

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

Injury No. 11-049158

Employee: Devette Sproaps  
Employer: Allied Barton Security Service, Inc.  
Insurer: Arch Insurance Company  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund (Open)

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 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 Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated July 16, 2014. The award and decision of Administrative Law Judge Joseph E. Denigan, issued July 16, 2014, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 27<sup>th</sup> day of January 2015.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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John J. Larsen, Jr., Chairman

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James G. Avery, Jr., Member

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Curtis E. Chick, Jr., Member

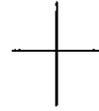
Attest:

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Secretary



STATE OF MISSOURI  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
**DIVISION OF WORKERS' COMPENSATION**



3315 WEST TRUMAN BLVD, P.O. BOX 58, JEFFERSON CITY, MO 65102 (573) 751-4231

JULY 16, 2014

11-049158

Scan Copy

142

Injury No : 11-049158  
Injury Date : 06-22-2011  
Insurance No. : 65584941298737

#Employee . . . . : DEVETTE SPROAPS  
12960 VERWOOD DRIVE  
FLORISSANT, MO 63033  
\*Employer . . . . : ALLIED BARTON SECURITY SERVICE  
08418524 0 1 S MEMORIAL DRIVE SUITE 675  
ST LOUIS, MO 63102  
#Insurer Attorney : R KENT SCHULTZ  
PENNSYLVANIA BUILDING  
217 NORTH 10TH ST STE 400  
ST LOUIS, MO 63101-2003

#Employee Attorney: JAMES J SIEVERS  
8131 MANCHESTER RD  
BRENTWOOD, MO 63144  
\*Insurer . . . . : ARCH INSURANCE COMPANY  
08418525 7 c/o ESIS INC  
PO BOX 6561  
SCRANTON, PA 18505-6561

# Denotes that the Division sent a copy of the Award by electronic mail to the email address that the party provided. The Certificate of Service for this document is maintained in the Division's records.

Enclosed is a copy of the Award on Hearing made in the above case.

Under the provisions of the Missouri Workers' Compensation Law, an Application for Review of the decision of the Administrative Law Judge may be made to the Missouri Labor and Industrial Relations Commission within twenty (20) days of the above date. If you wish to request a review by the Commission, application may be made by completing an Application for Review Form (MOIC-2567). The Application for Review should be sent directly to the Commission at the following address:

Labor and Industrial Relations Commission  
PO Box 599  
Jefferson City, MO 65102-0599

If an Application for Review (MOIC-2567) is not postmarked or received within twenty (20) days of the above date, the enclosed award becomes final and no appeal may be made to the Commission or to the courts.

Please reference the above Injury Number in any correspondence with the Division or Commission.

**DIVISION OF WORKERS' COMPENSATION**

Please visit our website at [www.labor.mo.gov/DWC](http://www.labor.mo.gov/DWC)

WC-142 (08-12)  
AWARD ON HEARING  
CP

## AWARD

Employee:	Devette Sproaps	Injury No.:	11-049158
Dependents:	N/A		Before the
Employer:	Allied Barton Security Service, Inc.		<b>Division of Workers'</b>
Additional Party:	Second Injury Fund (Open)		<b>Compensation</b>
Insurer:	Arch Insurance Company		Department of Labor and Industrial
Date:	April 7, 2014		Relations of Missouri
			Jefferson City, Missouri
		Checked by:	JED

### FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: June 22, 2011
5. State location where accident occurred or occupational disease was contracted: St. Louis County
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
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:  
Employee sustained injury from repetitive trauma due to keyboard work and handling personnel files of 700-person security service.
12. Did accident or occupational disease cause death? No Date of death? N/A
13. Part(s) of body injured by accident or occupational disease: Right and left hands.
14. Nature and extent of any permanent disability: 20% PPD of right wrist, 15% PPD of left wrist, plus 15% multiplicity; plus 4 weeks disfigurement.
15. Compensation paid to-date for temporary disability: -0-
16. Value necessary medical aid paid to date by employer/insurer? -0-

- 17. Value necessary medical aid not furnished by employer/insurer? \$8,113.00 (stipulated)
- 18. Employee's average weekly wages: \$732.80
- 19. Weekly compensation rate: \$488.53/\$418.58
- 20. Method wages computation: Stipulation

**COMPENSATION PAYABLE**

21. Amount of compensation payable:

13 weeks temporary total disability (stipulated amount)	\$6,350.89
70.4375 weeks permanent partial disability benefits	29,483.73
4 weeks of disfigurement	1,674.32
unpaid medical expenses (stipulated amount)	8,113.00

22. Second Injury Fund liability: Open

**TOTAL:** \$45,621.94

23. Future requirements awarded: None

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

The compensation awarded to Claimant shall be subject to a lien in the amount of 25% of all payments hereunder in favor of the following attorney for necessary legal services rendered to Claimant:

James J. Sievers

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

Employee:	Devette Sproaps	Injury No.: 11-049158
Dependents:	N/A	Before the
Employer:	Allied Barton Security Service, Inc.	<b>Division of Workers'</b>
Additional Party:	Second Injury Fund (Open)	<b>Compensation</b>
Insurer:	Arch Insurance Company	Department of Labor and Industrial
Hearing Date:	April 7, 2014	Relations of Missouri
		Jefferson City, Missouri
		Checked by: JED

This case involves bilateral upper extremity repetitive traumas resulting to Claimant with the reported onset date of June 22, 2011. Employer admits Claimant was employed on said date and that any liability was fully insured. The Second Injury Fund is a party to this claim but remains open for a determination of liability at a future date. Both parties are represented by counsel.

Issues for Trial

1. incidence of occupational disease;
2. unpaid medical expenses (stipulated at \$8,113.00);
3. unpaid temporary total disability (stipulated at \$6,350.89 for 13 weeks);
4. nature and extent of permanent partial disability.

**FINDINGS OF FACT**

1. Claimant, age 40, has worked for the Employer since July, 2008 as a District Recruiter. Prior to working for the Employer she worked for the Urban League as a job developer from January 2007 to July 2008, and Americal from May 2009 to December 2006, performing the same type of work she performed for the Employer. She worked for the Employer typically 40 hours per week with a half hour lunch break.

2. Claimant testified her job duties consisted of multiple tasks done throughout each and every work day. She would receive and review applications, input paper applications into the system, perform employment verifications and background checks, schedule interviews and interview applicants, make and answer phone calls, perform drug tests, and take measurements for uniforms. She testified that 85 percent of her workday involved working on the computer.

3. Claimant testified she began having hand symptoms in June 2011. Initially, Claimant had left hand symptoms consisting of aching and cramping in her fingers. Sometime thereafter she began having symptoms in her right hand as well.

4. Claimant testified she reported this to her supervisor on or about June 22, 2011, and her Employer referred her to Concentra. On June 27, 2011 she was informed that her condition was not considered work related.
5. Claimant received a denial letter from the Employer's workers' compensation carrier, stating that her condition was not work related. Claimant then sought treatment on her own.
6. Claimant went to her primary care physician, Dr. Rivkin. Claimant had x-rays and cortisone injections. Nerve studies indicated bilateral carpal tunnel syndrome.
7. Claimant then came under the care of Dr. Craig E. Aubuchon on May 17, 2012. His diagnosis was bilateral carpal tunnel syndrome and recommended surgical release. He performed a left carpal tunnel release on June 25, 2012 and a right carpal tunnel release on December 11, 2012. She was released from his care on January 21, 2013.
8. Claimant was authorized off-work from June 25, 2012 through August 27, 2012, and again from December 11, 2012 through January 6, 2013. She received no benefits while she was off work. She did return to work on January 7, 2013, full duty, doing her regular job.
9. Claimant's current complaints included daily pain, but not as severe as before. Some loss of strength in her right hand but is able to do her job, and the speed in which she does it is the same as before.
10. Claimant testified she reviewed Keystroke Analysis of her job and a video of her performing her job. She testified that it did not accurately reflect the job that she performed. The video showed only a small portion of what she does.
11. Claimant offered the narrative report of Dr. David Volarich as Exhibit A. He saw her on three occasions, February 28, 2012, November 30, 2012, and May 10, 2013. Dr. Volarich reviewed the medical record and examined Claimant. Noteworthy in the job duties history is the habit of Claimant to take a thirty-minute lunch break but no other breaks during the day. His diagnoses consisted of overuse syndrome, bilateral carpal tunnel syndrome, and resolved left lateral, and right medial, epicondylitis. He detailed Claimant's many job duties and described the ergonomics of some of the non-keyboard tasks. He opined that her work duties with Employer were the prevailing factor for the conditions he diagnosed. At his third examination, he assigned a thirty-five percent PPD of each wrist, and a fifteen percent multiplicity factor. In his report dated January 15, 2014 he refers to his review of the Keystroke Analysis (Exhibit 2) and states that his opinions regarding causation remain unchanged. Dr. Volarich took a detailed history from Claimant regarding her job requirements and had in his possession all medical records.
12. Dr. R. Evan Crandall testified he saw her initially on October 12, 2011, and as part of his evaluation he had nerve studies done on November 3, 2011, which confirmed the diagnosis of bilateral carpal tunnel syndrome. He recommended further conservative measures and, later, if she had no improvement in her symptoms, surgical releases would be reasonable and necessary. He saw her again on June 26, 2013, subsequent to Claimant's surgeries. He found that she had

done well following the surgical releases and had reached maximum medical improvement. He rated disability of 5% of both hands.

13. Employer offered the deposition of Dr. Crandall as Exhibit 3. Dr. Crandall testified that Claimant's work activities with the Employer were not the prevailing factor for her bilateral carpal tunnel syndrome and surgical releases. He reviewed the Keystroke Analysis and job video. He testified that there is no support for her carpal tunnel syndrome to be work related and more likely to be related to her non work risk factors of female gender and hormone use. He noted she has been taking birth control pills for 10-11 years. He testified that Claimant had no hand intensive hobbies or diabetes, nor was she overweight. Dr. Crandall reviewed a limited number of records.

14. Claimant testified in a straight forward manner. Her testimony was persuasive and unimpeached.

## RULINGS OF LAW

### Occupational Disease: Exposure and Medical Causation

A proof that carpal tunnel syndrome is an occupationally induced disease rather than an ordinary disease of life involves two considerations. First, whether there was an exposure to the disease which was greater than or different from that which affects the public generally. Second, whether there was a recognizable link between the disease and some distinctive feature of the employee's job which is common to all jobs of that sort. Claimant must establish generally through expert testimony, a direct causal connection between the conditions under which the work is performed and the occupational disease. Townser v. First Data Corp., 215 S.W. 3d 237 (Mo. App. 2007).

In this case, both medical experts agree that Claimant has carpal tunnel syndrome and the surgical treatment that she underwent was necessary. Claimant offered substantial opinion evidence that Employer's work exposure was the prevailing factor in Claimant's development of bilateral CTS. Dr. Volarich's ergonomic assumptions and opinions reflect a more persuasive understanding of the demands of Claimant's job than that of Dr. Crandall. Employer's expert asserted several non-work risk factors as more likely causes of Claimant's CTS which were lacking in foundation or cited without medical authority.

Separately, Employer's expert did not appear to be familiar with the non-keyboard hand tasks endeavored by Claimant throughout the day. Claimant's hand tasks are remarkable for the volume of keyboard work and handling (i.e. pinch gripping) files for all stages of hiring and retention of Employer's large work force. Claimant's testimony on her ergonomic exposure supports Dr. Volarich's opinion that Claimant's CTS was caused by work.

Nature and Extent of Permanent Partial Disability

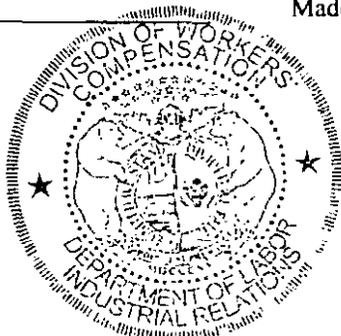
Claimant's testimony was credible and included sufficient details of her ergonomic exposure to repetitive trauma. Her description of symptom relief post-surgery was persuasive. Claimant's permanent symptoms include reduction in grip strength and endurance. The record suggests Claimant sustained substantial PPD bilaterally, including disfigurement.

Conclusion

Accordingly, on the basis of substantial and competent evidence contained within the whole record, Claimant has met the burden that her work is the prevailing factor for her bilateral carpal tunnel syndrome and resulting surgeries. Claimant is found to have sustained twenty percent PPD of the right wrist, fifteen percent PPD of the left wrist and four weeks disfigurement. A fifteen percent loading factor is applied for multiplicity of injuries. Claimant is entitled to TTD benefits and medical benefits in the amounts stipulated. The Second Injury Fund remains open.

I certify that on 7/16/14 I delivered a copy of the foregoing award to the parties to the case. A complete record of the method of delivery and date of service upon each party is retained with the executed award in the Division's case file.

By CP



Made by: Joseph E. Denigan  
JOSEPH E. DENIGAN  
Administrative Law Judge  
Division of Workers' Compensation