

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

ANGELA FREEBORG, )  
 )  
 Claimant, )  
 )  
 v. )  
 )  
 TARGET STORES, )  
 )  
 Employer, )  
 )  
 and )  
 )  
 OLD REPUBLIC INSURANCE )  
 COMPANY, )  
 )  
 Surety, )  
 Defendants. )  
 \_\_\_\_\_ )

**IC 2005-000835**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

December 30, 2009

**INTRODUCTION**

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Susan Veltman, who conducted a hearing in Boise, Idaho, on August 18, 2009. Christopher E. Bray represented Claimant. Eric S. Bailey represented Defendants. The parties submitted oral and documentary evidence as well as post-hearing briefs. The matter came under advisement on November 3, 2009 and is now ready for decision.

**ISSUES**

By agreement of the parties at hearing, the issues to be decided are:

1. Whether the condition for which Claimant seeks benefits was caused by the industrial injury/occupational disease<sup>1</sup> of December 4, 2004, including whether Claimant's condition is due, in whole or in part, to a pre-existing cause or subsequent intervening cause;

2. Whether and to what extent Claimant is entitled to reasonable and necessary medical care as provided for by Idaho Code § 72-432; and

3. Whether and to what extent Claimant is entitled to temporary partial and/or temporary total (TPD/TTD) benefits.

The parties reserve all other issues.

Claimant argued in her post-hearing brief that she is entitled to an award of attorney fees based on Defendants' unreasonable refusal to initiate benefits. The issue of attorney fees was not identified in the Notice of Hearing and was not raised as an issue at the outset of hearing when both parties agreed that the above three issues were accurately identified as the issues to be addressed. The issue of attorney fees will not be further addressed in this decision.

### **CONTENTIONS OF THE PARTIES**

Claimant contends that she continues to suffer the effects of her December 4, 2004 industrial injury to her right forearm and right elbow. She asserts that her initial treatment and diagnosis of tendonitis was either incorrect or incomplete and that maximum medical improvement (MMI) was prematurely assigned in both 2005 and 2006. Claimant seeks additional medical treatment including participation in the Life Fit Program offered at St.

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<sup>1</sup> It is undisputed that Claimant sustained an industrial injury to her right upper-extremity on December 4, 2004. There has not been a determination as to whether the injury should be characterized as an accident or occupational disease. Neither party believes that such a determination is necessary and both parties agreed to phrase the causation issue broadly enough to cover either scenario.

Alphonsus Hospital. Additionally, Claimant seeks intermittent TTD benefits from January 24, 2008 through the date of hearing and continuing until she reaches MMI.

Defendants contend that Claimant's work-related right upper extremity symptoms resolved as of July 12, 2006 and that no additional medical or income benefits are owed. Defendants point out that benefits were paid for both Claimant's initial onset of symptoms for which she reached MMI on August 22, 2005 and during Claimant's second onset of symptoms for which she reached MMI on July 12, 2006. Defendants argue that Claimant's industrial injury resolved and that symptoms arising after July 2006 are related to intervening incidents and/or subsequent employment.

### **EVIDENCE CONSIDERED**

The record in this matter consists of the following:

1. Claimant's Exhibits 1 through 8 and A through ZZ admitted at hearing;
2. Defendants' Exhibits 1 through 12 admitted at hearing;
3. Testimony taken at hearing from Claimant and Claimant's mother, Linda Freeborg;
4. Summary of Medical Costs/Expenses submitted by Claimant post-hearing without objection; and
5. The Industrial Commission's legal file.

After having considered all the above evidence and the briefs of the parties, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

### **FINDINGS OF FACT**

1. At the time of hearing, Claimant was 28 years old and resided in Boise.

2. Claimant was hired by Employer in April 2004 to work in the Eagle, Idaho, retail location. She worked in multiple areas of the store including food, check-out, shoes and jewelry.

### **Initial Onset**

3. In December 2004, Claimant experienced discoloration and other symptoms to her right arm. She reported an injury to Employer's human resource department and was advised to seek treatment.

4. Claimant sought treatment at St. Luke's emergency room on December 4, 2004. She reported right hand numbness and a cold sensation in her right forearm. Claimant was diagnosed with a right wrist sprain and the possibility of right carpal tunnel syndrome (CTS) was noted. She was provided with a wrist splint and advised to take Ibuprofen. Claimant continued to perform regular-duty work.

5. Claimant initiated treatment at Primary Health on May 10, 2005, as directed by Employer. Claimant reported right wrist symptoms related to fine manipulation associated with jewelry work and watch repair. She was diagnosed with right wrist pain. Claimant demonstrated positive Phalen's and Tinel's sign, but no obvious abnormalities such as swelling. She was provided with a new wrist splint and given work restrictions related to right hand use.

6. On May 19, 2005, Claimant was evaluated by Howard Shoemaker, M.D., at Primary Health. Dr. Shoemaker questioned the diagnosis of CTS and noted diffuse tenderness with negative Tinel's at both the carpal and cubital tunnel. An EMG study was initially recommended but deferred because Claimant's symptoms were improving with conservative treatment.

7. Claimant continued to receive treatment from Dr. Shoemaker for right forearm tendonitis. Claimant's complaints of right forearm symptoms were consistent. Other complaints

varied from visit to visit such as left forearm pain, shoulder pain and neck pain. Symptoms beyond those in the right forearm were suspected to be from overcompensation when Claimant restricted her right wrist and arm efforts.

8. On August 1, 2005, Dr. Shoemaker noted that Claimant was non-compliant because she was working extended hours and performing heavy work. Further, Claimant failed to attend her scheduled occupational therapy sessions. The need for medical restrictions was reiterated, but on August 10, 2005, Dr. Shoemaker advised Claimant to return to normal use of her right upper extremity, but to avoid strenuous repetitive activities that caused pain.

9. On August 22, 2005, Claimant returned to Primary Health and was evaluated by Scott Lossmann, M.D. Claimant reported that her right forearm was 100% better and that she had no complaints. Physical examination was normal. Claimant was diagnosed with resolved extensor tendonitis and released from care. She was certified at MMI with no permanent impairment or disability and was released to return to work without restrictions.

### **Second Onset**

10. Claimant continued to lift and stock items at work until she resigned her employment with Employer in March 2006 and obtained alternate employment. Her right upper extremity symptoms began to reoccur in April 2006. She was evaluated at Primary Health on April 27, 2006 with complaints of pain in her right shoulder and elbow.

11. Dr. Lossmann attributed Claimant's right elbow and right shoulder symptoms to the initial injury of December 2004. Claimant received conservative treatment and was improving by mid-June 2006. Dr. Lossmann planned to release her from care at the end of June 2006 and did not anticipate long-term impairment or disability.

12. Claimant returned to Dr. Lossmann on July 12, 2006. She reported that she had been completely pain-free until a few days prior to her evaluation when she was in a car accident. Claimant was driving a car when she struck a deer. The accident caused her to hyperflex her right wrist against the steering wheel. Dr. Lossmann determined that Claimant's epicondylitis resolved prior to the car wreck and he certified Claimant at MMI with no permanent impairment. He indicated that Claimant's right wrist injury and re-injury of her right elbow were related to the collision with the deer and not work-related.

### **Subsequent Employment**

#### **Micron**

13. Claimant worked for Micron from approximately March 2006 through November 2006. Claimant was a machine operator and operated 15 machines which required use of both of her hands to lift and feed discs into the machines.

14. Claimant did not sustain an industrial injury while working for Micron and did not have pain to her wrists or shoulders as a result of work she performed there. The evidence does not indicate the reason(s) why Claimant left her employment with Micron after nine months, but Claimant is not seeking income benefits for the two to three month period of unemployment immediately following her employment with Micron. There is no indication that Claimant's right upper extremity condition was a factor in her cessation of employment with Micron.

#### **DirecTV**

15. Claimant worked for DirecTV from approximately February 2007 through July 2008. She completed a five-week period of training and then began taking calls and performing data entry related to the calls. Claimant estimates that she handled 80 calls per day. She made a

workers' compensation claim for upper extremity symptoms (addressed below in "Third Onset" section) against DirecTV but it was denied and she did not challenge the denial. Claimant treated through her group health insurance with Aetna while working for DirecTV. Claimant's mother paid the necessary co-pays and deductible amounts.

16. Claimant resigned her employment with DirecTV in July 2008 because the repetitive nature of the work was in conflict with medical recommendations.

#### **Office of Senator Crapo**

17. Claimant worked as a secretary/office manager for Senator Crapo from July 2008 through December 2008. She was laid-off in December 2008 because she was under-qualified for the position. Claimant did not sustain a new injury or file a workers' compensation claim while working for Senator Crapo. During her six months of employment she received medical treatment through Blue Cross-Federal.

#### **Adecco**

18. Claimant has not been consistently employed since December 12, 2008. She attempted a call center job through Adecco but was unable to do the work because of the typing required.

#### **Third Onset**

19. On November 11, 2007 (one year and four months after being released from care following her second onset), Claimant returned to Primary Health and was evaluated by Steven Eichelberger, M.D. Claimant reported the onset of symptoms occurring between one and three weeks prior to evaluation. Reported symptoms included right shoulder and elbow pain with discoloration of her right arm. There was no swelling or discoloration upon examination. She denied a specific injury, but reported that her duties at DirecTV involved constant keyboard use.

Claimant reported her past diagnosis of tendonitis and indicated that she was looking into either re-opening her past workers' compensation claim or filing a new claim. Dr. Eichelberger did not express an opinion regarding causation or whether the filing of a new claim would be appropriate.

20. On November 14, 2007, Claimant was evaluated by Jeremy Frix, PA, at Primary Health. She reported pain in her right wrist and shoulder. Claimant requested that she be taken out of work for a week. Mr. Frix provided restrictions but declined to place her on a no-work status. Conservative treatment was initiated.

21. On December 13, 2007, Claimant was seen by Darryl Barnes, PA, at Primary Health. X-rays of Claimant's right elbow were normal. He diagnosed lateral epicondylitis of the right elbow and referred Claimant to Louis Murdock, M.D.

22. Dr. Murdock is an orthopedist who specializes in hand and upper extremity care. He evaluated Claimant on January 9, 2008. Claimant described a two year history of progressive and intermittent right arm pain without specific injury. Dr. Murdock diagnosed chronic right radial tunnel syndrome and confirmed the diagnosis based on reported relief with an injection of lidocaine at the radial tunnel. Dr. Murdock recommended surgical intervention and Claimant requested to proceed with surgery.

23. On January 24, 2008, Dr. Murdock performed a radial nerve decompression of Claimant's right forearm. Claimant did well immediately following surgery but fell in the snow on her outstretched right arm during the first week of February 2008. Right wrist x-rays performed following Claimant's fall were negative for fracture or other bony pathology. Claimant reported complete relief of pre-operative symptoms until she fell on her wrist. Dr. Murdock was unable to determine the cause of Claimant's ongoing right wrist symptoms.

24. Medical records contain multiple references to Claimant's drug seeking behavior and concerns regarding her abuse of prescription medicine. Claimant contacted Primary Health on November 16, 2007 to advise that she lost her Darvocet and needed another prescription. Records reflect a past history of substance abuse involving methamphetamine and cocaine. During March 2008, Dr. Murdock's physician assistant counseled Claimant on medication use and refused Claimant's request to provide an injection to her wrist. In April 2008, an emergency room physician reviewed pharmacy board data and learned that Claimant obtained twelve prescriptions for narcotics during the first three and a half months of 2008.

25. Claimant continued to report right elbow and wrist pain. Dr. Murdock recommended a nerve excision surgery on her right wrist to relieve her dorsal right wrist pain. He did not attribute her condition and need for wrist surgery to her January 2008 surgery which he felt achieved a good result. Rather, Dr. Murdock felt that Claimant's chronic wrist pain was of unknown etiology.

26. On April 11, 2008, Claimant underwent nerve excision of the right wrist performed by Dr. Murdock. Claimant was doing well at her post-operative evaluation of April 25, 2008 and was advised that she could resume full activities, as tolerated by mid-May 2008.

27. On April 24, 2008, Claimant sent a letter to Surety requesting that her December 2004 claim be re-opened. She explained that her right wrist pain, numbness and tingling that initially occurred while working for Employer reoccurred while she was working for DirecTV. Claimant contacted the human resource department for DirecTV and was advised that her problems were not related to her work at DirecTV and that she would need to re-open her previous claim.

28. On May 6, 2008, Claimant came into Dr. Murdock's office for an unscheduled visit and was seen by his physician assistant, Brandon Lane. Claimant reported increased right arm pain and requested a retroactive work release and pain medication. Mr. Lane noted Claimant's rapid speech and overall hypomanic appearance. He questioned her about substance abuse and declined to provide either a work release or narcotic medication. Claimant reported that she had not relapsed with regard to cocaine or methamphetamine and had been clean for seven years. Mr. Lane felt that Claimant was physically able to return to work but may have psychological barriers to doing so.

29. From at least May 2007, Claimant received concurrent primary care treatment at Mountain States Medical (MSM) with Colin Soares, PA. Most of Claimant's treatment at MSM pertained to sleep disturbance and anxiety issues. In November 2007, Claimant was counseled at MSM about her use of prescription medications. She requested refills of medication and explained that her medications had been stolen. On November 27, 2007, she reported to MSM that she had not taken any prescription narcotics for the past two years.

30. By May 2008, Claimant also sought treatment for right upper extremity complaints through MSM, including injections and medication. On May 8, 2008, Claimant sought emergency room treatment after falling down stairs and injuring her left arm. Claimant's left arm problems did not require ongoing treatment and there is no indication that the May 2008 fall re-injured Claimant's right arm.

31. Claimant was evaluated by Troy Watkins, M.D., in August 2008 at the request of Surety. He reviewed Claimant's medical records and performed a physical examination. Dr. Watkins diagnosed right forearm pain and right lateral epicondylitis. He felt that Claimant's cervical spine and shoulder were likely normal and that Claimant did not need a pain program.

He indicated that Claimant may have radial nerve symptoms and that the decompression performed by Dr. Murdock may not have been complete. Dr. Watkins recommended a radial nerve block to help determine the cause of her pain. He determined that Claimant's epicondylitis was secondary to the radial nerve surgery.

32. Dr. Watkins referenced Claimant's history dating back to 2004 when Claimant was working in the shoe department for Employer and developed aching pain in her forearm. He did not otherwise address causation of Claimant's symptomology. Dr. Watkins provided letters of clarification to Surety during September 2008 in which he indicated that radial tunnel syndrome can reoccur and that Claimant's symptoms either did not completely resolve with initial treatment or reoccurred. Dr. Watkins' report and letters of clarification are silent as to whether reoccurrence of symptoms related back to Claimant's 2004 industrial injury or was associated with an intervening cause.

33. In his letters of clarification, Dr. Watkins explained that one of the biggest problems Claimant had was seeking out multiple physicians and obtaining multiple drugs. In general terms, he feels that such behavior should be carefully evaluated and a determination made as to whether complaints are true and accurate.

34. Claimant returned to Dr. Murdock in January 2009 seeking advice about her right arm pain and reporting pain in her right elbow. Claimant was using Norco and attempting to eliminate other medications because of cost and for personal reasons. Dr. Murdock ordered a right elbow MRI which revealed minimal medial epicondylitis and a subtle partial tear of the ulnar collateral ligament.

35. Claimant's MRI findings were described as nonspecific and surgical intervention was not indicated. Claimant's physical examination and MRI findings did not reveal a clear

anatomic etiology of her diffuse elbow and forearm pain. Dr. Murdock suggested conservative management of pain with activity modification, therapy and judicious use of medications. Claimant was advised to return for care on an as-needed basis.

36. In May 2009, Claimant's attorney requested that pain management physician James H. Morland, M.D., review medical records and provide opinions regarding diagnoses, causation and a treatment plan. Dr. Morland did not examine Claimant or provide treatment to her. He accurately described Claimant's initial onset of symptoms and her second onset of symptoms. Dr. Morland felt that both the initial onset and second onset of symptoms were related to Claimant's work for Employer and that it was splitting hairs to determine whether Claimant's symptoms in 2004 and 2006 constituted a single injury or two separate injuries.

37. Dr. Moreland opined that Claimant suffered from lateral epicondylitis. He was unable to determine the extent to which Claimant's condition resulted from multiple subsequent industrial and non-industrial events in the absence of a detailed job description of Claimant's work for Employer and information regarding the nature of Claimant's hobbies and activities outside of the workplace. He felt that Claimant would benefit from a multi-disciplinary pain management program.

38. Dr. Moreland subsequently issued letters of clarification to address Claimant's third onset of symptoms in November 2007. He determined that Claimant's epicondylitis was work-related. However, Dr. Moreland assumed that Claimant continued to work for Employer and was working for Employer in November 2007 when her third onset of symptoms occurred. He indicated that:

...the first note that I am able to find regarding recurrence is dated 11-15-07, at which time Collin Soares, PA-C states that the patient has a recurrence of lateral epicondylitis for approximately two weeks and that she had been evaluated by another healthcare facility and had been put on pain medications. *Presumably,*

*there is a correlating documentation showing her being employed by Target at that time and that she did indeed submit information regarding a work injury.*

Claimant's Exhibit W, p.4. (emphasis added).

### **Current Complaints**

39. At hearing, Claimant testified that her right upper extremity is in constant pain at a level of seven or eight out of ten. She reported being unable to accomplish basic tasks, such as brushing her hair, due to pain. She takes narcotic pain medication on a daily basis.

## **DISCUSSION AND FURTHER FINDINGS**

### **Causation and Medical Care**

40. Idaho Code § 72-432(1) mandates that an employer provide reasonable medical care that is related to a compensable injury. The claimant bears the burden of proving that medical expenses were incurred as a result of an industrial injury and 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, 785, 890 P.2d 732, 736 (1995). The employer is not responsible for medical treatment that is not related to the industrial accident. *Williamson v. Whitman Corp./Pet, Inc.*, 130 Idaho 602, 944 P.2d1365 (1997). The fact that a Claimant suffered a covered injury to a particular part of his or her body does not make the employer liable for all future medical care to that part of the employee's body, even if the medical care is reasonable. *Henderson v. McCain Foods, Inc.*, 142 Idaho 559, 563, 130 P.3d 1097, 1101 (2006).

41. Defendants' assert that the facts of this case are analogous to the facts presented in *Blang v. Liberty Northwest Ins. Corp.*, 125 Idaho 275 (1994). In *Blang*, the Court indicated that a claimant could have multiple manifestations of a disease process, such as CTS, and that a subsequent occurrence following a period of time without symptoms constitutes a separate claim.

Defendants maintain that Claimant opted not to file a Complaint against DirecTV who would be the proper defendant based on either a “new occurrence” or “last injurious exposure” analysis.

42. Claimant’s third onset of symptoms was one year and four months after Claimant reported full resolution of her symptoms related to her second onset. Claimant stopped working for Employer one month before she initiated treatment for her second onset. Claimant worked nine months for Micron and nine months for DirecTV after she left Employer and before her third onset of symptoms.

43. The report and letters of clarification from Dr. Watkins suggest a possibility that Claimant has recurrent radial nerve problems that might be related to insufficient treatment or an inadequate release surgery. Dr. Watkins is of the opinion that Claimant’s ongoing symptoms are possibly related to an incomplete radial tunnel release in January 2008. His opinions are less clear regarding a relationship between Claimant’s 2004 injury and the need for a radial tunnel release and fail to either establish or rule out Claimant’s December 2004 industrial injury as a cause for her ongoing symptoms.

44. Following Claimant’s third onset of symptoms, neither Dr. Watkins nor any other medical service provider specifically addressed the mechanism of injury at Target or the nature of repetitive trauma that would have caused Claimant’s symptoms. Similarly, no physician addressed the impact of Claimant’s repetitive typing while working for DirecTV that coincided with her third onset of symptoms. Claimant’s right wrist symptoms were significantly aggravated or re-injured by the July 2006 motor vehicle collision with a deer and again when Claimant fell in February 2008 which prompted ongoing right wrist treatment after Dr. Murdock felt that the right radial tunnel surgery performed in January 2008 had been a success.

45. Although Dr. Moreland did not evaluate or treat Claimant, he is the only medical service provider to mention the relevance of Claimant's job duties for Employer when determining causation of Claimant's condition. Dr. Moreland was either given incomplete information or misinterpreted the information he reviewed regarding Claimant's work history. His opinion assumes that Claimant continued to perform repetitive work for Employer until at least November 2007 when she experienced her third onset of symptoms. Dr. Moreland's opinion regarding causation is not adopted since it is based on an incorrect assumption of relevant facts.

46. Dr. Murdock was Claimant's treating physician for her third onset of symptoms and performed both of Claimant's surgeries. His opinion regarding causation of radial tunnel syndrome is conspicuously absent from the record. Dr. Murdock did not attribute Claimant's wrist surgery of April 2008 to an industrial cause or a continuation of symptoms associated with Claimant's radial tunnel surgery. Rather, he opined that Claimant's radial tunnel surgery had a good result and that Claimant's subsequent wrist problems were of unknown etiology.

47. The overall picture of Claimant's behavior derived from the medical records does not enhance her credibility. Since late November 2007, Claimant demonstrated drug seeking behavior and during 2008, Claimant demonstrated a pattern of presenting herself for unscheduled appointments to request retroactive off-work slips in spite of being advised by Dr. Murdock's office that such requests would not be honored.

48. Claimant repeatedly testified that she was claiming benefits relating to her right elbow and forearm and that she was not attributing ongoing problems with her right wrist or shoulder to her December 2004 industrial injury. Claimant became obviously frustrated when cross-examined about intervening right wrist injuries and explained that her wrist condition was

unrelated to her 2004 injury. Claimant's testimony in this regard is inconsistent with the documentary evidence and with the nature of benefits she is seeking. Claimant's 2004 injury initially manifested as a right wrist injury. When requesting that Surety re-open the 2004 claim, she described a reoccurrence of wrist symptoms. In spite of her testimony, Claimant's post-hearing brief and documentary evidence indicate that she is seeking benefits relating to her April 2008 right wrist surgery.

49. Claimant's assertion that her employment at DirecTV is not a causative factor in her third onset of symptoms is not credible or consistent with the other evidence. Claimant contemplated filing a new claim with DirecTV by November 2007 when she initially sought treatment for her third onset of symptoms. Claimant only pursued reopening her previous claim when advised by DirecTV that she should do so. Claimant reported repetitive typing as a required component of her job duties at DirecTV. She eventually discontinued her work for DirecTV, based on medical advice from Dr. Murdock, because the amount of typing performed aggravated her condition. Claimant was subsequently unable to maintain a job in a call center because of the required typing.

50. In closing briefs, Claimant relies significantly on medical reports generated from December 2004 through July 2006 to establish that her condition is work-related. However, it is undisputed that Claimant's condition was related to her work for Employer during that period of time. The issues in dispute relate to causation of Claimant's third onset of symptoms during November 2007 and thereafter.

51. The medical evidence fails to explain the severity of Claimant's reported symptomology at the time of hearing and there is little explanation as to how Claimant went from being symptom free for over a year to requiring surgery and deteriorating to the point that

she is unable to perform activities of daily living. Although Dr. Watkins points out that radial tunnel syndrome can reoccur, his opinion does not establish that Claimant's 2004 injury caused radial tunnel syndrome that reoccurred in November 2007 in the absence of an intervening cause. The opinions of Dr. Watkins are insufficient to establish a causal relationship between Claimant's work for Employer and her symptoms in November 2007 to a reasonable degree of medical probability.

52. Defendants are not required to establish the cause of Claimant's third onset of symptoms. Rather, Claimant bears the burden of proving that her right upper extremity symptoms continue to be related to her December 2004 industrial injury. She has failed to do so.

53. Because Claimant failed to prove that her right upper extremity symptoms after July 12, 2006 are causally related to her December 4, 2004 industrial injury, Claimant is not entitled to additional medical or temporary income benefits.

### **CONCLUSIONS OF LAW**

1. Claimant did not meet her burden of proof to establish that her right upper extremity symptoms after July 12, 2006 are causally related to her December 4, 2004 industrial injury.

2. Claimant is not entitled to additional medical benefits.

3. Claimant is not entitled to additional temporary disability benefits.

**RECOMMENDATION**

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

DATED this 23 day of December 2009.

INDUSTRIAL COMMISSION

/s/ \_\_\_\_\_  
Susan Veltman, Referee

ATTEST:

/s/ \_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 30 day of December a true and correct copy of **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon:

CHRISTOPHER D BRAY  
P O BOX 6344  
BOISE ID 83707-6344

ERIC S BAILEY  
P O BOX 1007  
BOISE ID 83701

jkc

/s/ \_\_\_\_\_

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

ANGELA FREEBORG,	)	
	)	
Claimant,	)	<b>IC 2005-000835</b>
	)	
v.	)	
	)	
TARGET STORES,	)	
	)	
Employer,	)	
	)	<b>ORDER</b>
	)	
OLD REPUBLIC INSURANCE	)	
COMPANY,	)	December 30, 2009
	)	
Surety,	)	
	)	
Defendants.	)	
_____	)	

Pursuant to Idaho Code § 72-717, Referee Susan Veltman submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law to the members of the Idaho 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:

1. Claimant did not meet her burden of proof to establish that her right upper extremity symptoms after July 12, 2006 are causally related to her December 4, 2004 industrial injury.
2. Claimant is not entitled to additional medical benefits.
3. Claimant is not entitled to additional temporary disability benefits.

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

DATED this 30 day of December, 2009.

INDUSTRIAL COMMISSION

/s/ \_\_\_\_\_  
R. D. Maynard, Chairman

/s/ \_\_\_\_\_  
Thomas E. Limbaugh, Commissioner

/s/ \_\_\_\_\_  
Thomas P. Baskin, Commissioner

ATTEST:

/s/ \_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the 30 day of December, 2009, a true and correct copy of the foregoing **Order** was served by regular United States Mail upon each of the following persons:

CHRISTOPHER D BRAY  
P O BOX 6344  
BOISE ID 83707-6344

ERIC S BAILEY  
P O BOX 1007  
BOISE ID 83701

jkc

/s/ \_\_\_\_\_