

FINAL AWARD ALLOWING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge
with Supplemental Opinion)

Injury No.: 09-070411

Employee: Kathleen Wright
Employer: Sitton Motor Lines, Inc. (Settled)
Insurer: Missouri Employers Mutual Insurance (Settled)
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

This workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having read the briefs, reviewed the evidence, heard the parties' arguments, and considered the whole record, we find that the award of the administrative law judge allowing compensation is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, we affirm the award and decision of the administrative law judge with this supplemental opinion.

Discussion

Employee, a truck driver who suffered from preexisting bilateral knee problems, low back pain, left rotator cuff injury, and Meniere's disease, fell while working for employer on August 4, 2009, when her foot caught and twisted on a concrete offset. Employee landed on her right wrist and suffered an impacted fracture of the distal radius with angulation. Employee settled her primary claim against employer on a stipulation that she suffered a 27.5% permanent partial disability of the right wrist, and brought this claim against the Second Injury Fund for permanent total disability benefits premised on a combination of her preexisting disabilities and the effects of the primary injury. The administrative law judge determined employee is permanently and totally disabled and entered an award against the Second Injury Fund.

On appeal, the Second Injury Fund argues the administrative law judge erred in that: (1) employee did not suffer a compensable primary injury because her August 2009 fall was a result of an idiopathic cause in the form of balance problems stemming from Meniere's disease; and (2) employee is not permanently and totally disabled because employee's vocational expert agreed that employee could physically perform certain jobs. We are not persuaded by either argument, for the reasons set forth below.

Did employee's injuries result from an idiopathic cause?

Section 287.020.3(3) RSMo states: "An injury resulting directly or indirectly from idiopathic causes is not compensable." This language, added by the legislature in 2005, codifies a longstanding case law rule against compensating employees injured by idiopathic causes. "Idiopathic" means "peculiar to the individual, innate." *Ahern v. P & H, LLC*, 254 S.W.3d 129, 133 (Mo. App. 2008). Here, employee acknowledged in her testimony that she suffers from Meniere's disease, a chronic condition that causes

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employee to experience unpredictable bouts of balance problems if she doesn't take medication. The Second Injury Fund argues that employee fell on August 4, 2009, due to Meniere's disease, and thus her injury is not compensable.

At the outset, we note that the parties and the administrative law judge appear to have inappropriately framed this issue as one of "medical causation." We believe that when the Second Injury Fund argues employee fell because of an idiopathic cause, it is raising an issue of *legal* causation. The distinction becomes clear when we recognize that the Second Injury Fund is not arguing that employee didn't actually break her arm as a result of the fall, but instead that her injuries are not compensable under § 287.020.3(3) RSMo because they resulted from an idiopathic cause. This is a defense for the Second Injury Fund, as opposed to an element of employee's claim.

The distinction is not merely of academic concern. Because the administrative law judge analyzed the issue as one of medical causation, she inappropriately applied the burden of proof to employee. The Second Injury Fund's defense is based on the factual proposition that employee experienced an episode of Meniere's-related dizziness which caused her to fall and break her arm on August 4, 2009. As a result, it is the Second Injury Fund's burden to prove that fact under § 287.808 RSMo, which provides: "In asserting any claim or defense based on a factual proposition, the party asserting such claim or defense must establish that such proposition is more likely to be true than not true." See also *Taylor v. Contract Freighters, Inc.*, 315 S.W.3d 379, 382 (Mo. App. 2010). We believe the Second Injury Fund misstates the law when it argues employee had the burden to provide expert testimony establishing she *didn't* fall because of Meniere's disease. We find no support in the relevant case law for such an analysis, and given the circumstances of this case, we believe the statute clearly places the burden of proof with the Second Injury Fund.

Turning to the substance of the Second Injury Fund's defense, we believe it fails because employee (who provided the only firsthand testimony) identified her foot twisting on a piece of concrete as the reason she fell; employee was specifically asked about Meniere's disease and testified that she was not suffering from Meniere's-related symptoms at the time and that Meniere's disease played no role in causing her to fall. The Second Injury Fund ignores employee's testimony (and the administrative law judge's finding that employee was credible) and instead points to the deposition of employee's vocational expert Jeffrey Magrowski, who "thinks" Meniere's-related dizziness played a role in causing employee to fall. Mr. Magrowski did not identify any source for this belief, and it appears to us that Mr. Magrowski was merely offering an idle speculation based on a question that suggested employee was diagnosed with Meniere's disease around the same time of the August 2009 accident. We note that Mr. Magrowski's testimony on the topic conflicts with his report, wherein he recorded employee's history that "she climbed out of her truck and fell on uneven ground." *Transcript*, at 127. Finally, we note that Mr. Magrowski is not a medical expert, so it would appear that he is not even qualified to opine regarding the effects of Meniere's disease or the likelihood that symptoms of that disease would cause employee to fall. For all of these reasons, Mr. Magrowski's vague and speculative testimony about Meniere's disease does not, in our view, provide a compelling reason to

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disturb the administrative law judge's finding that employee provided credible testimony about why she fell.

Because there is no credible evidence on this record to support the Second Injury Fund's defense, we conclude that employee's injuries did not result directly or indirectly from an idiopathic cause for purposes of § 287.020.3(3) RSMo.

Is employee permanently and totally disabled?

The primary injury left employee with a 10-pound right-arm lifting restriction, an inability to perform twisting actions such as taking a top off a soda bottle, and pain and weakness in her right arm. In addition, employee suffered the following preexisting disabling conditions: (1) a left knee meniscal tear requiring surgery; (2) right knee degenerative arthritis requiring a total knee replacement; (3) a bulging L4-5 disc resulting from a low back injury when employee was thrown from a horse; (4) a torn rotator cuff in employee's left shoulder; and (5) Meniere's disease. Dr. Berkin and Mr. Magrowski (the only experts to testify) agree that the combination of employee's primary injury and her limitations stemming from the preexisting conditions render her unable to compete for work. The courts have articulated the following test for determining whether an employee is permanently and totally disabled:

The test for permanent total disability is the worker's ability to compete in the open labor market in that it measures the worker's potential for returning to employment. The primary inquiry is whether an employer can reasonably be expected to hire the claimant, given his present physical condition, and reasonably expect the claimant to successfully perform the work.

Dunn v. Treasurer of Mo., 272 S.W.3d 267, 272 (Mo. App. 2008).

The Second Injury Fund ignores the foregoing test and instead argues the determinative inquiry should be whether employee is physically capable of performing some work given the restrictions from her doctors, pointing to some testimony from Mr. Magrowski. But the Second Injury Fund fails to provide the appropriate context for Mr. Magrowski's comments, which are as follows:

With the limitations from Dr. Strege, Ms. Wright could not return to her past employment but probably perform some type of work. However, I do not believe she could compete successfully in the open labor market for a job based upon her lack of skills.

Transcript, 131-32 (emphasis added).

We believe the Second Injury Fund also misstates the record when it suggests employee never looked into other employment after employer closed its doors in late 2009; employee specifically testified that she *did* seek other employment during a time that she claimed and received unemployment benefits, but that she was unsuccessful finding work and instead sought, and obtained, disability benefits. *Transcript*, 16-18.

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We agree with the administrative law judge that the credible evidence best supports a finding that employee is permanently and totally disabled. But because the administrative law judge's summary comments do not identify the analysis she applied to resolve the question of Second Injury Fund liability, we provide the following supplemental findings and conclusions.

Second Injury Fund liability

Section 287.220 RSMo creates the Second Injury Fund and provides when and what compensation shall be paid in "all cases of permanent disability where there has been previous disability." As a preliminary matter, employee must show that she suffers from "a preexisting permanent partial disability whether from compensable injury or otherwise, of such seriousness as to constitute a hindrance or obstacle to employment or to obtaining reemployment if the employee becomes unemployed ..." *Id.* The Missouri courts have articulated the following test for determining whether a preexisting disability constitutes a "hindrance or obstacle to employment":

[T]he proper focus of the inquiry is not on the extent to which the condition has caused difficulty in the past; it is on the potential that the condition may combine with a work-related injury in the future so as to cause a greater degree of disability than would have resulted in the absence of the condition.

Knisley v. Charleswood Corp., 211 S.W.3d 629, 637 (Mo. App. 2007)(citation omitted).

The foregoing "potential to combine" standard has been consistently cited by the courts to determine whether a preexisting condition constitutes a hindrance or obstacle to employment. See *Concepcion v. Lear Corp.*, 173 S.W.3d 368, 371 (Mo. App. 2005); *E.W. v. Kan. City Sch. Dist.*, 89 S.W.3d 527, 538 (Mo. App. 2002); and *Carlson v. Plant Farm*, 952 S.W.2d 369, 373 (Mo. App. 1997). When we consider employee's preexisting bilateral knee problems, low back injury, left shoulder injury, and Meniere's disease, we are convinced that each of these conditions were serious enough to represent a hindrance and obstacle to employment at the time of the work injury, because we believe that a cautious employer could reasonably perceive such conditions as having the potential to combine with a work related injury so as to produce a greater degree of disability than would occur in the absence of such condition. See *Wuebbeling v. West County Drywall*, 898 S.W.2d 615, 620 (Mo. App. 1995). Accordingly, we conclude that at the time employee sustained the primary injury, employee suffered from preexisting permanent partially disabling conditions that were serious enough to constitute hindrances or obstacles to her employment or reemployment for purposes of § 287.220.1 RSMo.

We now proceed to the question whether employee met her burden of establishing entitlement to permanent total disability benefits from the Second Injury Fund. For the Fund to be liable for permanent total disability benefits, employee must establish that: (1) she suffered a permanent partial disability as a result of the last compensable injury; and (2) that disability has combined with a prior permanent partial disability to result in total permanent disability. *ABB Power T & D Co. v. Kempker*, 236 S.W.3d 43, 50 (Mo. App. 2007). Section 287.220.1 requires us to first determine the compensation liability

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of the employer for the last injury, considered alone. If employee is permanently and totally disabled due to the last injury considered in isolation, the employer, not the Second Injury Fund, is responsible for the entire amount of compensation. *Landman v. Ice Cream Specialties, Inc.*, 107 S.W.3d 240, 248 (Mo. 2003).

We adopt the administrative law judge's finding that employee suffered a 27.5% permanent partial disability of the right wrist as a result of the primary injury. We conclude that the primary injury, considered in isolation, did not render employee permanently and totally disabled. We credit the testimony from Dr. Berkin and Mr. Magrowksi (and so conclude) that the combination of employee's primary injury and her limitations stemming from the preexisting conditions renders her permanently and totally disabled. We conclude the Second Injury Fund is liable for permanent total disability benefits.

Conclusion

The Commission affirms and adopts the findings, conclusions, decision, and award of the administrative law judge to the extent they are not inconsistent with this supplemental opinion.

The award and decision of Administrative Law Judge Hannelore D. Fischer, issued August 29, 2012, is attached and incorporated by this reference.

We approve and affirm 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 26th day of March 2013.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

V A C A N T

Chairman

James Avery, Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee: Kathleen Wright

Injury No.: 09-070411

Dependents: N/A

Employer: Sitton Motor Lines, Inc.

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Additional Party: Treasurer of the State of Missouri,
Custodian of the Second Injury Fund

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

Insurer: N/A

Hearing Date: August 7, 2012

Checked by: HDF/scb

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: August 4, 2009
5. State location where accident occurred or occupational disease was contracted: Gasconade 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? Yes
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? N/A
11. Describe work employee was doing and how accident occurred or occupational disease contracted:
See award
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 wrist
14. Nature and extent of any permanent disability: 27.5% right wrist
15. Compensation paid to-date for temporary disability: N/A
16. Value necessary medical aid paid to date by employer/insurer? N/A

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- 17. Value necessary medical aid not furnished by employer/insurer? N/A
- 18. Employee's average weekly wages: ----
- 19. Weekly compensation rate: \$422.97 per week for permanent partial disability
\$576.05 per week for permanent total disability
- 20. Method wages computation: By agreement

COMPENSATION PAYABLE

- 21. Amount of compensation payable: Employer previously settled
- 22. Second Injury Fund liability: Yes
Permanent total disability benefits as of January 27, 2010,
less a credit of \$20,355.43 for permanent partial disability liability
of the employer/insurer
- 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 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: Sam Eveland.

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FINDINGS OF FACT and RULINGS OF LAW:

Employee: Kathleen Wright

Injury No: 09-070411

Dependents: N/A

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Employer: Sitton Motor Lines, Inc.

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

Additional Party: Treasurer of the State of Missouri,
Custodian of the Second Injury Fund

Insurer: N/A

Checked by: HDF/scb

The above-referenced workers' compensation claim was heard before the undersigned administrative law judge on August 7, 2012. Memoranda were submitted by August 27, 2012.

The parties stipulated that on or about August 4, 2009, the claimant, Kathleen Wright, sustained an injury by accident while employed by the Sitton Motor Lines, Inc.; the accident arose out of and in the course of employment.

The parties stipulated that the claim against the employer/insurer settled based on a permanent disability of 27.5 percent of the right wrist; the parties did not, however, agree that this represents the extent of permanent disability resulting from the injury of August 4, 2009, in the pending claim against the Second Injury Fund.

The parties stipulated to a compensation rate of \$422.97 per week for permanent partial disability benefits and \$576.05 per week for permanent total disability benefits.

The issues to be resolved by hearing include 1) the causation of the injuries alleged and 2) the liability of the Second Injury Fund for permanent disability benefits (permanent total disability is alleged).

FACTS

The claimant, Kathleen Wright, testified that she was 59 years old as of the date of hearing. Ms. Wright was last employed by Sitton Motor Lines, Inc., as a truck driver on August 4, 2009. On that date Ms. Wright fell while hooking an empty trailer to her truck and injured her right wrist. Ms. Wright received medical attention, including surgery on the wrist from Dr. Strege in St. Louis. Ms. Wright never returned to work at Sitton Motor Lines, Inc., because Sitton Motor Lines, Inc., closed its doors in October of 2009. Dr. Strege released Ms. Wright from care on January 27, 2010, with a 10-pound lifting restriction and a permanent disability rating of 20 percent of the right hand. Ms. Wright described lack of strength in her right hand after the accident and injury and stated that she writes with her left hand now. Similarly, Ms. Wright now

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cannot take a lid off of a jar or open a soda bottle without a special appliance to assist her due to the lack of strength in the right hand.

In 2002, Ms. Wright injured her low back when she fell from a horse. Ms. Wright received steroid injections and missed about one month of work before she returned to truck driving. Ms. Wright described a 40 pound weight restriction as the result of the back injury. Ms. Wright described low back pain when sitting or lying down for a long period of time.

Ms. Wright also described arthroscopic surgery for a meniscal tear on the left knee and a knee replacement on the right knee prior to August 4, 2009. Ms. Wright said that her right knee is the more troublesome knee. Ms. Wright stated that she cannot crawl, bend down, or run as the result of the condition of her knees, that her right knee is still numb and that she leads with her left knee when climbing stairs. Ms. Wright said that as the result of the condition of her knees she did not load or unload trailers, paying "lumpers" to do this work.

Also prior to August 4, 2009, Ms. Wright had surgery for a torn left rotator cuff. Ms. Wright said that it was difficult to drive after her left shoulder surgery. Ms. Wright also described breaking her left forearm as the result of a fall prior to August 4, 2009. Ms. Wright described the left forearm as not a problem for her now with the exception of an occasional catch in the arm.

Ms. Wright also described having had Meniere's disease and having taken Advert for the disease.

Dr. Shawn Berkin evaluated Ms. Wright on July 6, 2011, and authored a report based thereon on August 15, 2011. Dr. Berkin found Ms. Wright to have a 37.5 percent permanent disability of the right wrist as a result of the accident and injury of August 4, 2009. Dr. Berkin rated permanent disability preexisting the August 4, 2009 accident and injury at 20 percent of the body referable to the low back, 40 percent of the left knee, 50 percent of the right knee, and 12.5 percent of the left elbow. Dr. Berkin opined that "[t]hese preexisting disabilities represented a hindrance or obstacle to employment or reemployment at the time of the August of 2009 injury involving [Ms. Wright's] right wrist. The combination of her disabilities is significantly greater than their simple sum, and a loading factor should be applied." (Berkin report 8.5.11) However, Dr. Berkin went on to state that he did not "feel that Ms. Wright is capable of returning to work at any of the jobs that she previously performed. Based on the nature and extension of her disabilities, coupled with her age and lack of transferable job skills, I do not feel she is capable of competing for or maintaining gainful employment in the open labor market. I do not feel an employer would reasonably be expected to accommodate her in a working environment with the limitations imposed by her disabilities. I feel she is permanently and totally disabled to work." (Berkin report 8.5.11)

Jeffrey Magrowski, vocational expert, evaluated Ms. Wright on August 24, 2011, and authored a report pertaining to the evaluation on September 6, 2011. Mr. Magrowski opined that Ms. Wright could not "compete successfully in the open labor market for a job based upon her lack of skills. Ms. Wright is right-hand dominant and has difficulty writing and using a keyboard. I also do not believe she could be hired at what she was earning at the time she quit working in 2009, \$814.00 per week. Ms. Wright would be considered as unemployable, based upon Dr. Berkin's comprehensive work restrictions. Dr. Berkin's work restrictions take into account all of

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Ms. Wright's injuries and medical conditions except for her Meniere's disease diagnosed in 2008 or 2009." (Magrowski report 9.6.11) During his deposition testimony Mr. Magrowski acknowledged that Ms. Wright could perform work other than truck driving based on the restrictions provided by Dr. Strege.

APPLICABLE LAW

RSMo Section 287.020.3 (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. An injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability. "The prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability.

(2) An injury shall be deemed to arise out of and in the course of the employment only if:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the accident is the prevailing factor in causing the injury; and

(b) It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life.

(3) An injury resulting directly or indirectly from idiopathic causes is not compensable.

(4) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in causing the resulting medical condition.

(5) The terms "injury" and "personal injuries" shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course of the employment, nor shall they include death due to natural causes occurring while the worker is at work.

RSMo Section 287.220.1. All cases of permanent disability where there has been previous disability shall be compensated as herein provided. Compensation shall be computed on the basis of the average earnings at the time of the last injury. If any employee who has a preexisting permanent partial disability whether from compensable injury or otherwise, of such seriousness as to constitute a hindrance or obstacle to employment or to obtaining reemployment if the employee becomes unemployed, and the preexisting permanent partial disability, if a body as a whole injury, equals a minimum of fifty weeks of compensation or, if a major extremity injury only, equals a minimum of fifteen percent permanent partial disability, according to the medical standards that are used in determining such compensation, receives a subsequent compensable

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injury resulting in additional permanent partial disability so that the degree or percentage of disability, in an amount equal to a minimum of fifty weeks compensation, if a body as a whole injury or, if a major extremity injury only, equals a minimum of fifteen percent permanent partial disability, caused by the combined disabilities is substantially greater than that which would have resulted from the last injury, considered alone and of itself, and if the employee is entitled to receive compensation on the basis of the combined disabilities, the employer at the time of the last injury shall be liable only for the degree or percentage of disability which would have resulted from the last injury had there been no preexisting disability. After the compensation liability of the employer for the last injury, considered alone, has been determined by an administrative law judge or the commission, the degree or percentage of employee's disability that is attributable to all injuries or conditions existing at the time the last injury was sustained shall then be determined by that administrative law judge or by the commission and the degree or percentage of disability which existed prior to the last injury plus the disability resulting from the last injury, if any, considered alone, shall be deducted from the combined disability, and compensation for the balance, if any, shall be paid out of a special fund known as the second injury fund, hereinafter provided for. If the previous disability or disabilities, whether from compensable injury or otherwise, and the last injury together result in total and permanent disability, the minimum standards under this subsection for a body as a whole injury or a major extremity injury shall not apply and the employer at the time of the last injury shall be liable only for the disability resulting from the last injury considered alone and of itself; except that if the compensation for which the employer at the time of the last injury is liable is less than the compensation provided in this chapter for permanent total disability, then in addition to the compensation for which the employer is liable and after the completion of payment of the compensation by the employer, the employee shall be paid the remainder of the compensation that would be due for permanent total disability under section 287.200 out of a special fund known as the "Second Injury Fund" hereby created exclusively for the purposes as in this section provided and for special weekly benefits in rehabilitation cases as provided in section 287.141. Maintenance of the second injury fund shall be as provided by section 287.710. The state treasurer shall be the custodian of the second injury fund which shall be deposited the same as are state funds and any interest accruing thereon shall be added thereto. The fund shall be subject to audit the same as state funds and accounts and shall be protected by the general bond given by the state treasurer. Upon the requisition of the director of the division of workers' compensation, warrants on the state treasurer for the payment of all amounts payable for compensation and benefits out of the second injury fund shall be issued.

AWARD

The claimant, Kathleen Wright, has sustained her burden of proof that her accident of August 4, 2009, caused her injury to her right wrist. Ms. Wright's testimony and the medical records reflect the injury complained of. Ms. Wright is found credible in her testimony and there was no contradictory evidence.

Ms. Wright has also sustained her burden of proof that she is permanently and totally disabled as the result of her right wrist injury resulting from her August 4, 2009 accident and injury combined with her preexisting injuries to her low back, left knee, right knee and left elbow.

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Ms. Wright's testimony in conjunction with the testimonies of Dr. Berkin and Mr. Magrowski is sufficiently convincing that Ms. Wright is incapable of returning to gainful employment as the result of the combination of her injury from the August 4, 2009 accident and injury and the low back, left knee, right knee, and left elbow injuries preexisting August 4, 2009. Dr. Berkin testified with regard to the significant disability sustained by Ms. Wright as the result of her August 4, 2009 right wrist injury and Ms. Wright's preexisting low back, left knee, right knee, and left elbow injuries. Mr. Magrowski found Ms. Wright to be permanently and totally disabled based on the August 4, 2009 accident and injury combined with preexisting low back, left knee, right knee, and left elbow injuries. I find that an analysis of all the evidence is conclusive that Ms. Wright is permanently and totally disabled from employment and that it is the combination of her August 4, 2009 right wrist injury combined with her preexisting low back, left knee, right knee, and left elbow injuries is the cause of her inability to be employed. Permanent disability of 27.5 percent of the right wrist is found attributable to the injury of August 4, 2009. Permanent total disability is found as of January 27, 2010, and a credit of 48.125 weeks of permanent partial disability benefits is applied to the determination of Second Injury Fund benefits.

Made by: _____

HANNELORE D. FISCHER
Administrative Law Judge
Division of Workers' Compensation