

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

CYNTHIA CAMPBELL,)	
)	
Claimant,)	IC 2000-034778
)	
v.)	
)	
GTE CORPORATION, dba)	FINDINGS OF FACT,
VERIZON,)	CONCLUSIONS OF LAW,
)	AND RECOMMENDATION
)	
Employer,)	
)	
and)	
)	Filed September 7, 2007
AMERICAN HOME ASSURANCE CO.,)	
)	
Surety,)	
)	
Defendants.)	
_____)	

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Alan Taylor, who conducted a hearing in Coeur d'Alene on May 11, 2006. Claimant, Cynthia Campbell, was present in person and represented by Thomas B. Amberson of Coeur d'Alene; Defendant Employer, GTE Corporation dba Verizon (Verizon), and Defendant Surety, American Home Assurance Co., were represented by Alan K. Hull, of Boise. The parties presented oral and documentary evidence. This matter was then continued for the taking of post-hearing depositions, the submission of briefs, and subsequently came under advisement on April 24, 2007.

ISSUES

The issues to be resolved are:

1. Claimant's entitlement to further medical care;
2. Claimant's entitlement to temporary partial and/or temporary total disability benefits;
3. Claimant's entitlement to permanent partial impairment benefits;
4. Claimant's entitlement to permanent disability in excess of impairment;
5. Claimant's entitlement to retraining benefits; and,
6. Claimant's entitlement to attorney fees.

ARGUMENTS OF THE PARTIES

Claimant maintains that surgery for her occupational disease of carpal tunnel syndrome resulted in complex regional pain syndrome (CRPS) of her dominant right upper extremity resulting in a 24% permanent impairment of the whole person. She further asserts entitlement to additional medical expenses of \$485 and medication expenses of \$270. Claimant argues that she is entitled to at least a 33% permanent disability, exclusive of impairment. She requests the Commission reserve her entitlement to retraining, and demands attorney fees for Defendants' failure to pay the outstanding medical expenses.

Defendants assert that Claimant is entitled to permanent impairment of 9% of the whole person, which they have already paid, and to no disability beyond impairment. Defendants acknowledge responsibility for some additional medical expenses, but contend these legitimate expenses could not be properly identified until the post-hearing depositions of several providers were taken, and thus should not be deemed grounds for an award of attorney fees. Lastly, Defendants maintain that the Commission should not retain jurisdiction of retraining because Claimant has presented no retraining plan and has chosen instead to pursue disability in excess of impairment.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The testimony of Claimant taken at hearing;
2. Claimant's Exhibits A through K, M and N admitted at hearing;
3. Defendants' Exhibits 1 through 22 admitted at hearing;
4. Deposition of John McNulty, M.D., taken by Defendants on August 30, 2006;
5. Deposition of Robert Friedman, M.D., taken by Defendants on October 5, 2006;
6. Deposition of Arlie Esau, M.D., taken on October 9, 2006; and,
7. Deposition of Douglas Crum, CDMS, taken by Defendants on February 9, 2007.

At Defendants' request, the Referee took judicial notice of Claimant's Answers to Defendants' Interrogatories Nos. 31 through 33, dated August 11, 2005.

After having considered the above evidence, and the arguments of the parties, the Referee submits the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Claimant was born in 1948. She was 58-years-old and had resided in Athol for ten years at the time of the hearing. Claimant's residence is 20 miles from Coeur d'Alene and 26 miles from Sandpoint. She wears glasses and is right-hand dominant. Claimant obtained her GED in 1973 and attended a community college in Hawaii for approximately two years where she studied drafting and human services.

2. Claimant worked full-time for Hawaiian Tel as an operator for approximately one year. She then worked part-time drafting for one and one-half years where she used her right hand to draw. She cannot draft left-handed. She then worked as a bank teller.

3. Claimant thereafter moved to Idaho and obtained employment as a bank teller in Post Falls. She was trained on the job. She cashed checks and received deposits. Her work was largely computerized, but she also used a 10 key adding machine with her right hand. Claimant later

became a loan officer and worked in that position for approximately five years. She dealt with first and second mortgages, home equity loans, unsecured loans and auto loans. She spent up to four hours per day inputting on the keyboard. She walked about three hours each day. She lifted only very light documents and pens.

4. Claimant next worked for the Post Falls School District as a transportation secretary. She prepared school bus schedules with maps, scheduled drivers, arranged for substitutes for absent drivers, and notified families if their child's bus was late. She did little typing, but created and marked maps by hand.

5. In May 1998, Claimant started with Verizon as a national open market call center representative (NOMZ 1 rep) handling basic orders and inputting customer requests. Her work duties required repetitive hand motions.

6. Claimant received on the job training from Verizon in the use of Verizon's proprietary systems. Claimant worked as a NOMZ 1 rep for two years. She handled basic business and consumer lines, answered questions, responded to orders for basic business and consumer lines and data entry within those orders. Claimant met production goals set by Verizon, received regular evaluations and good overall performance ratings. Claimant was promoted to a NOMZ 2 rep in early 2000. This required more training in additional order types. Verizon provided this training which included a minimum of two weeks training for each of at least 12 additional complex types of orders. Her promotion required looking up more information, putting more detailed information into the orders thus requiring more time with computer and mousing.

7. In August 2000, Claimant presented to family practitioner Arlie Esau, M.D., with right wrist complaints. Dr. Esau diagnosed a ganglion cyst and referred Claimant to Peter Jones, M.D. Dr. Jones examined Claimant in September 2000 and found a volar radial wrist ganglion and right carpal tunnel syndrome symptoms. Subsequent nerve conduction testing confirmed right

carpal tunnel syndrome, and on September 21, 2000, Dr. Jones performed a right carpal tunnel release and wrist ganglion excision. By November 2000, Dr. Jones noted symptoms of early reflex sympathetic dystrophy and referred Claimant to Scott Magnuson, M.D.

8. In December 2000, Dr. Magnuson evaluated Claimant and concluded she suffered Complex Regional Pain Syndrome (CRPS) Type 1, and prescribed pain control medications and aggressive physical therapy. Claimant suffered repeated adverse reactions to several pain control medications.

9. In September 2001, Claimant was examined by Barbara Jessen, M.D., at Defendants' request. Dr. Jessen diagnosed post operative development of CRPS Type 1 due to Claimant's right carpal tunnel release and excision of ganglion cyst resulting from her repetitive work activities.

10. In early 2002, Claimant completed a five week work hardening program at the Idaho Elks in Boise. Robert Friedman, M.D., was the medical director of the program and periodically reviewed Claimant's progress. She was encouraged to use her right hand in spite of the pain. Claimant participated diligently and at the completion of the program she was able to operate a computer mouse and open and close her right hand. She returned to work at Verizon.

11. On November 20, 2002, John McNulty, M.D., examined Claimant at her request and diagnosed CRPS Type 1. He rated Claimant's permanent impairment at 24% of the whole person. He imposed no specific permanent physical restrictions.

12. Claimant subsequently developed polycythemia, empyena, and thrombophlebitis unrelated to her CRPS. These conditions negatively impacted her ability to work, although she continued to work as much as possible at Verizon.

13. In May 2006, Dr. Friedman examined Claimant and opined she suffered a 9% whole person impairment. Dr. Friedman considered Claimant quite functional but self-limiting. He imposed no physical restrictions but acknowledged that Claimant will need continued low dose

narcotic (hydrocodone) medication for pain control throughout her life.

14. The volar aspect of Claimant's right hand and forearm are hypersensitive and often painful. She cannot hold small objects. Use of her right hand and arm increases her pain. Claimant can write right-handed with a Styrofoam wrapped pen for a short time, but she had lost precision in her writing and cannot write for any appreciable length of time. Her right arm pain increases throughout her work day at Verizon. She habitually wears short sleeved outfits or rolls up her right sleeve. She is not able to tolerate putting her right arm into a coat sleeve, even in cold weather, because of increased pain. Claimant cannot perform the activities of daily living with her right arm alone, rather she relies principally upon her unaffected left arm.

15. Claimant was earning approximately \$13.35 per hour at the time of her carpal tunnel diagnosis, and \$18.16 per hour at the time of the hearing.

16. Claimant is a credible witness.

DISCUSSION AND FURTHER FINDINGS

17. The provisions of the Workers' Compensation Law are to be liberally construed in favor of the employee. Haldiman v. American Fine Foods, 117 Idaho 955, 793 P.2d 187 (1990). The humane purposes which it serves leave no room for narrow, technical construction. Ogden v. Thompson, 128 Idaho 87, 910 P.2d 759 (1996).

18. **Additional medical treatment.** Claimant asserts, and Defendants acknowledge, her entitlement to additional medication expenses of \$270. Claimant also asserts entitlement to additional medical expenses of \$485. Clear and complete evidence on this issue is lacking. Claimant asserts, and Defendants acknowledge, her entitlement to medical expenses for EMG testing performed by Dr. Bergan in the amount of \$380. Claimant also asserts, and Defendants acknowledge, her entitlement to medical expenses for Claimant's visits to Dr. Esau on April 15, and November 1, 2002. Claimant is entitled to additional medication expenses of \$270, and to

additional medical expenses of \$380 for testing by Dr. Bergan, and to the cost of treatment by Dr. Esau on April 15, and November 1, 2002. Defendants acknowledge that Claimant is also entitled to prescription medication for pain control which the involved physicians opine will likely be necessary the rest of her life.

19. Claimant requested trial of a spinal cord stimulator. Dr. Magnuson suggested a trial of a spinal cord stimulator in 2001. Claimant subsequently completed the pain management program at the Elks and returned to work at Verizon in early 2002, where she continues to work. More recently, Dr. Friedman opined that a spinal cord stimulator would not be effective in Claimant's case. Dr. Friedman testified that spinal cord stimulators were generally not helpful in treating CRPS of an upper extremity. Claimant presented no argument or analysis in support of her request. Claimant has not proven her entitlement to a spinal cord stimulator at this time.

20. **Temporary total disability.** Although listed and acknowledged as an issue for hearing, Claimant has presented no description, explanation, argument or briefing supporting her claim for temporary disability benefits. The Referee finds that Claimant has not proven her entitlement to temporary disability benefits.

21. **Impairment.** "Permanent impairment" is any anatomic or functional abnormality or loss after maximal medical rehabilitation has been achieved and which abnormality or loss, medically, is considered stable or non-progressive at the time of evaluation. Idaho Code § 72-422. "Evaluation (rating) of permanent impairment" is a medical appraisal of the nature and extent of the injury or disease as it affects an injured employee's personal efficiency in the activities of daily living, such as self-care, communication, normal living postures, ambulation, traveling, and non-specialized activities of bodily members. Idaho Code § 72-424. When determining impairment, the opinions of physicians are advisory only. The Commission is the ultimate evaluator of impairment. Urry v. Walker & Fox Masonry Contractors, 115 Idaho 750, 755, 769 P.2d 1122, 1127 (1989).

22. Dr. Friedman first opined on March 27, 2002, that Claimant sustained a 9% whole person permanent impairment due to her CRPS pursuant to Class 1 of Table 13-22 of the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th Edition (Guides). He placed no restrictions on Claimant's activities, but ultimately opined that Claimant's pain justified low dose prescription narcotics for the remainder of her life. At Defendants' request, he evaluated Claimant again on May 3, 2006, and reaffirmed his opinion. Dr. Friedman treats six to eight CRPS cases annually.

23. Dr. Friedman opined that Claimant is able to use her afflicted extremity in the activities of daily living, to grasp and hold objects, and is only limited in some digital dexterity. He testified that Class 2 of Table 13-22 of the Guides was not applicable because Claimant can demonstrate digital dexterity. Dr. Friedman testified:

Well, I selected Class 1, because Class 1 fits Ms. Campbell's functional performance. She can involve the extremity in her self-care, daily activities, and holding. Her only limitation is in some digital dexterity. She can, in fact, grasp and hold objects, but it's not with difficulty. Under Class 2, she would have to have no digital dexterity, but that's not factually what she can demonstrate. She's able to do that. Class 3 requires that she can use the involved extremity, but has difficulty with self-care activities. But Ms. Campbell doesn't have difficulties with self-care activities. And, in fact, was able to live independently in an apartment, and participate fully with our Life Fit Program. So the criteria that she met that worked the best was Class 1, dominant upper extremity.

Friedman Deposition, p. 63, L. 21 – p. 64, L. 18.

24. Orthopedic surgeon John McNulty, M.D., examined Claimant at her request on November 20, 2002, and rated her permanent impairment at 24% of the whole person pursuant to Class 2 of Table 13-22 of the Guides. Dr. McNulty testified that he has seen only a few CRPS cases in Idaho, but treated CRPS cases when he practiced in North Dakota.

25. The potentially applicable categories set forth in the Guides include Table 13-22, Classes 1-3 for CRPS of the dominant upper extremity. Class 1 specifies a permanent impairment

range of 1%-9% of the whole person when the “Individual can use the involved extremity for self-care, daily activities, and holding, but is limited in digital dexterity.” Class 2 specifies a permanent impairment rating of 10%-24% of the whole person when the “Individual can use the involved extremity for self-care and can grasp and hold objects with difficulty, but has no digital dexterity.” Class 3 specifies a permanent impairment rating of 25%-39% of the whole person when the “Individual can use the involved extremity but has difficulty with self-care activities.” Guides at 343.

26. Dr. Friedman opined that Claimant did not have difficulties with self-care activities. He arrived at this opinion because Claimant was able to live independently while attending the five week LifeFit program. However, Claimant credibly testified that she has difficulties with self-care activities. Claimant can only comb her hair—not arrange it—and cannot put on makeup with her dominant right hand. She has had to modify the way she dresses because she cannot manipulate buttons. She testified that she cannot wear jeans anymore, that all her cloths must be pull-up or pullover styles. She cannot tie shoelaces and now wears only slip on shoes. She cannot write with her right hand except with a pen wrapped with Styrofoam and then only for a short time. This shows significantly decreased dexterity. Although Claimant can open and close her fingers, this does not necessarily establish that she has significant finger dexterity. She does have significant loss of dexterity as evidenced by the limitations on her activities of daily living mentioned above.

27. Claimant now shares cooking duties with her husband. She cannot cut tomatoes and chops food with her left hand only. Claimant now uses a computer ball mouse. Claimant testified that she has no dexterity in her middle, ring, or little fingers of her right hand. She has limited dexterity in her right index finger and thumb. Typing with her right hand is strictly “hunt and peck” with her index finger only. Claimant still uses some of the techniques she learned at the Elks to help with pain management. She continues to use a splint made for her at Elks rehab to help uncurl her

fingers. This further evidences her lack of manual dexterity.

28. Defendants emphasize that Claimant's activity limitations are self-imposed and that although using her right upper extremity causes her pain, it does not cause any physical harm. The reality of Claimant's pain is acknowledged by both physicians who concur that Claimant needs a prescription narcotic medication for pain control the rest of her life. Section 13.8 of the Guides, to which all parties have referred, states as follows: "Impairment due primarily to intractable pain may greatly influence an individual's ability to function. Psychological factors can influence the degree and perception of pain: different individuals in similar circumstances may be impaired by pain to different degrees." Guides at 343. Although Claimant's functional limitations herein may be self-applied due to her response to pain, this does not render those limitations less real.

29. The Referee finds that Claimant has some manual dexterity—albeit restricted—in her dominant right hand. Claimant can grasp and hold objects—such as a styrofoam-wrapped pen—with difficulty. Claimant can use her afflicted right hand but has difficulty with self-care activities to such an extent that she no longer applies makeup, arranges her hair, manipulates buttons, ties shoe laces, or prepares food to any significant extent with her dominant right hand.

30. The Referee finds that Dr. McNulty's rating more accurately reflects Claimant's actual limitations and capacity. Claimant has proven she suffers a permanent impairment of 24% of the whole person due to her occupational disease.

31. **Permanent Disability.** "Permanent disability" or "under a permanent disability" results when the actual or presumed ability to engage in gainful activity is reduced or absent because of permanent impairment and no fundamental or marked change in the future can be reasonably expected. Idaho Code § 72-423. "Evaluation (rating) of permanent disability" is an appraisal of the injured employee's present and probable future ability to engage in gainful activity as it is affected by the medical factor of permanent impairment and by pertinent nonmedical factors provided in

Idaho Code § 72-430. Idaho Code § 72-425. Idaho Code § 72-430 (1) provides that in determining percentages of permanent disabilities, account should be taken of the nature of the physical disablement, the disfigurement if of a kind likely to handicap the employee in procuring or holding employment, the cumulative effect of multiple injuries, the occupation of the employee, and his or her age at the time of accident causing the injury, or manifestation of the occupational disease, consideration being given to the diminished ability of the affected employee to compete in an open labor market within a reasonable geographical area considering all the personal and economic circumstances of the employee, and other factors as the Commission may deem relevant.

32. The degree of permanent disability suffered by a claimant is a factual question committed to the particular expertise of the Commission. McClurg v. Yanke Machine Shop, Inc., 123 Idaho 174, 176, 845 P.2d 1207, 1209 (1993). Wage loss may be a factor. Baldner v. Bennett's Inc., 103 Idaho 458, 649 P.2d 1214 (1982). The test for determining whether a claimant has suffered a permanent disability greater than permanent impairment is "whether the physical impairment, taken in conjunction with non-medical factors, has reduced the claimant's capacity for gainful employment." Graybill v. Swift & Company, 115 Idaho 293, 294, 766 P.2d 763, 764 (1988). In sum, the focus of a determination of permanent disability is on the claimant's ability to engage in gainful activity. Sund v. Gambrel, 127 Idaho 3, 7, 896 P.2d 329, 333 (1995).

33. Claimant argues that she is entitled to at least a 33% permanent disability, exclusive of impairment. Defendants assert that Claimant is entitled to permanent impairment of 9% of the whole person which they have already paid and to no disability beyond impairment.

34. Claimant was working at Verizon and earning \$13.35 per hour at the time of her occupational disease. She was earning over \$18.00 per hour at the time of hearing. This represents a substantial increase in actual wages.

35. Vocational rehabilitation expert Douglas Crum reviewed the medical providers'

opinions and testified on behalf of Defendants. Crum testified that Claimant retained many transferable skills including computer training, banking, and customer service. Crum noted that no doctor had imposed any formal physical restrictions on Claimant due to her CRPS. Crum opined that based upon the lack of physical restrictions imposed by either Dr. Friedman or Dr. McNulty, Claimant suffered no permanent disability in excess of impairment. Crum reviewed Dr. McNulty's report and opined that if Claimant were unable to use her right hand in a forceful, dexterous, or repetitive fashion, she would likely experience approximately a 33% loss of labor market access. Crum opined that based upon Dr. McNulty's comments, Claimant would not be able to perform production keyboarding or work as a bank teller. Crum further opined that: "assuming that Dr. McNulty's 'restrictions' (and PPI rating) are an accurate reflection of Ms. Campbell's situation, it would be appropriate to propose permanent partial disability of approximately 33%, inclusive of Dr. McNulty's 24% PPI rating." Defendants' Exhibit 10, p. 15. Crum concluded by proposing a middle ground, acknowledging that Claimant uses her right arm less due to her RSD, and thus has experienced permanent partial disability, inclusive of impairment, of approximately 25 to 30%.

36. Defendants argue that because no physician has imposed any physical restrictions, any limitations set forth by Claimant are subjective, self-imposed not supported by medical criteria, and thus insufficient to support her claim for disability in excess of impairment.

37. It is noteworthy that although neither Dr. Friedman nor Dr. McNulty imposed any physical restrictions, both acknowledged that Claimant would need prescription narcotics for pain control for the rest of her life. It is further significant that the impairment ratings given by each physician per the AMA Guides acknowledge that Claimant's pain in her dominant upper right extremity produces actual functional limitations.

38. Claimant credibly testified that the functional limitations from her CRPS would prevent her from performing most of her former occupations including that of a bank teller, loan

officer, and transportation secretary because each required manual dexterity and/or production level data inputting beyond her present capabilities.

39. Based on Claimant's impairment rating of 24% of the whole person, and her various medical and non-medical factors, Claimant's ability to engage in gainful activity has been reduced. The Referee finds that Claimant suffers a permanent disability of 33%, inclusive of her permanent impairment.

40. **Retraining.** Claimant requests the Commission reserve the issue of her entitlement to retraining. Defendants maintain that the Commission should not retain jurisdiction regarding retraining because Claimant has chosen instead to pursue disability in excess of impairment and has presented no retraining plan. Indeed, Claimant has identified no retraining plan, and instead has proven permanent disability in excess of impairment, thus rendering moot the issue of retraining. Claimant has not proven her entitlement to retraining.

41. **Attorney fees.** Claimant demands attorney fees for Defendants' failure to pay the outstanding medical expenses totalling approximately \$800. Defendants acknowledge responsibility for the medical expenses and medication expenses which Claimant demands, but contend these legitimate expenses could not be properly identified until the post-hearing depositions and thus should not be deemed grounds for an award of attorney fees.

42. The record is extensive and the bills many. Claimant had other significant medical challenges for which she received treatment, including prescription medications, and for which Defendants are not responsible. At least two post-hearing depositions of medical providers were required to identify Defendants' responsibility in this case. The delay in paying the outstanding medical bills was due to Claimant's delay or failure to fully identify and provide them to Defendants, and not any unreasonable conduct by Defendants.

43. The Referee concludes that Claimant has not proven her entitlement to an award of

attorney fees.

CONCLUSIONS OF LAW

1. Claimant has proven her entitlement to additional medication expenses of \$270, to additional medical expenses of \$380 for testing by Dr. Bergan, and to the cost of treatment by Dr. Esau on April 15, and November 1, 2002. Claimant is also entitled to ongoing prescription medication for her CRPS. She has failed to prove her entitlement to a spinal cord stimulator at this time.

2. Claimant has proven she suffers permanent partial impairment of 24% of the whole person due to her occupational disease and CRPS. Defendants are entitled to credit for any amounts already paid for permanent impairment.

3. Claimant has proven she suffers permanent disability due to her CRPS of 33%, inclusive of her permanent impairment.

4. Claimant has not proven her entitlement to retraining.

5. Claimant has not proven her entitlement to an award of attorney fees.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusions of Law as its own, and issue an appropriate final order.

DATED this __30th__ day of August, 2007.

INDUSTRIAL COMMISSION

_____/s/_____
Alan Reed Taylor, Referee

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the _7th___ day of __Sept._____, 2007, a true and correct copy of **Findings of Fact, Conclusions of Law, and Recommendation** was served by regular United States Mail upon each of the following:

THOMAS B AMBERSON
PO BOX 1319
COEUR D'ALENE ID 83616

ALAN K HULL
PO BOX 7426
BOISE ID 83707-7426

lbs

_____/s/_____

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

CYNTHIA CAMPBELL,)
)
 Claimant,)
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 v.)
)
 GTE CORPORATION, dba)
 VERIZON,)
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 Employer,)
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 and)
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 AMERICAN HOME ASSURANCE CO.,)
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 Surety,)
)
 Defendants.)
 _____)

IC 2000-034778

ORDER

Filed September 7, 2007

Pursuant to Idaho Code § 72-717, Referee Alan Reed Taylor submitted the record in the above-entitled matter, together with his proposed Findings of Fact and Conclusions of Law to the members of the Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed Findings of Fact and Conclusions of Law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

6. Claimant has proven her entitlement to additional medication expenses of \$270, to additional medical expenses of \$380 for testing by Dr. Bergan, and to the cost of treatment by Dr. Esau on April 15, and November 1, 2002. Claimant is also entitled to ongoing prescription medication for her CRPS. She has failed to prove her entitlement to a spinal cord stimulator at this time.

7. Claimant has proven she suffers permanent partial impairment of 24% of the whole

person due to her occupational disease and CRPS. Defendants are entitled to credit for any amounts already paid for permanent impairment.

8. Claimant has proven she suffers permanent disability due to her CRPS of 33%, inclusive of her permanent impairment.

9. Claimant has not proven her entitlement to retraining.

10. Claimant has not proven her entitlement to an award of attorney fees.

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

DATED this __7th__ day of __September_____, 2007.

INDUSTRIAL COMMISSION

_____/s/_____
James F. Kile, Chairman

_____/s/_____
R. D. Maynard, Commissioner

____Participated but did not sign_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on __7th day of __September_____, 2007, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

THOMAS B AMBERSON
PO BOX 1319
COEUR D'ALENE ID 83616

ALAN K HULL
PO BOX 7426

ORDER - 17

BOISE ID 83707-7426

lbs

_____/s/_____

ORDER - 18