

EXPERT'S REPORT

**of the
AR Incident**

By:

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A. INTRODUCTION

AR is a 76 year old woman with Bilateral Carpel Tunnel Syndrome (BCTS) who complains of pain in her fingers, hands and arms as a result of job related tasks. Medical documentation has found this condition to be causally related to her job as a general office clerk at Advanced Investigation Services/Law Enforcement Training & Consultants. She is currently pursuing workers compensation benefits as a result of her inability to work.

The purpose of this evaluation is to determine her degree of industrial disability and her employability in the current job market.

B. MATERIALS AVAILABLE FOR REVIEW

1. Deposition transcripts of neurologist
2. Deposition transcripts of internist
3. Deposition transcript of internist
4. Judges Decisions from 3.27.06 through September 29, 2009.
5. C8-1B-R's from July 6, 2007 through August 3, 2009.
6. Medical reports by Dr. S., Dr. K., Dr. S., Dr. N. and Dr. L. from February 16, 2006 through October 15, 2009.
7. Phone and personal interviews with AR, November 18, 2009 and November 20, 2009.

C. BACKGROUND

MEDICAL

Primary condition

AR reports that initial pain radiating in both of her hands and arms began in late 2005. She was originally treated by her internist, Dr. B. and eventually diagnosed with BCTS by her neurologist, Dr. K. and second internist, Dr. S. (medical report 112448719, 113794448). In February of 2006 she filed a Workers Compensation claim for the BCTS through her employer, as each of her doctors verified that BCTS is causally related to repetitive hand movements. As her ongoing daily job duties included repetitive hand movements, it was medically determined to be occupationally related (monthly medical exams from February 2006 through October 2009). To clarify any confusion between employee and employer claims, at the WCB hearing of October

30, 2007, Judge JR ordered a medical evaluation by a neurologist specifically from a teaching hospital to perform an impartial medical examination. This examination by Dr. N. confirmed the BCTS diagnosis.

Secondary conditions

AR reports that in October of 2004 she was asked by her supervisor, Mr. T., to leave her desk and go into his office. In getting up from her chair, she heard a snap in her knee, felt pain, and was only able to walk by dragging her leg (WCB hearing October 30, 2007). Her inability to walk was noticed by her employer and coworker. At the completion of her work day she saw her internist, Dr. B., who referred her to Dr. L. for orthopedic consultation. Dr. L. diagnosed a torn meniscus and performed surgery and subsequent treatment. Ms. A. returned to work after two days, however, pain soon returned. At this time she began to see Dr. M., orthopedic surgeon, who performed a knee replacement. Following this surgery she was out of work for approximately four to six weeks and collected workers compensation for this temporary period. AR returned to work at XXXX where she remained until February of 2006. She currently reports some restrictions in standing for long periods of time or walking long distances.

In addition to the BCTS and knee replacement, AR reports that she is being treated for diabetes. At the time of interview, she was wearing a surgical boot on her foot as a result of lacerations she sustained when she dropped a can on her foot while attempting to cook. According to AR, the injury had occurred approximately 6 weeks earlier and due to her diabetic condition, the stitches required increased healing time.

Current limitations

AR reports that she has been unemployed since 2006 due to the limitations imposed by her BCTS. In addition to work related limitations, she reports limitations in activities of daily living regarding cooking, lifting, vacuuming, cleaning, standing and walking for long periods of time. She receives ongoing assistance from her extended family who reside in the same apartment building and who help her with her activities of daily living. AR reports that she has a valid New York State driver's license, a car and still drives on a limited basis.

VOCATIONAL HISTORY

At the time of onset of her primary disability, AR worked at a company that involved two separate entities: XXXXX and OOOO, performing clerical and bookkeeping related tasks.

AR has a 50 year work history which began in 1956. Some of the jobs in which she was employed are no longer in existence today. She worked as a key punch operator for approximately 12 years (1956-1958, 1963-1966, 1967-1974) in three different settings. The combination of these job duties involved time card key punch operations, accounts receivable documentation and company mailings.

During the five year hiatus from key punch operations, she completed a manicure class at Wilfred School and began work at the Victoria Hotel in New York as a manicurist. Despite some discrepancies about the years that this occurred, she reports having learned hairdressing on the job and was able to attain a cosmetology license (licensing certification provided includes valid certification from 1965-1971). Within this time period she reports co-ownership and operation of a Beauty Salon in Manhattan. AR reports that she left this vocation as a result of the long hours and commute from her home into Manhattan.

When the last company that she was working for as a key punch operator relocated, she acquired more specific business skills at the age of 44 through a six month certificate program in bookkeeping, business machines and office procedures at Adelphi Business School (certificate dated October 6, 1977). After graduating from this program, she worked steadily in the clerical field performing bookkeeping, accounts receivable and payable, collections, data entry and general office skill duties. As the technology advanced, her duties became more computerized but still included typing, writing and phone work. Excluding her most recent position, AR worked in four different companies performing these duties (1985, 1985-1988, 1988-1991, and 1992-1999). She left each of these positions either for advancement or layoff due to company consolidation.

In her most recent position (1992-2006) at XXXXX, Inc and OOOO, she performed billing, accounts receivable, accounts payable, collections, answering phones, writing checks and certificates and coordinating security guard placements on a daily basis. This work involved computerized data entry, typewriter usage, writing and balancing ledgers and phone skills. She left this position upon onset of disability.

EDUCATIONAL

AR left high school at age 16 prior to graduation. She never attained a high school diploma. She reports attending a manicure class at Wilfred Academy and receiving a cosmetology license as a result of skills learned on the job.

She graduated from a Bookkeeping/Business machines and Office procedures certificate program (approximately a 6 month course) at Adelphi Business School in 1977 at age 44.

D. ANALYSIS

AR's most recent employment in the clerical/bookkeeping field involved repetitive hand movements. The job duties of this position involved keyboarding and data entry on both the computer and typewriter and handwriting checks and certificates. Typing, keyboarding and writing all involve the usage of small motor coordination and fine finger dexterity skills. These skills are inherent to this vocational field and are repetitive in nature.

According to the medical documentation reviewed and testimony and medical reports, BCTS is a chronic condition whereby discomfort and pain can be maintained through heat therapy, assistive devices such as splint support, medication and discontinuation of repetitive hand movements. Continuation of repetitive hand movements will exacerbate the condition (deposition of Dr. K., July 31, 2007).

According to the O*Net Occupational Information Network, a compilation of career exploration tools sponsored by the U.S. Department of Labor's Employment and Training Administration and the Dictionary of Occupational Titles (DOT), AR's position at XXX/OOO would be classified under General Office Clerk; DOT CODE: 209.562-020 and ONET CROSSWALK code of 55347 due to the variety of job duties she performed.

The DOT defines this position as:

Performs any combination of following and similar clerical duties requiring limited knowledge of systems or procedures; writes, types, or enters information into computer, using keyboard, to prepare correspondence, bills, statements, receipts records or forms. Counts, weighs or measures material. Sorts and files records. Receives money from customers and deposits money in bank. Addresses envelopes or packages by hand or with typewriter. Stuffs envelopes by hand or with machine. Answers telephone, conveys messages, and runs errands. Stamps, sorts, and distributes mail. Stamps or numbers forms by hand or machine. Photocopies documents using a photocopier.

O*NET defines this position as:

Clerical duties may be assigned in accordance with the office procedures of individual establishments and may include a combination of bookkeeping, typing, stenography [writing], office machine operation, and filing. The O*NET also specifies additional tasks of completing work schedules and arranging appointments for staff and students, communicating with customers, employees and other individuals to disseminate or explain information and counts, collects and disburses money, completes banking transactions and processes payroll.

All of these job tasks were described by AR during my interview as her ongoing job duties. At the WCB Hearing of December 2, 2009, her immediate supervisor, SC, described AR's general work duties as answering phones, typing and computer work. Both AR and SC report that the office consisted of the owner of the companies, his immediate assistant and trainer, SC and AR. This size office is consistent with individual employees performing a wide variety of job tasks.

The O*NET further classifies work context of job duties according to rankings of frequency, importance, responsibility, amount of contact, how serious, and extent of frustration. According to the information provided, this general office clerk position is analyzed accordingly:

- ✓ **Frequency** – indoor environment, sedentary, making repetitive motions, using hands.
- ✓ **Importance** – performance accuracy, detail oriented, dealing with customers, repeating of same tasks, completion of task, coordinate training schedule.
- ✓ **Responsibility** – internal to company – medium.
- ✓ **Contact** – required to be in contact with others by telephone.
- ✓ **Serious** – consequence of error (payroll, scheduling, banking, bookkeeping).
- ✓ **Extent of frustration** – limited.

Industrial Disability and Employability

Due to the BCTS, AR is physically restricted from performing job duties which include repetitive hand movements, fine finger coordination and small motor tasks. This precludes her from performing the job duties inherent to her former position as a general office clerk. Her only other viable work history is in the field of cosmetology, which also includes repetitive hand movements, fine finger dexterity and coordination, and small motor tasks.

AR would no longer be able to work in her former occupations and would therefore be considered totally disabled in this regard. When this occurs, transferability of skills to a new field is considered. The transferability of vocational skills considers the individuals medical condition and the physical limitations imposed by the disability, acquired vocational skills, educational background, age and the current job market.

AR has a limited educational background. She reports that employers never requested documentation of her high school diploma and relied upon her skill level when attaining positions. Most employer practices in the current job market require proof of high school diploma or its equivalency or proof of the highest level of education prior to hire. As AR does not hold a high school diploma she would have a difficult time competing with other job seekers who do.

According to the New York State Department of Labor statistics for the time period between October 2008 - October 2009 private sector employment in New York State decreased by 225,500 jobs (3%) and nationally by 4.7%. Within New York, employment decreased at a steeper rate in the downstate area and greatest in the New York City area (-3.3%).

**%Change in private sector jobs, by area
12 month period ending October 2009**

	Over the year % change
Area	Private Sector Jobs
NYS	-3.0
US	-4.7
Downstate NY *	-3.2
New York City	-3.3
Suburban Counties	-2.8
Upstate NY	-2.7
Metro areas	-2.6
Non-metro areas	-2.8
*includes: NYC, Long Island, Putnam, Rockland, Westchester	

In addition, seasonal jobs resulted in an unemployment rate of 9%, the highest unemployment rate since April of 1983.

Based upon AR's limited education, transferability of skills would need to be in an unskilled occupation. Due to physical restrictions, age and preference, unskilled occupations would be limited to indoor occupations and involve those fields in the healthcare service, food preparation, and hospitality and retail industry. These occupations again would require job tasks that are contraindicated to her physical condition in regard to repetitive hand skills, lifting and standing.

The retraining of skills to a higher level occupation would involve a vocational evaluation to determine her academic abilities and vocational strengths and weaknesses, interests, vocational counseling, guidance, training and job placement. Age must be considered in this case. The increase in unemployment both nationally and within AR's geographical area is low, indicating that she would be competing with many skilled individuals in a younger more flexible age range.

Considering AR's physical restrictions and vocational skills that are contraindicated to her medical condition, lack of education, and age, her employability in the current job market is poor.

E. FINDINGS

Within the bounds of reasonable technical certainty, and subject to change if additional information becomes available, it is my professional opinion that:

1. The daily job tasks described in AR's position as a general office clerk include repetitive hand movement which has been causally related to Carpel Tunnel Syndrome.
2. AR is totally disabled from her most recent employment and all work that require repetitive hand movements, fine finger dexterity and small motor skills.
3. Given AR's limited education, current work knowledge, age and physical restrictions, transferability of skills or retraining to a new occupation would be contraindicated and unrealistic.
4. Due to the physical restrictions imposed by her Carpal Tunnel Syndrome and other secondary medical conditions, her limited education, age and concentrated work history, AR's employability in the current job market is poor.

Lisa Thorsen, M.S., C.R.C., S.D.A.

RESOURCES

1. United States Department of Labor; <http://www.dol.gov>
2. Dictionary of Occupational Titles; <http://www.occupationalinfo.org>
3. O*Net Job Description, <http://www.occupationalinfo.org/onet>
4. <http://www.onetcenter.org/content.html>