



## **CONTENTIONS OF THE PARTIES**

Claimant contends she injured her left foot walking to work on Employer's sidewalk on January 10, 2003. She slipped on ice or the de-icing material. The initial foot sprain developed into reflex sympathetic dystrophy ("RSD") also known as complex regional pain syndrome ("CRPS"). Whether the diagnosis of RSD or CRPS is correct, she suffers symptoms related to the accident. She is permanently disabled and entitled to temporary and permanent benefits.

Defendants contend Claimant's current condition is unrelated to the accident. She had a foot sprain, but not RSD. She became stable without permanent impairment on June 25, 2003.

## **EVIDENCE CONSIDERED**

The record in the instant case consists of the following:

1. Oral testimony at hearing by Claimant and her husband;
2. Claimant's Exhibits A – J;
3. Defendants' Exhibits 1 – 15; and
4. Post-hearing depositions of Kevin R. Krafft, M.D., and Nancy E. Greenwald, M.D., with their exhibits.

## **FINDINGS OF FACT**

1. Claimant worked for Employer as a medical transcriptionist. On January 10, 2003, she took a bad step and nearly fell as a result of ice and de-icing material on Employer's sidewalk as she walked to work from Employer's parking lot. She first received treatment that day in Employer's emergency room. She described a hyperflexion injury. The ER doctor examined her and found her foot tender without edema or erythema. He diagnosed a foot sprain. X-rays were negative.

2. On January 14, 2003, Claimant visited her family physician, Edward H. Newcombe, M.D. He diagnosed a left foot sprain.

3. On January 15, 2003, Claimant visited Stewart O. Jones, D.P.M., a podiatrist. He noted the prior X-rays were normal and that Claimant was “very emotionally upset, in tears, and very apprehensive.” On January 22, Dr. Jones noted the skin at Claimant’s left foot was “mottled” and cool to the touch. Claimant was hypersensitive to even light touch. He diagnosed RSD of Claimant’s left foot.

4. On February 6, 2003, Claimant visited James H. Morland, M.D. He examined Claimant and allowed her to return to work effective February 10, with restrictions.

5. On February 7, 2003, an MRI of Claimant’s left foot showed a small soft tissue nodule and mild arthritis. Over a year later, Nancy E. Greenwald, M.D., would opine that the nodule was neither the etiology of Claimant’s pain nor related to her work. No other doctors have commented about the nodule beyond noting its presence.

6. On February 12, 2003, Michael P. Gibson, M.D., examined Claimant. He found her “very hyperpathic.” On February 14, he found her foot cold to touch and noted a color difference. However, he noted, “The skin coloration of the left foot initially looked whitish compared to the opposite side, but then gradually the coloration looked equal on both sides.” Dr. Gibson diagnosed a foot strain with resultant RSD symptoms.

7. A February 18, 2003, bone scan showed Claimant’s feet bilaterally symmetric with arthritic changes, “presumably degenerative.”

8. On February 21, 2003, Dr. Gibson noted, “I still suspect sympathetic nerve dysfunction. Her bone scan, however, was negative showing no significant findings.” On April 4, 2003, Dr. Gibson released her to return to work 8-hour shifts and, on April 10, Claimant asked for a release for 10-hour shifts. Dr. Gibson noted she was able to go bowling without an increase in symptoms and modified the release as requested.

9. On April 16, 2003, Claimant returned to Dr. Gibson. She said she had been

doing quite well until the day before but now had increased pain in her foot and pain in her leg, hip and back.

10. Defendants requested an examination by Kevin R. Krafft, M.D. The evaluation occurred April 18, 2003. On examination, he found Claimant hypersensitive and only partially cooperative. He noted symptom magnification and that her subjective complaints were inconsistent with objective findings. He did opine the existence of a causal relationship between her complaints and the reported injury, “though their perpetuation is most probably related to her chronic pain symptoms.” He opined she was not yet medically stable.

11. On April 22, 2003, Dr. Morland administered a sympathetic nerve block. Results were equivocal; she still reported pain, but the temperature of her left foot increased to exceed her right. (Dr. Morland’s temperature recordings are obviously in error, identifying as Celsius what are probably Fahrenheit readings.) A second nerve block on April 25 showed a similar result.

12. On April 30, 2003, Dr. Gibson referred Claimant to Robert F. Calhoun, Ph.D., for psychological evaluation of her chronic pain. Dr. Calhoun evaluated Claimant on May 15, 2003. He found “psychological and behavioral factors impacting her pain and level of physical debilitation” with somatization. She attended follow-up visits on June 9 and 30.

13. Claimant last visited Dr. Morland on May 15, 2003. A hip X-ray dated May 15, 2003, was negative.

14. A repeat visit to Dr. Krafft occurred on May 28, 2003. He found significant improvement. He opined her hip complaints were unrelated to the work accident. On June 25, 2003, Dr. Krafft visited with Claimant. He noted she was working full time and had no functional limitations. He opined her medically stable with no permanent impairment related to the work accident.

15. Dr. Gibson continued to treat Claimant until June 27, 2003, when he stated he did not need to see her again.

16. On July 23, 2003, Dr. Newcombe saw her for stomach pain which she attributed to heat exhaustion but he did not. On August 1, 2003, Dr. Newcombe noted continuing abdominal pain, "worse with stress." This note also represented the first mention of leg or foot pain by Dr. Newcombe since the January 14, 2003, visit.

17. An October 23, 2003, MRI of Claimant's low back was negative.

18. On November 7, 2003, Dr. Newcombe noted, "Appropriate forms have been completed for Julie to present to the Department of Labor State of Idaho medical report [sic] advising limiting activities to positions that are not uncomfortable."

19. On December 19, 2003, neurologist Stephen W. Asher, M.D., began treating Claimant at the request of Claimant's attorney. On examination he noted a low foot temperature which he considered probably neurogenic, with diffuse tenderness to light touch, a diminished left Achilles reflex and left calf atrophy. All other findings were normal. He diagnosed a probable RSD. At a second visit on April 2, 2004, his examination findings were similar except that the ankle reflexes were equal and the left foot temperature was higher than the right.

20. On April 5, 2004, William G. Binegar, M.D., examined Claimant at Dr. Asher's request. He noted, "Although Ms. Kelley has some of [sic] symptoms of reflex sympathetic dystrophy, her exam is not totally consistent with reflex sympathetic dystrophy".

21. On June 30, 2004, Nancy E. Greenwald, M.D., examined Claimant at Defendants' request. She performed an electromyogram ("EMG"). Dr. Greenwald noted Claimant showed positive for only two of the criteria required for a diagnosis of RSD and that at least eight positive criteria were necessary for such a diagnosis. Therefore, as defined by AMA guidelines, Claimant did not suffer from RSD. She opined Claimant suffered no symptoms

related to the work accident, suffered no related permanent impairment, and that no work restrictions should be imposed related to the accident.

22. On October 27, 2004, Dr. Jones examined Claimant and noted residual RSD.

#### **Other Medical Conditions**

23. Claimant is a Type I diabetic, a condition from which she has suffered since age 10. The records show her blood sugars were difficult to control. Hypothyroidism was diagnosed in the mid-1990s and has continued to be a problem.

24. As early as 1996, Claimant began complaining of severe abdominal pain. Extensive testing by various doctors failed to demonstrate an objective cause for her pain. For years, her pain continued on a waxing and waning basis even after removal of her gallbladder, a laparoscopy and a hysterectomy. A November 1998 medical record notes she received equal relief from a placebo as from appropriate medication. Claimant later revised her recollection of the relief she felt when discussing the matter with Dr. Newcombe.

25. In January 2000, she visited with Dr. Newcombe about swelling in multiple joints and nodules on her palms. She reported pain and numbness in her hands.

26. An April 2000 motor vehicle accident resulted in neck and shoulder complaints. In May, Dr. Newcombe noted “exquisite tenderness” and prescribed anti-anxiety medication. X-rays and an MRI were negative. Dr. Morland was also involved in her care then.

27. Claimant’s September 2003 visits to doctors related to shoulder and wrist pain from another motor vehicle accident. Excess calcification was noted on X-ray of her shoulder. This was considered related to her diabetes. She did have a “very subtle” fracture of her right wrist on X-ray.

#### **Discussion and Further Findings**

28. **Causation.** A claimant must prove she was injured as the result of an

accident arising out of and in the course of employment. Seamans v. Maaco Auto Painting, 128 Idaho 747, 918 P.2d 1192 (1996). Proof of a possible causal link is not sufficient to satisfy this burden. Beardsley v. Idaho Forest Industries, 127 Idaho 404, 901 P.2d 511 (1995). A claimant must provide medical testimony that supports a claim for compensation to a reasonable degree of medical probability. Langley v. State, Industrial Special Indemnity Fund, 126 Idaho 781, 890 P.2d 732 (1995).

29. Here, Claimant established she suffered a foot sprain as a result of the subject accident. The record demonstrates that differing doctors have differing thresholds for diagnosing RSD. Regardless of the language of diagnosis used, Claimant had foot pain which resolved and worsened. Her inconsistent presentations to medical professionals made valid assessment difficult. She failed to show the increased or spreading symptoms which she described after June 25, 2003, were related to the accident.

30. **Stability.** Although her condition appeared to be healed as of her April 10, 2003, visit, no doctor opined her medically stable until June 25, 2003. Thereafter, claimed symptoms appear related to emotional and psychological factors unrelated to the accident.

31. **Temporary disability and medical care.** Claimant is entitled to temporary disability from the date of accident to the date of stability. The record is unclear to what extent she worked during the period of recovery and thus the amount of temporary disability is unknown. The record is also unclear about the amount of benefits already paid by the Surety.

32. Claimant is entitled to benefits for medical care through Dr. Gibson's visit of June 27, 2003. Claimant was not yet stable on any visit to a treating physician before that date.

33. **PPI and disability.** Claimant failed to show she suffers any permanent impairment or disability as a result of the subject accident. Two doctors persuasively opined she suffered none.

34. **Attorney fees.** Claimant failed to show a basis for an award of attorney fees.

### CONCLUSIONS OF LAW

1. Claimant suffered a left foot sprain as a result of the industrial accident, which injury became stable as of June 25, 2003;
2. Claimant is entitled to temporary disability to the date of medical stability;
3. Claimant is entitled to benefits for medical care provided through June 27, 2003;
4. Claimant's injury resulted in no ratable PPI or permanent disability; and
5. Claimant failed to show she is entitled to an award of attorney fees.

### RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing findings of fact and conclusions of law and issue an appropriate final order.

DATED on this 28<sup>TH</sup> day of July, 2005.

INDUSTRIAL COMMISSION

/S/ \_\_\_\_\_  
Douglas A. Donohue, Referee

ATTEST:

/S/ \_\_\_\_\_  
Assistant Commission Secretary

### CERTIFICATE OF SERVICE

I hereby certify that on the 9<sup>TH</sup> day of AUGUST, 2005, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon each of the following:

Bret A. Walther  
671 East Riverpark Lane, Ste. 130  
Boise, ID 83706-4000

W. Scott Wigle  
P.O. Box 1007  
Boise, ID 83701

db

/S/ \_\_\_\_\_



5. Claimant failed to show she is entitled to an award of attorney fees.

6. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 9TH day of AUGUST, 2005.

INDUSTRIAL COMMISSION

/S/ \_\_\_\_\_  
Thomas E. Limbaugh, Chairman

/S/ \_\_\_\_\_  
James F. Kile, Commissioner

/S/ \_\_\_\_\_  
R. D. Maynard, Commissioner

ATTEST:

/S/ \_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on 9<sup>TH</sup> day of AUGUST, 2005, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

Bret A. Walther  
671 East Riverpark Lane, Ste. 130  
Boise, ID 83706-4000

W. Scott Wigle  
P.O. Box 1007  
Boise, ID 83701

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/S/ \_\_\_\_\_