

TEMPORARY OR PARTIAL AWARD
(Modifying Award and Decision of Administrative Law Judge)

Injury No.: 01-041808

Employee: Janie Wilson
Employer: Golden Business Forms
Insurer: American Manufacturer's Mutual
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund
Date of Accident: May 4, 2001
Place and County of Accident: Jasper 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, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard 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 and adopts the award and decision of the administrative law judge dated June 26, 2006, as modified herein.

We modify the award of past medical expense to reflect the stipulation of the parties that American Manufacturer's Mutual is responsible for the payment of two expenses appearing on Exhibit O; the \$64.00 bill related to the March 9, 2004, treatment with Dr. Grantham and the Golden City Clinic bill. Hartford Casualty Insurance Company shall pay the remaining expenses reflected in Exhibit O.

This award is only temporary or partial, is subject to further order and the proceedings are hereby continued and kept open until a final award can be made. All parties should be aware of the provisions of section 287.510 RSMo.

The award and decision of Administrative Law Judge Karen Wells Fisher, issued June 26, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 3rd day of January 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

TEMPORARY OR PARTIAL AWARD

Employee: Janie Wilson

Injury No. 01-041808 / 02-039990

Before the
**DIVISION OF WORKERS'
COMPENSATION**

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

Dependents: n/a

Employer: Golden Business Forms

Additional Party: n/a

Insurer: Hartford Casualty / American Manufacturer's Mutual

Hearing Date: March 27, 2006

Checked by:

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: MAY 4, 2001 AND APRIL 17, 2002
5. State location where accident occurred or occupational disease contracted: JASPER COUNTY, MO
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 happened or occupational disease contracted: REPETITIVE REACHING
AND PULLING
12. Did accident or occupational disease cause death? NO
13. Parts of body injured by accident or occupational disease: SHOULDERS AND UPPER EXTREMITIES
14. Compensation paid to-date for temporary disability: UNKNOWN
15. Value necessary medical aid paid to date by employer/insurer? UNKNOWN
16. Value necessary medical aid not furnished by employer/insurer? UNKNOWN

Employee: Janie Wilson

Injury No. 01-041808 / 02-039990

17. Employee's average weekly wages: \$390.17
18. Weekly compensation rate: \$260.11
19. Method wages computation: AGREED

COMPENSATION PAYABLE

20. Amount of compensation payable:

Unpaid medical expenses: \$1,354.64

126 weeks of temporary total disability to the date of hearing (April 12, 2006) (11-22-02 through 07-25-03 and 07-07-04 through date of hearing and ordered to continue)

Future Medical: n/a

TOTAL: UNDETERMINED

Each of said payments to begin IMMEDIATELY and be subject to modification and review as provided by law. This award is only temporary or partial, is subject to further order, and the proceedings are hereby continued and the case kept open until a final award can be made.

IF THIS AWARD IS NOT COMPLIED WITH, THE AMOUNT AWARDED HEREIN MAY BE DOUBLED IN THE FINAL AWARD, IF SUCH FINAL AWARD IS IN ACCORDANCE WITH THIS TEMPORARY AWARD.

The compensation awarded to the 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 the claimant:

MATTHEW WEBSTER
MORRISON & WEBSTER

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Janie Wilson

Injury No: 01-041808 / 02-039990

Before the
**DIVISION OF WORKERS'
COMPENSATION**

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

Dependents: n/a

Employer: Golden Business Forms

Additional Party n/a

Insurer: Hartford Casualty / American Manufacturer's Mutual

Checked by:

AWARD

A hearing was held in the above matter before the undersigned Administrative Law Judge on April 12, 2006. The employee appeared in person and by attorney, Matt Webster. Hartford Casualty Insurance Company was represented by, attorney, Tom Billam and American Manufacturer's Mutual was represented by, attorney, Ray Whitaker. Cara Harris, Assistant Attorney General, appeared on behalf of the Second Injury Fund.

The parties stipulated that the employee's average weekly wage was \$390.17 and that the workers' compensation rate was \$260.11. The parties further stipulated that American Manufacturer's Mutual had the workers' compensation coverage for the employer, Golden Business Forms, through July 31, 2001, and that Hartford Casualty Insurance Company had the insurance coverage beginning August 1, 2001. Additionally, at the time of hearing Hartford Casualty Insurance Company agreed to pay Dr. Grantham's bill of \$64.00 from March 9, 2004.

The parties indicated that the issues to be determined at this temporary hearing were:

(1) Whether the alleged incident of occupational disease is causally related to the employment?

(2) Whether the claimant has reached maximum medical improvement or is in need of medical treatment necessary to cure and relieve her of the symptoms of the occupational disease?

(3) Whether the employee is entitled to temporary total disability benefits for the periods of November 22, 2002, through July 25, 2003 and July 7, 2004, to the present for a total of 126 weeks?

(4) Whether the employer and insurer are obligated to pay for certain past medical care and expenses?

(5) Upon a finding that the claimant has reached maximum medical improvement whether the employee sustained any permanent disability as a consequence of the alleged occupational disease, and if so, the nature and extent of the disability?

(6) Whether American Manufacturer's Mutual or Hartford Casualty Insurance Company is responsible for the payment of the additional medical treatment and any additional unpaid benefits.

FINDINGS OF FACT

The employee testified on her own behalf at the hearing. Janie Wilson is 46 years old and lives in Lamar, Missouri. She was a long-term employee of Golden Business Forms. She began work there on May 10, 1988, and worked until she was terminated on November 22, 2002. She worked various positions with the employer over the years. Her last position being that of a "stripper." This job involved taking negatives, finding the center, then cutting them out on a slanted drafting table. The employee had reach "way up" to get orange vinyl required in this process. She testified that this job was very repetitive and hand intensive and required turning and twisting. As a part of this job she was physically flipping plates that were four feet in width. The employee indicated that she had no prior problems with her shoulders, arms, or hands. She began to have problems in both shoulder, but did not seek treatment in 2000 although she discussed it with the company nurse.

On May 3, 2001, she was required to move and work on the "jitter-johns." Her shoulders were burning, popping, and catching and she had tingling and burning in her hands. She went to Barton County Memorial Hospital emergency room on May 4, 2001. The emergency room diagnosis was of left knee and leg pain, left shoulder pain, and bilateral wrist pain. The emergency room gave her a shot and prescribed medicine and sent her to Dr. Christiansen. He indicated she was to wear braces on her wrists at all time. The employee treated with Dr. Christiansen from May 14, 2001, until July 20, 2001, without resolution of her symptoms.

She was then sent to Dr. Sprenkle in November of 2001. She was having problems with popping, catching, tingling, and swelling. She was diagnosed with bilateral carpal tunnel syndrome and left shoulder bursitis. He sent her to Dr. Duffield. Dr. Duffield performed electrodiagnostic studies which were negative on both upper extremities. Dr. Sprenkle ordered an MRI scan of the left shoulder which revealed an inferior labral irregularity. That MRI was performed on December 4, 2001. An x-ray of the left shoulder from that same date was negative. Dr. Sprenkle then referred the employee to Dr. Ogden. This, however, was not authorized. At that point in time there was a delay in care and treatment.

Employee was eventually seen by Dr. Sprenkle on January 3, 2002, for follow-up. There was no additional care and treatment until she was seen by Dr. Estep on January 6, 2003. This was after her termination date. At that point she was having shoulder pains, catching, popping, her hands were numb and swelling and she was not sleeping well due to pain in her hands. A CT arthrogram was done on the left shoulder on January 10, 2003. Therevealed a superior and posterior labral tear of the left shoulder.

The employee was sent to Dr. Esch February 3, 2003. Dr. Esch's opinion was that she had electrodiagnostically negative bilateral carpal tunnel syndromes with the left being worse than the right. She then continued to treat with Dr. Estep. In April 2003 Dr. Estep prescribed cortisone shots in her arms and shoulders, anti-inflammatories, and physical therapy. The employee was referred from Dr. Estep to Dr. Grantham on July 15, 2003. Dr. Grantham performed a left distal clavicle excision and left subacromial decompression on July 25, 2003. Then on September 19, 2003, he performed a right distal clavicle resection and right subacromial decompression. The employee continued therapy at Barton County Memorial Hospital.

On February 24, 2004, Dr. Grantham indicated that employee was at maximum medical improvement and that she had no restrictions and gave a two percent whole person impairment at that time. The employee went back to Dr. Grantham on March 9, 2004, at which time he diagnosed bilateral carpal tunnel syndromes. He later indicated she was having right upper extremity radicular pain and in May of 2004 noted that there was bilateral scapular dyssynchrony. She followed up with Dr. Grantham through June of 2004 when he again released her without restrictions. Dr. Grantham then lowered her rating to one percent whole person on July 8, 2004.

Dr. Koprivica evaluated the employee on September 11, 2004, for the second time. At that time he indicated that the employee was continuing to have swelling in her fingers bilaterally and that she had greater symptoms on the right than the left. She was having tingling in her fingertips and was using cervical traction at home as provided through her physical therapy. She was having ongoing severe pain in both shoulders and burning pain in the shoulder blades. She was very limited in her ability to reach overhead bilaterally. It was Dr. Koprivica opinion that she had developed labral pathology and chronic impingement syndromes bilaterally as a direct result of the repetitive trauma from her employment activities with Golden Business Forms. At that time he had additional concerns regarding his opinion that there was concern about bilateral carpal tunnel syndromes. He felt at that time that electrodiagnostic

studies were in order to make a specific diagnosis and if it was diagnosed she would not be considered to be at maximum medical improvement. He was also concerned at that time about pathology in her neck or in the thoracic outlet regions. He identified her repetitive activities at work to have resulted in substantial aggravation that necessitated further evaluation. He recommended an MRI scan of the cervical spine as well as consideration of formal vascular surgical evaluation.

After Dr. Koprivica's evaluation the employee went back to Dr. Grantham. Dr. Grantham indicated in a letter that the employee's complaints of paresthesias in the upper extremities were related to her posture and not work-related conditions. However, the employee indicated to Dr. Koprivica that Dr. Grantham's report indicating improvement in the paresthesias in the upper extremities bilaterally was not true. She indicated that those symptoms remained since Dr. Koprivica had last evaluated her and that the scapular really had not afforded her any substantial relief.

Dr. Sprenkle was also of the opinion that she might have bilateral carpal tunnel syndromes and recommended electrodiagnostic testing. He also suggested x-rays of both shoulders and her cervical spine. He felt MRI scans of both shoulder girdles would be a possibility depending upon her further clinical course.

Dr. Koprivica indicated that in his opinion the employee's repetitive hand use as described was a substantial factor in the potential development of bilateral peripheral entrapment neuropathies and her clinical examination continued to be suggestive of bilateral carpal tunnel syndromes. He indicated she also has findings suggestive of possible cubital tunnel syndrome and he pointed out that there certainly is literature outlining electrodiagnostically negative carpal tunnel syndrome where compressive neuropathy is identified at the time of surgery. He also indicated concern regarding the possibility of thoracic outlet syndrome. He noted that the concerns regarding posture were valid as to the production of regional complaints of numbness in the upper extremities "However, the scapular dysfunction which is leading to the trigger points with this as a potential explanation of her problems is something that I also relate to her workplace exposure. She clearly was not having these complaints before sustaining the repetitive trauma. She had had surgical intervention with resultant abnormal mechanics of use of both shoulder girdles this leads to the development of myofascial complaints consistent with scapulocostal syndrome in my opinion." Dr. Koprivica also indicated that the employee had chronic neck pain and indicated that this was also work related. He continued to believe that objective diagnostic workup was in order as well as referral to a mental healthcare expert to evaluate psychological dysfunction attributable to her chronic pain and disability.

The employee's current complaints are that she cannot open jars and cannot reach overhead, that it hurts when she walks, that she cannot stand long, approximately 30 minutes, and then she begins to have pain, and she can walk approximately 500 feet and back. The employee indicated that she had an injury to her leg in 1989 while bow hunting. She had a prior left tibia and fibula fracture in 1989 which was treated with open reduction internal fixation. Dr. Toma gave restrictions at that time of limited standing and sit-down work only. This injury causes her to limp. It swells and needs calcium growth removed. Employee indicated in her testimony that temporary total disability payments had been made from July 25, 2003, through July 7, 2004. She also testified that Tim Paschia told her to see Dr. Sprenkle who referred her to Dr. Duffield. She was sent on September 20, 2002, for x-rays and an MRI and was prescribed medication which she filled at Wilkinson's Pharmacy.

On cross-examination the employee indicated that she had received unemployment for six months while on voluntary layoff, however, the Court would note that the employee is not requesting temporary total disability benefits for this period of time. Her request for temporary total disability is for the period of time subsequent to her termination.

EVIDENCE PRESENTED

Claimant's Exhibits

- A Claim for Compensation 01-041808
- B Report of Injury 01-041808
- C Claim for Compensation 02-039990

D	Withdrawn
E	Dr. Koprivica deposition
F	Freeman Lamar medical records
G	Dr. Sprenkle medical records
H	Golden City Clinic medical records
I	Dr. Duffield medical records
J	Midwest Orthopedic medical records
K	Dr. Andrew medical records
L	Dr. Grantham medical records
M	Freeman Hospital medical records
N	Barton County Memorial medical records
O	Itemized bills
P	Itemized bills

Employer/Insurer's Exhibits

- 1 Notice of Intent -- Dr. Grantham
- 2 Answer to Claim for Hartford

American Manufacturer's Mutual presented no witnesses and no exhibits at the time of trial.

Hartford Casualty Insurance Company presented one witness, Glenda Heath, who was an employee of Golden Business Forms. She testified that the employee had taken her position in the strip-up room and she felt that the employee had taken her job. She testified that the employee later winked at her and said, "I'm not stupid, I know what I'm doing. You're going to get your job back." She also testified that the employee had asked at one time what the symptoms of carpal tunnel were, as the witness had had it in 1992. She testified that it was after this discussion that the employee started having complaints of carpal tunnel. This witness further testified that the employee had said, I'm better educated than this. I'm going to do what I have to do to keep from going to the jitter-john.

Hartford Casualty Insurance Company also submitted the medical records of Dr. Grantham and their Answer to Claim for Compensation.

The Second Injury Fund presented no witnesses and no exhibits at the time of hearing.

CONCLUSIONS

Employer/insurer for Hartford Casualty Insurance Company has submitted the opinion of Dr. Grantham, who is an orthopedic specialist. Dr. Grantham's opinion indicated that after surgery the employee had reported a significant reduction in her symptoms. He also indicated the employee had normal EMG's and that her hand paresthesias was the result of her posture and was not a work-related injury. However, the report of Dr. Koprivica recognized that the concerns regarding her posture are valid as to their production of regional numbness in the upper extremities, but he indicated that the scapular dysfunction which was causing the trigger points was what led him to believe it is related to her workplace exposure. He indicated that she was not having these complaints before sustaining the repetitive trauma and he also has indicated that the employee differs with Dr. Grantham's report in that he indicated that her symptoms had been relieved after surgery but, in fact, they had not. Dr. Koprivica indicated that the surgical intervention caused obvious abnormal mechanics of the shoulders thus leading to the development of the myofascial complaints consistent with scapulocostal syndrome. Additionally, as to the carpal tunnel complaints Dr. Koprivica points out that medical studies indicate that there does exist electrodiagnostically negative carpal tunnel syndrome that is then identified as compressive neuropathy at the time of surgery. Thus, leading him to the opinion that she does, in fact, have the potential of bilateral peripheral entrapment neuropathies and that her clinical examination is clearly suggestive of the bilateral carpal tunnel syndromes.

Dr. Grantham had indicated as a part of his medical report that the employee had sustained a one percent disability to the body as a whole as a result of two surgeries. He also released the employee back to work with no

restrictions, after two arthroscopic subacromial decompressions and distal clavicle resections reduces her rating to a one percent body as a whole. This is an extremely conservative rating in light of the seriousness of the surgeries performed and in light of the employee's own testimony regarding her limitations. Dr. Grantham's rating alone leads me to question the credibility of his opinion as to causation. I am, therefore, finding in accordance with the opinion of Dr. Koprivica that, in fact, the employee has not reached maximum medical improvement and is in need of ongoing medical treatment. I further find that the problems with the upper extremities into the hands was work related and I am ordering that the employer/insurer, Hartford Casualty Insurance Company, provide the diagnostic treatment recommended by Dr. Koprivica including, but not limited to any MRI's, x-rays, etc. This opinion is in conjunction with that of Dr. Sprenkle who also suggested repeating electrodiagnostic studies including x-rays of the cervical spine and possibly an MRI of the cervical spine as well as both shoulder girdles. Additionally, I am recommending that the Hartford Casualty Insurance Company provide a referral for the employee to a mental healthcare expert to consider the employee's psychological issues attributable to her chronic pain and disability as a result of her workplace injury.

I further order that Hartford Casualty Insurance Company pay the employee temporary total disability benefits for the period of November 22, 2002, through July 25, 2003, and from July 7, 2004, to the present and continuing until such time as she is released to maximum medical improvement. Dr. Koprivica clearly indicates that the employee was on light duty and under restrictions at the time of her termination on November 22, 2002, and continued as such until July 25, 2003, when Dr. Grantham performed his initial surgery at which time the employer/insurer did provide temporary total disability benefits. However, as a result of the fact that she continued to have problems and complaints as a result of the work-related injury and light duty was not provided by the employer, she is, therefore, entitled to ongoing temporary total disability benefits from the date of July 7, 2004, to the present.

I find that the problems for which the employee currently complains and the additional treatment for which she is in need are a result of an ongoing exposure at the employer as well as a function of the compromised use of her shoulders following surgery and, therefore, the obligation to provide benefits falls on Hartford Casualty Insurance Company who had coverage from August 1, 2001, forward. I further order that Hartford Casualty Insurance Company pay and provide the past medical bills as submitted in Claimant's Exhibit O in its entirety for a total of \$2,849.68 to the medical providers. I am not awarding the medical bills as set out in Claimant's Exhibit P

Attorney fees shall be awarded to Matt Webster in the amount of 25 percent of all benefits awarded herein.

Date: June 26, 2006

Made by: _____/s/ Karen Wells Fisher_____
Karen Wells Fisher
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

_____/s/ Patricia "Pat" Secest_____
Patricia "Pat" Secest Director
Division of Workers' Compensation

Issued by THE LABOR AND INDUSTRIAL RELATIONS COMMISSION

TEMPORARY OR PARTIAL AWARD
(Modifying Award and Decision of Administrative Law Judge)

Injury No.: 02-039990

Employee: Janie Wilson
Employer: Golden Business Forms
Insurer: Hartford Casualty
Additional Party: Treasurer of Missouri as Custodian

of Second Injury Fund

Date of Accident: April 17, 2002

Place and County of Accident: Jasper 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, which provides for review concerning the issue of liability only. Having reviewed the evidence and considered the whole record concerning the issue of liability, the Commission finds that the award of the administrative law judge in this regard 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 and adopts the award and decision of the administrative law judge dated June 26, 2006, as modified herein.

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The award and decision of Administrative Law Judge Karen Wells Fisher, issued June 26, 2006, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 3rd day of January 2007.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

TEMPORARY OR PARTIAL AWARD

Employee: Janie Wilson

Injury No. 01-041808 / 02-039990

Before the
**DIVISION OF WORKERS'
COMPENSATION**

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

COMPENSATION PAYABLE

20. Amount of compensation payable:

Unpaid medical expenses: \$1,354.64

126 weeks of temporary total disability to the date of hearing (April 12, 2006) (11-22-02 through 07-25-03 and 07-07-04 through date of hearing and ordered to continue)

Future Medical: n/a

TOTAL: UNDETERMINED

Each of said payments to begin IMMEDIATELY and be subject to modification and review as provided by law. This award is only temporary or partial, is subject to further order, and the proceedings are hereby continued and the case kept open until a final award can be made.

IF THIS AWARD IS NOT COMPLIED WITH, THE AMOUNT AWARDED HEREIN MAY BE DOUBLED IN THE FINAL AWARD, IF SUCH FINAL AWARD IS IN ACCORDANCE WITH THIS TEMPORARY AWARD.

The compensation awarded to the 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 the claimant:

MATTHEW WEBSTER
MORRISON & WEBSTER

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Janie Wilson

Injury No: 01-041808 / 02-039990

Before the
DIVISION OF WORKERS'
COMPENSATION

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

Dependents: n/a

Employer: Golden Business Forms

Additional Party n/a

Insurer: Hartford Casualty / American Manufacturer's Mutual

Checked by:

AWARD

A hearing was held in the above matter before the undersigned Administrative Law Judge on April 12, 2006. The employee appeared in person and by attorney, Matt Webster. Hartford Casualty Insurance Company was represented by, attorney, Tom Billam and American Manufacturer's Mutual was represented by, attorney, Ray Whitaker. Cara Harris, Assistant Attorney General, appeared on behalf of the Second Injury Fund.

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(5) Upon a finding that the claimant has reached maximum medical improvement whether the employee sustained any permanent disability as a consequence of the alleged occupational disease, and if so, the nature and extent of the disability?

(6) Whether American Manufacturer's Mutual or Hartford Casualty Insurance Company is responsible for the payment of the additional medical treatment and any additional unpaid benefits.

FINDINGS OF FACT

The employee testified on her own behalf at the hearing. Janie Wilson is 46 years old and lives in Lamar, Missouri. She was a long-term employee of Golden Business Forms. She began work there on May 10, 1988, and worked until she was terminated on November 22, 2002. She worked various positions with the employer over the years. Her last position being that of a "stripper." This job involved taking negatives, finding the center, then cutting them out on a slanted drafting table. The employee had reach "way up" to get orange vinyl required in this process. She testified that this job was very repetitive and hand intensive and required turning and twisting. As a part of this job she was physically flipping plates that were four feet in width. The employee indicated that she had no prior problems with her shoulders, arms, or hands. She began to have problems in both shoulder, but did not seek treatment in 2000 although she discussed it with the company nurse.

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Dr. Koprivica evaluated the employee on September 11, 2004, for the second time. At that time he indicated that the employee was continuing to have swelling in her fingers bilaterally and that she had greater symptoms on the right than the left. She was having tingling in her fingertips and was using cervical traction at home as provided through her physical therapy. She was having ongoing severe pain in both shoulders and burning pain in the shoulder blades. She was very limited in her ability to reach overhead bilaterally. It was Dr. Koprivica opinion that she had developed labral pathology and chronic impingement syndromes bilaterally as a direct result of the repetitive trauma from her employment activities with Golden Business Forms. At that time he had additional concerns regarding his opinion that there was concern about bilateral carpal tunnel syndromes. He felt at that time that electrodiagnostic studies were in order to make a specific diagnosis and if it was diagnosed she would not be considered to be at maximum medical improvement. He was also concerned at that time about pathology in her neck or in the thoracic outlet regions. He identified her repetitive activities at work to have resulted in substantial aggravation that necessitated further evaluation. He recommended an MRI scan of the cervical spine as well as consideration of formal vascular surgical evaluation.

After Dr. Koprivica's evaluation the employee went back to Dr. Grantham. Dr. Grantham indicated in a letter that the employee's complaints of paresthesias in the upper extremities were related to her posture and not work-related conditions. However, the employee indicated to Dr. Koprivica that Dr. Grantham's report indicating improvement in the paresthesias in the upper extremities bilaterally was not true. She indicated that those symptoms remained since Dr. Koprivica had last evaluated her and that the scapular really had not afforded her any substantial

relief.

Dr. Sprenkle was also of the opinion that she might have bilateral carpal tunnel syndromes and recommended electrodiagnostic testing. He also suggested x-rays of both shoulders and her cervical spine. He felt MRI scans of both shoulder girdles would be a possibility depending upon her further clinical course.

Dr. Koprivica indicated that in his opinion the employee's repetitive hand use as described was a substantial factor in the potential development of bilateral peripheral entrapment neuropathies and her clinical examination continued to be suggestive of bilateral carpal tunnel syndromes. He indicated she also has findings suggestive of possible cubital tunnel syndrome and he pointed out that there certainly is literature outlining electrodiagnostically negative carpal tunnel syndrome where compressive neuropathy is identified at the time of surgery. He also indicated concern regarding the possibility of thoracic outlet syndrome. He noted that the concerns regarding posture were valid as to the production of regional complaints of numbness in the upper extremities "However, the scapular dysfunction which is leading to the trigger points with this as a potential explanation of her problems is something that I also relate to her workplace exposure. She clearly was not having these complaints before sustaining the repetitive trauma. She had had surgical intervention with resultant abnormal mechanics of use of both shoulder girdles this leads to the development of myofascial complaints consistent with scapulocostal syndrome in my opinion." Dr. Koprivica also indicated that the employee had chronic neck pain and indicated that this was also work related. He continued to believe that objective diagnostic workup was in order as well as referral to a mental healthcare expert to evaluate psychological dysfunction attributable to her chronic pain and disability.

The employee's current complaints are that she cannot open jars and cannot reach overhead, that it hurts when she walks, that she cannot stand long, approximately 30 minutes, and then she begins to have pain, and she can walk approximately 500 feet and back. The employee indicated that she had an injury to her leg in 1989 while bow hunting. She had a prior left tibia and fibula fracture in 1989 which was treated with open reduction internal fixation. Dr. Toma gave restrictions at that time of limited standing and sit-down work only. This injury causes her to limp. It swells and needs calcium growth removed. Employee indicated in her testimony that temporary total disability payments had been made from July 25, 2003, through July 7, 2004. She also testified that Tim Paschia told her to see Dr. Sprenkle who referred her to Dr. Duffield. She was sent on September 20, 2002, for x-rays and an MRI and was prescribed medication which she filled at Wilkinson's Pharmacy.

On cross-examination the employee indicated that she had received unemployment for six months while on voluntary layoff, however, the Court would note that the employee is not requesting temporary total disability benefits for this period of time. Her request for temporary total disability is for the period of time subsequent to her termination.

EVIDENCE PRESENTED

Claimant's Exhibits

- A Claim for Compensation 01-041808
- B Report of Injury 01-041808
- C Claim for Compensation 02-039990
- D Withdrawn
- E Dr. Koprivica deposition
- F Freeman Lamar medical records
- G Dr. Sprenkle medical records
- H Golden City Clinic medical records
- I Dr. Duffield medical records
- J Midwest Orthopedic medical records
- K Dr. Andrew medical records
- L Dr. Grantham medical records
- M Freeman Hospital medical records
- N Barton County Memorial medical records

- O Itemized bills
- P Itemized bills

Employer/Insurer's Exhibits

- 1 Notice of Intent -- Dr. Grantham
- 2 Answer to Claim for Hartford

American Manufacturer's Mutual presented no witnesses and no exhibits at the time of trial.

Hartford Casualty Insurance Company presented one witness, Glenda Heath, who was an employee of Golden Business Forms. She testified that the employee had taken her position in the strip-up room and she felt that the employee had taken her job. She testified that the employee later winked at her and said, "I'm not stupid, I know what I'm doing. You're going to get your job back." She also testified that the employee had asked at one time what the symptoms of carpal tunnel were, as the witness had had it in 1992. She testified that it was after this discussion that the employee started having complaints of carpal tunnel. This witness further testified that the employee had said, "I'm better educated than this. I'm going to do what I have to do to keep from going to the jitter-john."

Hartford Casualty Insurance Company also submitted the medical records of Dr. Grantham and their Answer to Claim for Compensation.

The Second Injury Fund presented no witnesses and no exhibits at the time of hearing.

CONCLUSIONS

Employer/insurer for Hartford Casualty Insurance Company has submitted the opinion of Dr. Grantham, who is an orthopedic specialist. Dr. Grantham's opinion indicated that after surgery the employee had reported a significant reduction in her symptoms. He also indicated the employee had normal EMG's and that her hand paresthesias was the result of her posture and was not a work-related injury. However, the report of Dr. Koprivica recognized that the concerns regarding her posture are valid as to their production of regional numbness in the upper extremities, but he indicated that the scapular dysfunction which was causing the trigger points was what led him to believe it is related to her workplace exposure. He indicated that she was not having these complaints before sustaining the repetitive trauma and he also has indicated that the employee differs with Dr. Grantham's report in that he indicated that her symptoms had been relieved after surgery but, in fact, they had not. Dr. Koprivica indicated that the surgical intervention caused obvious abnormal mechanics of the shoulders thus leading to the development of the myofascial complaints consistent with scapulocostal syndrome. Additionally, as to the carpal tunnel complaints Dr. Koprivica points out that medical studies indicate that there does exist electrodiagnostically negative carpal tunnel syndrome that is then identified as compressive neuropathy at the time of surgery. Thus, leading him to the opinion that she does, in fact, have the potential of bilateral peripheral entrapment neuropathies and that her clinical examination is clearly suggestive of the bilateral carpal tunnel syndromes.

Dr. Grantham had indicated as a part of his medical report that the employee had sustained a one percent disability to the body as a whole as a result of two surgeries. He also released the employee back to work with no restrictions, after two arthroscopic subacromial decompressions and distal clavicle resections reduces her rating to a one percent body as a whole. This is an extremely conservative rating in light of the seriousness of the surgeries performed and in light of the employee's own testimony regarding her limitations. Dr. Grantham's rating alone leads me to question the credibility of his opinion as to causation. I am, therefore, finding in accordance with the opinion of Dr. Koprivica that, in fact, the employee has not reached maximum medical improvement and is in need of ongoing medical treatment. I further find that the problems with the upper extremities into the hands was work related and I am ordering that the employer/insurer, Hartford Casualty Insurance Company, provide the diagnostic treatment recommended by Dr. Koprivica including, but not limited to any MRI's, x-rays, etc. This opinion is in conjunction with that of Dr. Sprenkle who also suggested repeating electrodiagnostic studies including x-rays of the cervical spine and possibly an MRI of the cervical spine as well as both shoulder girdles. Additionally, I am recommending that the Hartford Casualty Insurance Company provide a referral for the employee to a mental healthcare expert to consider

the employee's psychological issues attributable to her chronic pain and disability as a result of her workplace injury.

I further order that Hartford Casualty Insurance Company pay the employee temporary total disability benefits for the period of November 22, 2002, through July 25, 2003, and from July 7, 2004, to the present and continuing until such time as she is released to maximum medical improvement. Dr. Koprivica clearly indicates that the employee was on light duty and under restrictions at the time of her termination on November 22, 2002, and continued as such until July 25, 2003, when Dr. Grantham performed his initial surgery at which time the employer/insurer did provide temporary total disability benefits. However, as a result of the fact that she continued to have problems and complaints as a result of the work-related injury and light duty was not provided by the employer, she is, therefore, entitled to ongoing temporary total disability benefits from the date of July 7, 2004, to the present.

I find that the problems for which the employee currently complains and the additional treatment for which she is in need are a result of an ongoing exposure at the employer as well as a function of the compromised use of her shoulders following surgery and, therefore, the obligation to provide benefits falls on Hartford Casualty Insurance Company who had coverage from August 1, 2001, forward. I further order that Hartford Casualty Insurance Company pay and provide the past medical bills as submitted in Claimant's Exhibit O in its entirety for a total of \$2,849.68 to the medical providers. I am not awarding the medical bills as set out in Claimant's Exhibit P

Attorney fees shall be awarded to Matt Webster in the amount of 25 percent of all benefits awarded herein.

Date: June 26, 2006

Made by: _____/s/ Karen Wells Fisher_____
Karen Wells Fisher
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

_____/s/ Patricia "Pat" Secret_____
Patricia "Pat" Secret Director
Division of Workers' Compensation