taken in good faith by the employer.

In *Carnal v. Pride Cleaners*, 138 S.W.3d 155, 158 (Mo.App. W.D. 2004), a case in which it was held that the claimant suffered a compensable mental injury due to work-related stress, the Court discussed the claimant’s burden:

“While mental injuries arising from employment related stress are compensable, a claimant must establish that the stress is, indeed, work related and that the stress placed on the claimant ‘was extraordinary and unusual.’ *Williams v. DePaul Health Ctr.*, 996 S.W.2d 619, 627 (Mo.App.1999), *overruled on other grounds by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). The determination of whether work related stress was extraordinary and unusual is made upon ‘objective standards and actual events.’ *Id.* Specifically, the claimant must establish that the work related stress was extraordinary and unusual, as compared to ‘the stress encountered by employees having similar positions, regardless of employer, with a focus on evidence of the stress encountered by similarly situated employees for the same employer.’ *Id.* at 628.”

On the issue of whether or not it there were unusual and extraordinary stressful events the claimant was subjected to that were not encountered by similarly situated employees, the claimant in this case, Panhorst, offered several situations: A) The claimant gave somewhat vague testimony that she experienced stress from the harassment and how she was treated in the work place for the years after she had experienced physical work injuries and had filed a workers’ compensation claim for right carpal tunnel, that she felt stress because her supervisors/employer had discouraged her from filing a workers’ compensation claim and were mad after she did file which caused her to be afraid. The claimant agreed, though, that she settled the right carpal tunnel case on her own without an attorney, that her wrist had been operated on and the medical bills paid, that she was off work for four weeks after the right carpal tunnel surgery, that she was paid temporary total disability benefits, and that she did not received any disciplinary write-ups subsequent to filing the carpal tunnel case and had never received any disciplinary write ups until her termination; further, when queried if she believed Metalcraft would have harassed her had she not had the injury to her arm, Panhorst responded -“Well, they got rid of somebody else over it. They got rid of somebody else over workman's comp.”. Panhorst gave another example of what she felt was harassment; she testified that after she sustained a cut finger injury on the job, her supervisor, Melvin Duvall, said -“For your punishment I ought to put you back on the roll benders.”, and that she responded to him, “I’ll go back on the roll bender.”, and he said, “You ain’t scared of it?” and she responded, “No, I need my job too bad. I’ll go back if that’s what you want me to do.”; Panhorst, though, further testified that the roll bender job was not a more difficult job than the job I was doing, and she had testified that the norm for the employer was to move the employees around to different jobs. B) The claimant testified that she did not receive a pay raise after her right carpal tunnel workers’ compensation case, that they gave her a two-cents pay raise and they gave other people larger pay raises. Panhorst further testified, though, that Joann Monday, the person she reported to, “said that she had to keep me above the rest. But that I only got two -- two percent or two cents pay raise. I didn’t say anything, I was just glad to have a job.”; Panhorst agreed that she had testified that concerning the two cent raise, Joann Monday had told her the two cents kept you above the rest, and when queried so after you got a two cent raise you were making more than your co-workers she answered -“As far as I know. That's all she said.”. C) The claimant testified that someone at work, a young girl, used cuss words to her; the claimant further testified, though, that the “F” word was used at Metalcraft all the time. She further stated: “And I was told by John Penny, at the time was the supervisor, right before I left, that that word was okay to use in a factory. It was used in all factories.” When asked if this was after she had complained about the use of that word, Panhorst responded: “Yeah, I didn't -- well, a lot of women didn't like that word. I mean -- they would say F-you. You know, just -- I didn't like it.” D) The claimant testified that an employee named Kenny Cushell, rubbed up against her. Panhorst further testified, though, that Cushell “always liked to rub up against a person. And he did it several times to me.” E) Panhorst, in testifying that her’s was a physical labor job, further stated that at one time the plant manager wanted to know if she could clean the men’s restrooms, which was not part of her duties. When explaining, though, the occasion for this, Panhorst stated, “Well, they had some some people coming that they wanted it clean. And

Orville knew I was a hard worker and –“; when was asked if she considered this a sort of a type of punishment for her, Panhorst responded that she didn't know; when asked if she had enjoyed that work, the cleaning of the men's room, Panhorst responded - I did it; I cleaned it good. Additionally, the claimant gave testimony about suffering stress when given conflicting directions on how to do a job; she gave an example that while on a drilling machine drilling steel she was instructed on what drill to use, and the next morning she was “jumped” because she didn't get as many of the pieces of steel out as the night shift; such instances, which are found to be disciplinary actions, cannot be considered a mental injury arising out of and in the course of the employment per Subsection 9 of Section 287.120.

Considering this evidence, it is found that the substantial weight of the evidence does not establish that the claimant experienced unusual and extraordinary stressful events that were not encountered by similarly situated employees. Further, it is found that the substantial weight of the medical opinions do not establish that the claimant experienced unusual and extraordinary stressful events: A) Dr. Parwatikar, who testified on behalf of the claimant, agreed that he was not aware of any actions taken by the employer that were not done in good faith with respect to reprimands or promotions or demotions or anything that Panhorst received; B) Dr. Bidy, a treating doctor that the claimant sought treatment from on her own, testified that he had only a few medical records for review and noted that it was Panhorst's perception that she had suffered harassment by her employer Metalcraft, further stated – “I have no way of knowing” if the rejection that Panhorst felt at Metalcraft, whether she was treated any differently by Metalcraft than any other employee at Metalcraft; C) Dr. Stillings, who evaluated Panhorst on behalf of the employer/insurer, testified it was his opinion that Panhorst had no psychiatric illness causally related to or aggravated by the conditions of her employment with Metalcraft. It is found that there is no substantial, competent evidence establishing that the claimant, Panhorst, experienced unusual and extraordinary stressful events at work for Metalcraft Inc. that were not encountered by similarly situated employees. Thus, a necessary element for compensability for a mental injury has not been established and the claim is denied.

At issue, also, is whether or not the claimant suffered a physical mental injury. The claimant, admittedly easily confused and forgetful (thus, it is found, making her testimony confusing and often times contradictory and therefore unreliable), gave testimony at times that could be interpreted as stating that because of her physical problems she had complaints of psychological problems. When queried if she believed Metalcraft would have harassed her had she not had the injury to her arm, Panhorst's response included - “I was already harassed by Metalcraft. By the pain in my arm.” At the hearing it was noted that Panhorst had started taking notes in a logbook in January of 1994, and Panhorst's deposition testimony was noted: Question: “Why did you first start taking notes in January of 1994?” Answer: “Because my arm was giving me so much pain and I was getting harassed like for saying anything about my arm, and I wanted to make sure that I had them wrote down so Dr. Rao would know what I was talking about.” Panhorst noted that it was not her logbook but her notebook where she would write about co-workers and events at work rather than a diary of her daily work in a logbook. Panhorst stated, though, that it was her testimony that having her right hand operated on for carpal tunnel did not cause her to be anxious and depressed; she only noted that they didn't want her to file workmen's comp which caused her to feel harassed and caused her a lot of psychiatric pain. Panhorst testified that as far as her physical injuries were concerned, she was aware that she did settle some claims for physical injuries, but as far as her depression is concerned she had not received any payments. Panhorst acknowledged that she had settled her right carpal tunnel workers' compensation case.

In evidence was a copy of the Stipulation for Compromise settlement concerning the 1994 right hand/wrist injury, which reflected that the case had been settled on July 16, 1996. Panhorst agreed that before she left Metalcraft she was having problems with the left arm, left arm and neck. Stating that the pain problems that she had with the left arm and neck did not make her anxiety or depression worse, Panhorst further testified – “What made the pain worse was scared of saying anything and worrying about it because if you said anything that hurt you, when I had the right hand, they would put you on a machine that would make you hurt for days at a time.” Panhorst agreed that by the time she left Metalcraft she had problems with the right hand, the left arm and her neck, and she was having the anxiety and the depression. In evidence was a copy of the Stipulation for Compromise settlement concerning injuries to the neck, left shoulder and left wrist sustained on February 28, 1996, which reflected that the case had been settled on November 27, 2002. It is found that the claimant's testimony did not ultimately indicate that as a result of the work-related physical injury or injuries, she suffered anxiety and depression; it is found that rather, her allegation is that she suffered mental injury as a result of numerous events at work, such as exposure to curse words, a co-employee rubbing up against her as well as harassment for pursuing workers' compensation claims for physical injuries. Additionally, if the claimant was found to be claiming a physical mental injury due to 1994 and/or 1996 physical injuries sustained while working at Metalcraft (which it has been determined that she is not), it is found that those claims were previously settled, and thus any additional injury (mental or physical) alleged from the 1994 and/or 1996 accidents, or cause of actions, would be barred.

It has been determined in this Award that the claim of a mental stress work related injury is not compensable, therefore the remaining issues are moot.

SUMMARY OF THE MEDICAL TREATMENT RECORDS EVIDENCE

Medical records in evidence included the following:

Records of **Dr. Steven Radel, M.D.** (No. 2) began with an 11/15/89 radiology report concerning radiology studies of the left knee, right knee, right elbow, skull and left ribs; all studies were reported as negative; these radiographic studies were mentioned

in the first treatment entry of 11/30/89 which reflected that Panhorst was being seen for complaints of back pain following a car accident two weeks earlier; the diagnosis was- multiple contusions secondary to car accident, with muscle strain. In an entry of the probable date of 11/12/90, among Panhorst's complaints recorded was: "She has had a severe pain in the rt. arm mainly localized to the elbow region, with tingling numbness and weak feelings extending down the arms to the fingers. *from work* was handwritten at the end of this sentence. Also handwritten at the top of this 11/12/90 entry was: "*Yes! This is around the time I hurt my right arm so bad from pulling the poles that fit real tight on machine and couldn't get them off machine pulled and pulled 3 days arm hurt like hell.*" A Radiology Consultation report, dated 11/12/90, noted findings of: "Faint calcification area of the lateral collateral ligament, possibly due to tendonitis or previous trauma." In a subsequent 1990 entry (month was cut off in copying), the following was written: "Joan has been gaining weight and feeling a tight feeling in her throat with slight difficulty with swallowing. States gets nervous at these times and feels like she is short of breath. She quit smoking a couple of months ago and has noticed the weight gain since that time." (sic) The diagnosis in this entry was: Anxiety, Weight gain, and fatigue. A 1991 entry concerned treatment for a cut to the left 3rd finger; sutures were used to close the wound; the diagnosis was – laceration. Handwritten above this entry was – *Was this recorded, No, because I was told not to and not to miss work the next day.* The next entry, 22/9/91, the following was written:

Sutures removed w/o complications, to recheck prn, and in addition is given Xanax .5 mg to take prn for symptoms of anxiety since the death of her mother.

The next 1991 entry noted Panhorst's complaint as – Nerves. Included in the entry was the following:

Thinks that the Xanax does help but she doesn't like to take during the day because it makes her too sleepy. The home situation with stress is still unstable has occ. Chest pressure and tightness and anxiety episodes with tight feeling in the back of her head.

The diagnosis in the entry was: Anxiety, Depression. It was written that Xanax was being discontinued and Buspar and Prozac would be started. Next to this entry was handwritten – *I always told them it was work not my home life Home life is great!* The next entry, dated 10/23/91, it was written that Panhorst had called expressing complaints of severe pain in the right arm, and that she stated her boss was giving her problems at work because of limited use of her arm; it was written that Dr. Radel would write a letter to Metalcraft explaining Panhorst's problem. An October 28, 1991 letter by Dr. Radel was in the record, and stated:

This is in regards to Joan Panhorst a forty-seven year old white female under your employment. She does have a documented history of right carpal tunnel syndrome as found on nerve conduction studies. This somewhat necessitates her from performing restricted activities at some point due to the degree of pain that she has, this may even require surgical therapy in the future. She is receiving medications for this condition which as you are probably aware of, is made worse and some times even caused by certain types of jobs.

The five 1992 treatment entries concerned treatment of Panhorst for the following complaints: right breast sore (Dx – Fibrocystic disease); pain in right arm, medicine was prescribed; increased temperature, and complaints of aching all over, cough production; right hand pain and was swollen over weekend, Panhorst was given medication.

Record of **M. R. Jones, D.C.** (No. J) included a lone April 3, 1978 entry which reflected that Panhorst had been referred by a Sissy McDonald, and that Panhorst was a Hairdresser. Dr. Jones' record consisted mainly of Disability Certificates, six (6) in total: a) 7/24/92 certificate stated that Panhorst was totally incapacitated during the period of 7/24/92 to 7/27/92 due to lumbar spasm treatment and could return to regular duties on 7/28/92; b) a 7/27/92 certificate stated that Panhorst was totally incapacitated during the period of 7/24/92 to 8/1/92 due to advise of complete rest because of a sacroiliac strain, could return to regular duties on 8/3/92; c) a 7/31/92 certificate stated that Panhorst was totally incapacitated during the period of 7/31/92 to 8/8/92 due to sacroiliac strain sprain, and could return to regular duties on 8/10/92; d) a 8/7/92 certificate stated that Panhorst was totally incapacitated during the period of 7/24/92 to 8/8/92 with return to work on light duty on 8/10/92 and the doctor wrote – "I advised avoid lifting for aprox. 2 wk"; e) a November 21, 1994 certificate stated that Panhorst was under the doctor' care as of 11/21/94, and the Restrictions Section of the disability certificate was written – "Lumbosacral strain/sprain"; f) an 11/21/96 certificate stated that Panhorst was excused from work during the period of 11/21/96 to 11/28/96 for medical reasons.

In a March 18, 1998 letter, Dr. Jones wrote a letter to "Whom It May Concern", and included:

This letter is a verification of a number of treatments administered to Joan Panhorst in early 1996

Joan's chief complaint at that time was severe pain of the left shoulder. Patient stated that the pain and soreness were due to over exertion of the shoulder articulation on a particular job that she was doing at that time at her place of employment.

Patient stated that she complained to management about the type of operation of the machine and that it caused great pain and discomfort and asked to be moved to a different job, but it was denied.

Mrs. Panhorst consulted a medical doctor at that time and received very little relief there.

Mrs. Panhorst occasionally still receives treatment at our office, but continues to suffer from some of the same symptoms.

Records of **Dr. Eddie Paulk, D.O.** for the stipulated time period of January 24, 1994 through January 30, 1996 (No. F) The record indicated that Dr. Paulk treated Panhorst for various ailments, such as influenza atypical chest pain, anxiety. The record began with a January 24 1994 work excuse form on which Dr. Paulk wrote that Panhorst was excused from work until January 27, 1994 due to influenza. The second document was also a work excuse form, dated February 25, 1994, on which Dr. Paulk wrote that Panhorst was excused from work from February 24, 1994 through March 4, 1994, and that Panhorst was under the doctor's care for - Acute stress reaction; in the apparent February 25, 1994 treatment note, Dr. Paulk wrote the following –

Mrs. Panhorst returns very tearful and almost unable to stop crying in the examination room. The pt apparently began having problems yesterday and family members were with her and her husband last night. She relates the problem to that at work and states that it has been going on for about 2/yrs but has intensified. Apparently at some point a co-worker was promoted to her supervisor and she states that things have been down hill ever since. She claims that she is placed on jobs that aggravate her carpal tunnel symptoms and is also continually belittled at work. She states that it has gotten to a point that she "wishes I were dead" she is requesting to be admitted to a stress unit and I contacted _____ and the pt was referred to Dr. Raul a Psychiatrist in St. Louis who she will see at 1:00 p.m. today.

Dr. Paulk noted in the treatment section of the February 25, 1994 entry that Panhorst and her husband were in route to the psychiatrist's office when they left there. In an apparent July 29, 1994 entry, Panhorst's complaints were noted to be chest pain and pressure; it was written that Panhorst reported that she had had a few episodes of palpitations once she had problems with increasing stress and occasional sharp like chest pains, but in the last week the sharp pain was increasing in frequency Dr. Paulk further wrote in the July 29, 1994 entry:

She states she never had anything like this until she came under so much stress and thinks it maybe her nerves (sic) but wants to have her heart checked out.....She states (the episodes) happen about twice a day and often times will happen at home when she is sitting trying to relax. She is still under a lot of stress and in the office today she became very tearful and whenever she started discussing it noted that the chest pressure seemed to come on.

The doctor noted exam findings on July 29, 1994 such as – no jugular venous distension is appreciated, heart is regular w/distant tones, cannot auscultate any murmurs or gallops; Dr. Paulk noted that an electrocardiogram was normal, though she had some nonspecific STT wave change "but no acute changes and it comparing this to a previous EKG in 1978 I can't tell much difference". Dr. Paulk's written impression was – atypical chest pain, and that he felt this was probably secondary to stress but would rule out cardiac disease. In an apparent August 1994 treatment note, Dr. Paulk noted that although a recent stress test was inconclusive because Panhorst was only able to go on a treadmill for about 3 minutes, Panhorst did not get pain with exertion which "tends to lead me to believe this is due to anxiety and not cardiac disease"; Dr. Paulk wrote that he had asked Panhorst to call his office with the name of the medication her psychiatrist had her own, and asked her to see her psychiatrist; Dr. Paulk's diagnosis included – anxiety. Dr. Paulk wrote the following in a July 31, 1995 entry:

Joan returns for refill of Xanax. She states she is still having problems at work and while she doesn't feel as badly as she did last year when she needed referral to a psychiatrist, she states things are getting worse at work again. She denies any problems at home and she states her supervisor is trying to get things squared away. She'd like to wait about a month and if she is still having problems, requested another referral to the Psychiatrist.

Dr. Paulk's diagnosis on July 31, 1995 was – situational anxiety. The doctor wrote that Panhorst was instructed to take one-half Xanax tablet before work and one tablet in the evening as needed. In a September 19, 1995 entry, Dr. Paulk wrote that Panhorst had returned with complaints of worsening anxiety; the doctor wrote that he had told Panhorst if the situation worsened he would refer her to a psychiatrist. It was written that Panhorst was requesting the referral, that she stated the conditions at work were not improving and she was becoming more anxious by the day; Dr. Paulk wrote that he had referred Panhorst to Provident Counseling for evaluation and therapy. Subsequent November and December 1995 entries concerned treatment for sinus problems. In a January 15, 1996 entry, Dr. Paulk wrote that Panhorst had returned requesting Zoloft, and stating that Paxil just didn't seem to work. She is having problems feeling paranoid, the doctor wrote. Dr. Paulk further wrote that he had given Panhorst samples of Zoloft. In the January 30, 1996 entry Dr. Paulk wrote that Panhorst reported she was feeling much better since being on the medication Zoloft. The entry indicated Panhorst was also checked for some sinus problems. Dr. Paulk's diagnoses on January 30, 1996 were - URI (sinus problem) and depression.

Records of **Psych Care Consultants/Psychiatric Coverage, Ltd./Dr. Shankar Rao, M.D.** (No. M), often illegible, began with a February 25, 1994 work excuse completed by Dr. Rao which indicated that Panhorst was off work from February 25, 1994 through March 11, 1994, with a return to work on March 12, 1994. A March 4, 1994 progress note included – "Pt is feeling better less depressed? – pt still not ??? well gets tightness of chest and pt had pressure on chest. She becomes tearful and unhappy & still worried about her supervisors being rough on her & not getting vacation for years & neither are likeable She is afraid of losing job & her health insurance". A March 4, 1994 work excuse completed by Dr. Rao indicated that Panhorst was off work from March

7, 1994 through March 25, 1994, with a return to work on March 28, 1994. In the March 25, 1994 entry it was written that Panhorst had been doing well, that she was planning to return to work; further noted was – “She is still periodically becomes nervous & stressed out when she works”. A March 25, 1994 work excuse completed by Dr. Rao indicated that Panhorst was off work from March 25, 1994 through March 27, 1994, with a return to work on March 28, 1994.

The next treatment note was dated September 22, 1995, and included – “pt is depressed – not sleeping well. Has muscle spasms. Pt has job stress and tense. (dec) sleep and tired – eating extremity and putting on weight – crying worried ‘may loose job’ – pt feels better if she is dead but no plans – husband is disabled.” The diagnosis was – major depression; medication was prescribed. In the next entry of January 20, 1996, Panhorst’s comments were noted: “I have to have my Zoloft I cannot function without it. I become really shaky and become irritable. I get into depressed mood.” Further noted was – “Has not taken Zoloft for 5 days. Working for Metal Craft in ??? plant. Husband is disabled.” The assessments on January 20, 1996 included: Depressed, Does not like herself; Anxious and Anxiety; stressed out; not suicidal; medicines do help. In a January 20, 1996 “To Whom It May Concern” letter, a Dr. Jatala, M.D. of the Psychiatric Coverage, Ltd. Outpatient Services wrote that Panhorst was currently his patient and was being treated for anxiety and depression, and was on psychotropic medications. A February 25, 1996 psychological evaluation form noted Panhorst’s problem as – “pt has c/o ‘Trouble at work’. Pt has difficulty with supervisor. Pt has been anxious and ????. crying and decreased sleep and irritable and tired weak. angry, irritableno plans of suicide.....Husband is disabled. Worried about loosing job.” Noted in the family history section of this initial February 25, 1996 psychosocial evaluation was – “Sister has Depression”. The diagnosis on February 25, 1996 was – Major Depression. Medication was prescribed. The March 27, 1996 progress note included the following: “Not happy at work. Gets upset easily. Does not like working in a factory. ‘People bother me. I try to stay to myself. They can be so cruel. They talk. I never liked to work in a factory. I have no choice.” It was noted that Panhorst’s husband was very supportive & listens to her. The March 27, 1996 entry indicated that medication was refilled. The June 1, 1996 entry included: “Excited about loss of 40 lbs in last 4 months. Still has working in the factory low – has been working regularly. Mostly stays to herself. Has no problems (with) her bosses. Also feels the medicines help her a lot – ‘They slow me down and calm me’”. Medication was refilled. A June 27, 1996 entry noted that Panhorst had called and reported - feeling depressed; the entry reflected that the doctor recommended an increase in the medication Zoloft. In the next entry of July 20, 1996, was written:

Not happy (with) her job. “I just get so stressed out. They just don’t understand. The president is sick & in hospital Vice president has taken over he is never nice to me.”

Very negativistic towards her co-workers. “It seems the don’t understand. They push me.”

Seems to have poor insight & poor coping skills & appears to be overreaching (with) ??? of paranoid feelings. “They harass me the way I walk way I dress. They are jealous about the house we bought “ Becoming more emotional and agitated ??? crying. Coping poorly. No suicidal thoughts. Feels (increased) Zoloft has helped her. “It makes me think clearer.”

It was written in the July 20, 1996 entry that counseling was discussed. In the next entry, dated August 17, 1996, it was noted hat Panhorst reported – “I am doing pretty good.” Also written was: “Feels things are better at work & she is not feeling harassed. Stayed home last week and it helped. Staying away from the vice president. “He upsets me. I stay away ????. I think they are leaving me alone.” Further written in the August 17, 1996 entry was: Appear(ance) is better. Not angry at people at work. Coping better. Sleep is a big problem again & again expresses concern about not sleeping. The September 4, 1996 entry included the following: “VERY VERBAL. Preoccupied with occupational problems. Had a meeting (with) the vice president today which lasted for one hour. Feels it was a good meeting & now she is not scared of this man. Still has a lot of paranoid thoughts about her co-workers. Seems to have irrational obsessive thoughts. Worries that people at work think she is on medicines for bad nerves.” It was noted that Panhorst relayed that she felt the medicine did help her; prescription medication was refilled. The entry of October 5, 1996 included the following:

Not happy (with) her job. Again talked about her occupational problems. Is applying ?? for a new job. Concerned about urine test. Advised that it would be positive. Also wants to know if she should tell them about her problems (with) nerves. Feels that her nervous problems are caused by occupational stress.

Medicines help “Definitely. I feel better I go & do my job if they don’t appreciate me that is their ??? problem.”

Not having any panic attacks.

The following was included in the next entry of October 23, 1996:

No improvement.

Same old issues and problems.

Continues having problems at work.

Very quiet. Affect – depressed.

Sighing.

Saying she is just tired & stressed out. I ?do? not know what to do.

“I had pain in my neck *heart palpitations at work. I just cannot handle it.”

Does not think she is able to go back to work as her nerves are getting worse. Having lot of problems (with) panic anxiety at work. Very negativistic about work. Paranoid. No suicidal thoughts. No thoughts of violence. Feels medicines help her

especially if she is not at work.
Taken OFF work.

Record of **Dr. Jesse G. Susi, M.D. of Mid County Orthopaedic Surgery and Sports Medicine** (No. H) concerned treatment involving the upper extremities and/or the cervical spine of Panhorst during the period of December 1994 through June, 2000, including a surgical report of a right carpal tunnel release on January 3, 1995, a June 30, 1998 entry reflecting that release of the left carpal tunnel under local anesthesia had been performed, and a March 30, 2000 entry reflecting that surgery had been performed of a left shoulder video arthroscopy with arthroscopic debridement of the rotator cuff tear & acromioplasty under general anesthesia. A form completed by Dr. Susi on January 17, 1995 stated that Panhorst could work with no restrictions. In a March 1, 1995 entry, Dr. Susi wrote that Panhorst was having problems with her wrist at work. She was describing the job she was doing of moving 10-pound boxes, dropping them and stacking them on a pallet, and in the process of dropping them caused a shock to her wrist which caused it to swell; she cannot run a mixer was further noted. Dr. Susi wrote: "I think that she is most likely not going to be able to do this on a permanent basis. I have given her work restriction for that and a wrist brace for support." A form was completed by Dr. Susi on March 1, 1995 in which the doctor wrote: "Joan must refrain from running vibrating equipment or jobs which impart a shock to her (R) wrist (Can't pull down the master box on Deluxe) Rubbermaid."

In a March 29, 1995 letter to Dr. Eddie Paulk, M.D., Dr. Susi wrote that he was seeing Panhorst in follow up for her carpal tunnel release. The doctor wrote:

She has done a fine job in recovering from that. Her scar is well healed and her range of motion is back. She is working fully. She states that the night pain is gone and she is satisfied with the result. I am going to see her on an as need basis for this problem.

Dr. Susi noted that Panhorst was developing another problem, DeQuervain's tendinitis over the first dorsal compartment. I offered Panhorst an injection today, Dr. Susi wrote, but she is afraid of them. Dr. Susi wrote that if Panhorst had problems with the DeQuervain's he would recommend that Dr. Paulk talk Panhorst into an injection or send her back to him.

A June 10, 1998 entry included the following:

Ms. Panhorst comes to the office today for a new problem. This 54-year-old white female is right hand dominant. She is a housewife right now and no longer works at her former job. She used to work the Metal Craft. At any rate this patient has been having problems with her left hand, began at work, 2/26/94. She woke up with a lump on her distal forearm, saw her chiropractor and underwent manipulations for pain in the arm and shoulder. Off and on she has undergone these things. Then in February of 1998 the pain began to become constant. It is located in the index, long and thumb fingers of the left hand. She gets a tingling up the arm. It swells on the volar aspect of the second metacarpophalangeal joint. Dr. Ghosh evaluated her. He ordered an EMG and nerve conduction study which was done and interpreted as carpal tunnel syndrome. She requested referral back to see me because she had such a result in the release of her right carpal tunnel.

In a September 22, 1998 entry, Dr. Susi wrote that Panhorst was reporting that she had recovered well from the carpal tunnel syndrome, but was having more problems with the whole left arm from her neck all the way down; it bothers her wrist, it bothers her forearm and it bothers her neck, the doctor wrote. The doctor wrote that examination findings included: brachial radialis and triceps reflexes were not able to be elicited; limited range of motion of the cervical spine. It was noted that Panhorst was currently under the care of a chiropractor, and Dr. Susi wrote that he was able to review x-rays which revealed – foraminal stenosis from an arthritic facet at C5-6. Dr. Susi wrote that he recommended an MRI and if this showed a herniated disc a referral to a neurosurgeon; the doctor further wrote that Panhorst should continue with the chiropractor care, and as he really did not take care of the neck, for his purposes Panhorst was being discharged from his care for the carpal tunnel.

The next entry was dated March 3, 2000, and concerned the treatment of Panhorst's left shoulder. In the next entry of March 14, 2000 entry, the following was written:

Mrs. Panhorst is seen in the office today in follow up from her MRI scan. She has an impingement syndrome of the shoulder and I have explained to her what this was. She wants it fixed. She has been in pain for four years and she wants to have her subacromial spur taken off. I have explained the nature of the procedure and risks....

A March 30, 2000 entry stated that surgery had been performed on Panhorst at St. John's Mercy Hospital of a left shoulder video arthroscopy with arthroscopic debridement of the rotator cuff tear & acromioplasty under general anesthesia. In the last treatment note in the record, dated June 20, 2000, it was written that Panhorst had been released by the physical therapist who had stated that Panhorst had met all her goals. The impression on June 30, 2000 after examination was – Status post left shoulder arthroscopic acromioplasty, clinically improved. The plan was that Panhorst was to continue with her home exercises for range of motion and strength, as would follow up on an as needed basis; it was written that Panhorst understood that her shoulder would continue to get better with time.

Records of **St. John's Mercy Rehabilitation** (Roman Numeral I) indicated that Dr. Susi referred Panhorst to this facility on

April 7, 2000 with a diagnosis of – status post arthroscopic acromioplasty. In the initial physical therapy shoulder evaluation form, dated 04/12/00, the following was written in the Subjective History section: “Surg on 3/30/00 for (L) sh. Has had pain in (L) sh. Since '96.....P(rior)M(edical)H(istory) relevant for disc bulges in lower C-spine, bilat carpal tunnel surg & obsessive compulsive disorder. The written assessment on 04/12/00 was: “Pt very tense (with) difficulty relaxing. Pt has multiple personal issues also (increasing) her anxiety which (??could be??) indirectly (increasing) her pain. T(reatment) will emphasize ROM exer., modalities (as needed) & cont. Education on relaxation, posture &???” In the 04/19/00 progress note entry a history of: “Pt stated she had a death in her family & feels the (increase) in (L) sh. Pain is due to that.” A 4/26/00 progress note form included the following in the Assessment Section: “Pt’s mental status affecting recovery (because) she performs more poorly (with) (increased) pain when stressed if depressed. Pt needs much encouragement to perform exer. to the best of her ability (because) P(assive)R(ange)O(f)M(otion) by therapist is (greater) than P(assive)R(ange)O(f)M(otion) by pt on wall pulleys.”

The record indicated that therapy continued into June 2000 on a 3-times a week basis. Therapy appeared to help the shoulder, with minor set backs (i.e. 06/05/00 – Panhorst reported that she was really hurting that day from cutting the grass with a riding lawnmower over the weekend). In the 05/12/00 entry it was noted that Panhorst reported she had been in bad depression the last 4-5 days. The progress note entry was dated 06/19/00, and reflected that Panhorst was better with no pain with rest, still pain with manual labor and pain at 1-2/10 primarily with active use of arm (i.e. cutting grass), and can drive with some pain.

Records of **Dr. John Crane, M.D.** (No. E) began with a November 21, 1996 entry which stated the following:

Met (with) Joan. Husband dx. heart disease in '88 – disability. Went to work in 1990 @ Metalcraft – (had been hairdresser) really tried, doesn't fit in – not part of system – object of derision, scapegoat, that she worked too hard. Takes life seriously – can't handle situation-

In Aug – head of co bawled her out & she lost control - Been downhill since. Pressure great –
Will be off next week -

The 11/22/96 entry stated that Panhorst had been authorized to see Dr. Crane. In the next entry of 11/26/96, the following was written:

Pt in for brief assessment – says she had a breakdown 2/96 “(because of) the workplace”. Was seeing an MD in St. L. for meds, wants to come here now - & wants me to write her a note to stay home from work – “I just can't handle it”.

Apparently was seeing a ?psychiatrist? & on meds, c(omplaints) o(f) tightness in chest, “palpations”, s(hortness) o(f) b(reath), etc. – has seen Dr. ?Wolfgram? & “He says it's just depression”.

The written recommendations were to continue meds, get old records, and to take Panhorst off work. A November 26, 1996 letter by Dr. Crane was in the record which stated that Panhorst was currently under his care, and he was advising that she take a medical leave of absence from work November 26, 1996 through December 10, 1996; a November 26, 1996 letter from Metalcraft, signed by Chester Nichols, was in the file and stated that Panhorst was granted a leave of absence for medical reasons for the period of November 26, 1996 through December 10, 1996, and that Panhorst would be entitled to her job with all existing benefits and rights on December 10. The 11/27/96 entry included the following:

Met (with) Joan – very upset today. Feels never going to end – upset that not to be paid till 8th day and that they said had disease, - now going to file workman's comp case. Tearful, having chest pain & feels like throat closing up.

Talked about job & “taking” everything said to her for fear of being fired – feels just wants to stay till Jan 21st when “vested” - Before that felt had no chance but stayed because needed job & benefits – Talked about coping & symptoms of stress & anxiety.

The next entry of 12/3/96 included the following:

Met (with) Joan – filed workman's comp – just wants to be paid for time off – says has only \$10. Says practicing breathing but still feels chest pressure. Trying to relax – sits in chair, stays to self & and keep mind at peace – some shaking – (started last 6 mos) Her comfort is her home.

Talked about her job & company – She was gung-ho when started – wore her down – harassed, wouldn't lie, cheat, steal, gossip – all this built up slowly till August – When Chester belittled her on floor – then felt choice was between being dead or being in that place –

Will discuss next time – how to handle someone asking her about this job & not lying about it.

The 12/10/96 entry said the following:

Says still having – lots of probs (with) anxiety, & depressed mood – talk again abt the place she works & all the problems there – basically appears to feel that she simply can't go back – “I can't handle nothin – all I do is cry.” Has filed for Workman's Comp. Wants ??(excuse) today (with) the company??.

A December 10, 1996 letter by Dr. Crane was in the record which stated that Panhorst was currently under his care, and he was advising that she take a medical leave of absence from work through December 31, 1996; a December 11, 1996 letter from Metalcraft, signed by Chester Nichols, was in the file and stated that Panhorst was granted a leave of absence for medical reasons for the period of December 11, 1996 through December 31, 1996, and that Panhorst would be entitled to her job with all existing benefits and rights on December 31, 1996. The 12/11/96 entry included the following:

Met (with) Joan – says is staying home except for coming to office here & made 1 trip to fabric store & husband took her here. Says has less pressure in chest at home.

Says is tired of feeling worthless – says thinks about how easy it would be to harm self, but thinks about husband & grandkids.

“I tried so hard & no matter what I did “they” tried to belittle me in front other people”, make fun of me for what I wore.

“I took it & took it & took it because I need a job” Came unglued when Chester came on floor in August.

Tried to get her focused on coping (with) holidays but keeps coming back to problems (with) work – Wants to have calm Xmas & not be more “unglued” than I am –

Says “they beat me & what really hurts, it may have cost me my job & then I don’t know if I want to go on” Makes agreement that will not harm self in time between now & when we meet again.

The next entry of 12/12/96 included the following:

Met (with) Joanie –

Tearful – why don’t they just let me come in & do my job -? Ruminates on wrongs at work to her & others –

Says is not now suicidal this week – tired, wants to hide. Voice flat - feels like body racing – but affect despondent – sits (with) head in hand - Says at shakes can’t concentrate, can’t remember – anything would want to remember, it would be wrong. Doesn’t want to think about anything – then won’t do anything wrong – guilt won’t go away – because “did everything wrong”.

Discussed her suicidal thoughts – till able to give reasons why won’t harm self. Gave tapes & card (with) emergency #'s to call if feels worse or actively suicidal.

In the 12/30/95 entry was the following:

Met (with) Joanie – has used stress tapes & they have helped – says has not been out much since we last met, but is feeling s(ome)w(hat) better. Has to overcome idea that will say or do something wrong. Gets shaky, if starts thinking about what happened to her. We talked about cognitive distortion – what can tell self when feeling scared –

Talked about thoughts that come before suicidal thought’s – doesn’t want to go anywhere, to store – gets upset & anxious & then upset (with) self & then thinks death would be peaceful. I think she is able to focus now on doing some work (with) both Triumph Over Fear & says will get book so we can work on fearful thoughts which precede suicidal thoughts. Showing less rumination.

The record indicated that Dr. Crane saw Panhorst on 12/30/96, and the entry included the following: “Stayed pretty much to self over Xmas; couldn’t be comfortable with family & says ‘I feel real guilty when that happens.’” A December 30, 1996 letter by Dr. Crane was in the record which stated that Panhorst was currently under his care, and he was advising that she take a medical leave of absence from work through January 31, 1997; a January 2, 1997 letter from Metalcraft (unsigned) was in the file and stated that Panhorst was granted a leave of absence for medical reasons for the period of January 2, 1997 through January 31, 1997, and that Panhorst would be entitled to her job with all existing benefits and rights on January 31, 1997. A January 21, 1997 entry included the following: “Is feeling better. Concentration still not too good. Sleeping ok – Just staying to self. Scared of idea of getting another job – Discussed avoidance – Described her fear of being bombarded by negative thoughts – judgement of others. Gave some material on negative cognitions & exercises on ‘Feeling Good’”. The next entry of January 27, 1997 included the following:

Wants to talk about probs she had on the job says she’s turned over notes she made to an atty. “It was like an abusive marriage – There was always something I did wrong!”.....concern abt. Being on temporary disability – “I’m scared to death to look for something else right now.”. Advised pt. to go to Soc. Sec. Office re: (?)SSI.

A January 27, 1997 letter to Metalcraft, Inc by Dr. Crane stated that Panhorst was under the doctor’s care and he had advised Panhorst to extend her medical leave from work through February 28, 1997. Dr. Crane prepared a February 6, 1997 letter to Metalcraft in which he wrote “it would be helpful to us if you could provide her personnel and medical records for us to review and evaluate, and I would therefore request that you release those records to Ms. Panhorst to bring to our office at her next appointment”. The February 12, 1997 treatment entry included: “Seems to be confused today. – Skips around topics rel to work, being upset before & after seeing Dr. Crane – cried for week before & week after. Stull concerned re job – rather die than go back ‘fear of going back overwhelms me’.” In a February 27, 1997 treatment note was the following: “Says she seems to think clearer, is more hopeful & less wanting to harm self. Not comfortable ;out in society’ – doesn’t think will ever trust society again.....Says not going to worry about money – or work.”. The entry indicated that Panhorst was to see Dr. Crane. A second February 27, 1997 entry apparently by Dr. Crane included that Panhorst’s workers’ compensation hearing as coming up in early April and she didn’t

want to return to work before then. It was written – “They put me in this shape I’m in ____”. Says ‘If I have to go back to work there, I’ll kill myself’” It was further written that Panhorst was tearful again, but that she did look better and her affect was brighter and she was not obsessing about work so much. The recommendation was to continue Zoloft and “try to cont. leave for another mo.” The following was written in a March 6, 1997 entry:

Joan comes in office requesting letter to company & workman’s comp saying she has been under my care for counseling, symptoms came (with) it caused by work. She is very upset (with) Dr. Crane & letter saying she is expected to return to work April 7 & that he sees her situation as “dispute” (with) co. (evidently he used that word) – would not discuss or stay for whole session. Says she will return to work April 7. Indicates will not return for counseling, but was holding back tears.

A March 25, 1997 letter by Dr. Crane to Linda Pehle, Human Resources Manager, Metalcraft Enterprises, stated that Panhorst remained under Dr. Crane’s care and he was releasing Panhorst to return to work on Monday March 31, 1997.

In Dr. Crane’s records was a St. John’s Mercy Hospital record (See, also, Exh. No. K -- St. John’s Mercy Medical Center record) which reflected that Panhorst was seen in the emergency room by a Dr. Mecker on 08/01/97 for the chief complaint of – depression. The History of Present Illness was:

This 53-year-old white female presents feeling very much at wits end, extremely anxious, upset, and apparently having suicidal ideation this morning. She reports that she’s had a problem with depression and work for the last year and a half, and was actually off work for approximately four months earlier this year, during which her depression was improving, but then she had to go back to work or else was threatened with losing her job. Since she’s been back, she reports that the stress has begun increasing again. Reports problems with coworkers harassing her, and reports that things have gotten to the point where she just can’t take it anymore.

The patient went into a lot of detail about work conditions, coworkers, and some of the specific problems. However when we got to talking about this morning and any suicidal ideation the patient began crying, and despite waiting a significant length of time, she did not regain composure to where she would answer any further questions. Her daughter then told me that she had called her this morning at 5:00 a.m., with concern that she was going to hurt herself or kill herself.

Other risk factors are that a grandfather committed suicide.

It was noted that Panhorst was extremely labial, breaking down and crying multiple times during the exam. Dr. Mecker wrote: “It is unclear what role her family or home life is playing. The patient seems to specifically zero her problems in on her work environment, regardless at the present time. She appears to have exceeded her coping skills, and be demonstrating suicidal ideation and has several suicidal risk factors.” The doctor wrote that he discussed Panhorst’s care with Dr. Crane, and Panhorst would be admitted to the stress unit; the admitting diagnosis – suicidal ideation. In a 08/01/97 History and Physical report, Dr. Crane included the following:

The patient notes that she has been having problems for months at her job, she has been seen in our offices both by therapist Mary Breidenberg and by this examiner and has been in individual psychotherapy. She has complained repeatedly of problems in her job and that people there were harassing her and making fun of her. She got a written warning on the night prior to admission here and says that she was extremely upset because it was unfair and she could not sleep and began having suicidal ideation and came to the ER.

The patient notes that she has been working at this job for the last few years. She says that her husband had a severe heart attack and became disabled in 1988 and she took this job in order to try to get medical insurance to take care of her and her husband. She says that she used to be a hairdresser and worked as such from 1963 to 1994. The patient notes that she had seen a counselor and a psychiatrist in the past in 1994 and 1995, again because of complaints of depression apparently related to the stress of employment. Patient was on Zoloft for a period of time with some improvement. She has not been on antidepressant recently.

Dr. Crane noted in the 08/01/97 report the following as to Panhorst’s family history: “Indicates that the patient’s paternal grandfather suicided by cutting his throat, no other known family history of serious psychiatric illness is noted.” A discharge summary indicated that Panhorst was discharged from St. John’s Hospital on 08/04/97. Dr. Crane further wrote:

This 53 year old married woman was admitted after presenting in the ER complaining of depression and suicidal ideation. Patient has been seen in our offices for assessment and treatment in the past. She indicates that she has had a lot of problems at work and has been extremely upset by this. She had not responded well to anti-depressant medication and had not been seen in follow up for a period of time until presenting for this, with this complaint of suicidal ideation.....

COURSE IN HOSPITAL: Patient was continued on Methotrexate which she has been taking for arthritis. She was seen in both group and individual psychotherapy and was able to discuss some of the issues which she has been very upset and

concerned about. Her mood, fairly rapidly improved, and she indicated that she felt that she would be able to deal with her situation if she received some continued support. It was decided that the patient would take an extended medical leave and would be followed up in our offices for further assessment.

Dr. Crane included the following in an August 11, 1997 follow-up treatment entry.

- has been at home, not crying as much, probably doing OK. Says she'll be terminated as of today if she doesn't go back to work, (because) can't take any more leave.

Says she wants to wait until she feels better & then look for (different) job. (Could get unemployment then.)

Dr. Crane prepared a letter dated August 11, 1997 to Chester Nichols, President, of Metalcraft Enterprises in which he wrote: "Mrs. Panhorst remains under my care, and in my opinion, she is not capable to return to work." The next entry was dated August 26, 1997 and included the following:

Says "can't think straight", has lots of nightmares, can't swallow well, feels tightness in chest, back of head feels heavy, gets upset easily, feels nervous, tense.

Off Zoloft since 5/97.

Wondering if she's totally & permanently disabled, (because of) situation re: disability funds at work (would be paid out spring '98 if she is)

It was further noted in the August 26, 1997 entry that Panhorst was tense and tearful; it was written that Zoloft would be restarted. Dr. Crane's last entry in the record was dated March 26, 1998, and included the following:

Phoned for appt. – "Hadn't been here for a while – that she'd better check back (with) you" (!) Hasn't gone back to work at Metalcraft (or anywhere else) – says she's been studying for chauffeur lic. But is hard to concentrate – finally did pass the test, 2nd time.

No meds at all for 2-3 mos., had a deposition yesterday about "my dealings (with) Metalcraft", Workman's Comp., etc. Stays home a lot, sews for grandchilds, has much less anxiety there.

Dr. Crane indicated exam findings on March 26, 1998 of – "Unremarkable". The doctor's written recommendation was: "Rtn PRN".

Records of **Dr. Sanjay Ghosh, M.D.** (No. N) reflected that Panhorst presented on her own on May 5, 1997 for complaints of pain in the right arm, right shoulder, numbness and occasional swelling in the hands, and right leg pain. The record indicated that initial treatment was medication which resulted in some improvement in the pain; it was noted in the 10/22/97 entry that Panhorst was seen for follow-up of shot for arthritis. The record indicated that Panhorst was also treated for other health problems (i.e. sinuses/sore throat i.e. 12/24/97; thyroid panel drawn on 06/01/98). The December 1997 entries reflected that lumbar epidural injections at L5-S1 were given.

An August 3, 1998 entry noted that Panhorst's left carpal tunnel repair resulted in decreased symptoms; it was written that for left forearm muscle tendonitis, an injection into the tendon sheath had been performed.

The September 4, 1998 entry noted Panhorst's complaints of neck pain and left forearm pain; the record reflected treatment of anti-inflammatory and pain medications; an MRI was scheduled for October 5, 1998. A 10/05/98 report of the MRI of the cervical spine stated the following impression: "Cervical spondylosis with a C4-5 central disc bulge and osteophytes at several levels, greatest at C6-7 on the left. No focal soft disc herniation." The record included two October 1998 entries reflecting cervical epidural steroid injections given to Panhorst. The last documents in the record were laboratory tests result reports from SmithKline Beecham from 1997.

Records of **Dr. Alfred Fischer, D.C.** of Fischer Chiropractic Center (No. G) beginning on September 8, 1998, and reflected treatment of Panhorst for neck, left hand, arm and shoulder pain. The initial September 8, 1998 treatment note reflected Panhorst's complaints of pain in the left cervical spine that went down to the left arm and hand, and pins and needles in the left hand. The next treatment entry of September 11, 1998 noted Panhorst's comments that she was about 15% improved, and that she continued to state she only got relief when lying flat on her back. The following was included in the next entry of September 14, 1998: "Pt is under alot of stress. She has a lot of neck pain yet, no improvement. The (L) forearm pain has slightly decreased". Subsequent entries reflected that Panhorst reported continued symptoms, and it was written in the September 16, 1998 entry that an MRI was to be ordered. The September 21, 1998 entry included: "Pt. Says the neck is a little better & so is the (L) arm pain. She is sleeping a little better. Pt. Is under a lot of stress which seems to tense her neck & shoulders up even more"; the assessment on that date was – improved, and the treatment recommendation was – therapy only.

The record contained a September 22, 1998 letter by Dr. Fischer to Dr. Jesse G. Susi, M.D. requesting any testing results pertinent to the condition Dr. Fischer was treating Panhorst for. Dr. Fischer noted in the letter that he was treating Panhorst for complaints of neck, left hand, arm and shoulder pain. "She states that her problems all began in February of 96, after using a

sanding machine”, Dr. Fischer wrote. Dr. Fischer wrote that he would continue treating Panhorst for another six weeks due to continuing improvement.

Subsequent records into October 1998 indicated that Panhorst reported some improvement, but had continuing complaints. In an October 28, 1998 entry, Dr. Fischer wrote that Panhorst said she had some left arm pain still and neck pain still, also. Further written in the October 28, 1998 entry was: “She has a bad headache today too. She is very upset again due to husband.” Subsequent entries reflected Panhorst reported some pain, but that she had improved some. Included in the November 2, 1998 treatment entry was: “Dr. talked to pt about job she could manually do but w/restrictions”. A work restriction letter, dated November 05, 1998, prepared by Dr. Fischer noted that he had been treating Panhorst for neck, left shoulder, arm and hand pain and left arm weakness, and that at that time she was 70 to 80% improved. “I feel that Mrs. Panhorst can return to work but their (sic) are restrictions and limits as to the jobs she can do”, Dr. Fischer further wrote in the November 05, 1998 letter. The doctor listed in the letter his recommended work restrictions. Another work restriction letter, dated November 25, 1998, prepared by Dr. Fischer was in the file. Dr. Fischer again noted what he had been treating Panhorst for since September 9, 1998, and wrote that at that time Panhorst was approximately 70% improved. The doctor further wrote in the November 25, 1998 report the following:

I feel that Mrs. Panhorst can return to work but with several restrictions and limits as to the jobs she can do. Also note that due to her circumstances she has attempted to work in a nursing home in the kitchen. But due to much lifting and working out in front of her, she suffered a set back and was not able to continue at that job.

Dr. Fischer then listed his recommended work restrictions. The doctor then wrote the following in the November 25, 1998 work restriction report:

I realize that finding jobs with these types of restrictions is difficult, but due to her situations she wants to attempt to find something but has been turned down several times. Possibly working in a convenience store, gas station, would work, but this offers no benefits. She is in need of health benefit at this time. (sic)

Date: September 22, 2006

Made by: /s/ LESLIE E. H. BROWN
LESLIE E. H. BROWN
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

/s/ PATRICIA "PAT" SECREST
PATRICIA "PAT" SECREST
Director
Division of Workers' Compensation

[1] It should be additionally noted that subsequent to the hearing in this case, an extraordinary situation occurred in that the administrative law judge who heard the case suffered serious illness with extensive loss of time from work delaying the issuing of this Award.

[2] SUMMARY OF THE MEDICAL TREATMENT RECORDS EVIDENCE begins on page 41. SUMMARY OF THE EVIDENCE is under separate cover.

[2] Employer's Dp. Exhibit 1; offered into evidence by both the employer/insurer and the claimant at the deposition, See Bidy Dp. pg. 40 and 41-42.