

STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF DUPAGE )

<input checked="" type="checkbox"/> Affirm and adopt (no changes)	<input type="checkbox"/> Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/> Affirm with changes	<input type="checkbox"/> Rate Adjustment Fund (§8(g))
<input type="checkbox"/> Reverse	<input type="checkbox"/> Second Injury Fund (§8(e)18)
<input type="checkbox"/> Modify	<input type="checkbox"/> PTD/Fatal denied
	<input checked="" type="checkbox"/> None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Sheree Jones,  
 Petitioner,  
 vs.  
 Loomis Fargo,  
 Respondent.

NO: 06 WC 30928

**11IWCC0903**DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of medical, temporary total disability, permanent partial disability, causal connection and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed January 13, 2011 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of \$19,400.00. The probable cost of the record to be filed as return to Summons is the sum of \$35.00, payable to the Illinois Workers' Compensation Commission in the form of cash, check or money order therefor and deposited with the Office of the Secretary of the Commission.

DATED: SEP 13 2011

MB/mam  
 o:9/8/11  
 43

  
 Mario Basurto

  
 James F. DeMunno

  
 David L. Gore

ILLINOIS WORKERS' COMPENSATION COMMISSION  
NOTICE OF ARBITRATOR DECISION

JONES, SHEREE

Employee/Petitioner

Case# 06WC030928

**11IWCC0903**

LOOMIS FARGO

Employer/Respondent

On 1/13/2011, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.18% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

0570 BECKER & SILVERMAN  
NORM SILVERMAN  
800 E NORTHWEST HWY SUITE 321  
PALATINE, IL 60074

1120 BRADY CONNOLLY & MASUDA PC  
MATTHEW P SCHERIFF  
ONE N LASALLE SUITE 1000  
CHICAGO, IL 60602

11IWCC0903

STATE OF ILLINOIS )

)SS.

COUNTY OF DUPAGE )

- |                                     |                                       |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/>            | Injured Workers' Benefit Fund (§4(d)) |
| <input type="checkbox"/>            | Rate Adjustment Fund (§8(g))          |
| <input type="checkbox"/>            | Second Injury Fund (§8(c)(8))         |
| <input checked="" type="checkbox"/> | None of the above                     |

ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION

Sheree Jones,  
Employee/Petitioner

Case # 06 WC 30928

v.

Consolidated cases: none

Loomis Fargo,  
Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Peter M. O'Malley**, Arbitrator of the Commission, in the city of **Wheaton**, on **November 9, 2010**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

- A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
- B. ☐ Was there an employee-employer relationship?
- C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
- D. ☐ What was the date of the accident?
- E. ☐ Was timely notice of the accident given to Respondent?
- F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
- G. ☐ What were Petitioner's earnings?
- H. ☐ What was Petitioner's age at the time of the accident?
- I. ☐ What was Petitioner's marital status at the time of the accident?
- J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
- K. ☒ What temporary benefits are in dispute?  
☐ TPD ☐ Maintenance ☒ TTD
- L. ☒ What is the nature and extent of the injury?
- M. ☐ Should penalties or fees be imposed upon Respondent?
- N. ☐ Is Respondent due any credit?
- O. ☐ Other \_\_\_\_\_

**11IWCC0903**

**FINDINGS**

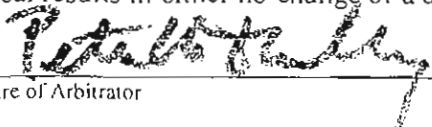
On **July 13, 2006**, Respondent *was* operating under and subject to the provisions of the Act.  
On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.  
On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.  
Timely notice of this accident *was* given to Respondent.  
Petitioner's current condition of ill-being *is* causally related to the accident.  
In the year preceding the injury, Petitioner earned **\$22,880.00**; the average weekly wage was **\$440.00**.  
On the date of accident, Petitioner was **48** years of age, *married* with **1** dependent child.  
Petitioner *has* received all reasonable and necessary medical services.  
Respondent *has not* paid all appropriate charges for all reasonable and necessary medical services.  
Respondent shall be given a credit of **\$4,860.90** for TTD, **\$0.00** for TPD, **\$0.00** for maintenance, and **\$0.00** for other benefits, for a total credit of **\$4,860.90**.  
Respondent is entitled to a credit of **\$0.00** under Section 8(j) of the Act.

**ORDER**

Respondent shall pay Petitioner temporary total disability benefits of \$293.33 per week for 26-4/7 weeks, commencing August 7, 2006 through November 17, 2006 and from April 17, 2007 through July 8, 2007, as provided in Section 8(b) of the Act.  
Respondent shall pay Petitioner the temporary total disability benefits that have accrued from July 13, 2006 through November 9, 2010, and shall pay the remainder of the award, if any, in weekly payments.  
Respondent shall be given a credit of \$4,860.90 for temporary total disability benefits that have been paid.  
Respondent shall pay reasonable and necessary medical services of \$8,034.20, as provided in Sections 8(a) and 8.2 of the Act.  
Respondent shall pay Petitioner permanent partial disability benefits of \$264.00 per week for 68.7 weeks, because the injuries sustained caused 15% loss of the left hand and 15% loss of the left arm, as provided in Sections 8(e)9 and 8(e)10 of the Act, respectively.  
Respondent shall pay Petitioner permanent partial disability benefits of \$264.00 per week for 25 weeks, because the injuries sustained caused the 5% loss of the person as a whole, as provided in Section 8(d)2 of the Act.

**RULES REGARDING APPEALS** Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

**STATEMENT OF INTEREST RATE** If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

  
Signature of Arbitrator

1/6/11  
Date

**JAN 13 2011**

**11IWCC0903**

**STATEMENT OF FACTS:**

Petitioner, a 48 year old CMS teller, testified that as part of her job duties she conducted deposit verification and bundled, sorted, collated, tallied, rebanded, bagged and stacked currency consisting of bricks of paper currency and bags of coin for 12 hours per day in the two weeks immediately preceding her injury on July 13, 2006.

This job also required her to use a computer to tally and verify large deposit amounts received from banks, ATMs, and commercial customers throughout Illinois all day long in a glass booth. This computer was on a counter that aligned up to Petitioner's body about chest high. Additionally, she had to verify the other tellers' counts which required her to lift and carry bricks of banded bills in 10 brick packages which weighed about 15 pounds, put same in a sorter which was to her side and which came up to about thigh high and divided the money into denomination slots. After sorting, Ms. Jones had to reband the brick and put 12 to 16 of these brick packages into a plastic bag which she had to load onto gurney carts three feet tall behind her to be sent to the Federal Reserve Bank. Ms. Jones also had to lift, carry and load 20 to 30 pound bags of coins into bins for counting. She noted that her sorter was faster and that they brought her a large volume to sort.

Petitioner testified that she had worked for the Respondent since 2004, and that prior to that she had worked as a bank teller for First National for the previous 2 years. Petitioner also testified that prior to that period she worked in the sanitation field for 4 years.

Petitioner testified that on July 13, 2006 she began experiencing pain in her neck and shoulders with tingling in her hands radiating to her elbows.

Petitioner testified that the following day she presented to St. James Hospital Emergency Room at which time she was complaining of pain in her neck, back and shoulder. X-rays were taken of the neck and low back and the petitioner was diagnosed with a neck and back sprain/strain. (PX1). The x-rays revealed degenerative changes in the cervical spine and no evidence of any trauma or fracture or issues with the lumbar spine. There were no diagnostic tests performed of the shoulder complaints made of the petitioner of either hand or wrist causing pain. (PX1).

Petitioner's next sought treatment at Pain Care America beginning July 24, 2006 complaining of pain in the neck and low back. Petitioner was diagnosed with cervical radiculopathy on the left side and prescribed anti-inflammatory medications and begun on a course of physical therapy. An MRI was performed in August of 2006 of the cervical spine which showed spondylosis, though there was no evidence of herniated disc. (PX3). Thereafter, Petitioner had 3 epidural steroid injections performed, the first on August 29, 2006, the second on September 12, 2006, and the third and final epidural performed on September 26, 2006. (PX3).

On October 24, 2006, Petitioner was seen by Dr. Frank Phillips for purposes of a §12 examination at the request of the Respondent. Dr. Phillips was of the opinion that Petitioner suffered a spinal strain/sprain as the result of the incident of July 13, 2006 and indicated that Petitioner should possibly have an additional 2 weeks of physical therapy, and then be at maximum medical improvement and be able to return to work without restrictions. (RX1).

Approximately 1 week following the accident, on July 21, 2006, the petitioner completed an "Injury Report for Workers' Compensation." In this Report the Petitioner is asked to describe what happened, and also her symptoms and injuries and is instructed to "list all body parts involved." On this report, Petitioner indicates that the lifting of the bags and labeling money "all day" on July 13, 2006 hurt her back, shoulder and neck. In terms

of symptoms and injuries, Petitioner listed pain and swelling in the lower back, shoulders and neck. At no time is any reference made to the lower portion of either arm, either wrist, or either hand. (PX4).

The medical records show that Petitioner did not receive any treatment regarding her hands from November 17, 2006 until April of 2007. Petitioner presented to Dr. Moffitt of pain in both arms as well as numbness and tingling which she had experienced for "approximately 6 months progressively worse over time." (PX2). It should be noted that the petitioner was not working for the respondent during this 6 month time period. In addition in the note dated May 2, 2007 from Dr. Moffitt it is noted that "Patient relates to having these symptoms for approximately 6 months progressively worse over time, she denies any injury or trauma." (PX2).

On May 2, 2007, Petitioner underwent left ulnar nerve transposition at the elbow following the diagnosis of left cubital tunnel syndrome, under the direction of Dr. Moffitt. (PX2).

At the request of Respondent, Petitioner's medical treatment records were sent to Dr. Paul Papierski for review in the fall of 2009. During the course of his deposition, Dr. Papierski expressed his opinion that there was no causal connection between the alleged incident in July of 2006 and the diagnosis of bilateral carpal tunnel syndrome or the diagnosis of cubital tunnel syndrome which subsequently resulted in the surgery in 2007. (RX2). Dr. Papierski noted that carpal tunnel is a condition of the wrist, and there was no evidence in any of the material regarding any injury to the wrist, nor was the petitioner complaining of any pain in the wrist area of either arm prior to 2007. (RX2).

Petitioner testified that following the surgery under the direction of Dr. Moffitt she was released from care in June of 2007 and has not returned to Dr. Moffitt or any other doctor for these issues since that time. Petitioner also indicated that she currently works as a certified nurse's assistant for Lexington Healthcare in Orland Park, where she has worked since 2007, during which time she has been assisting patients without incident.

**WITH RESPECT TO ISSUE (C), DID AN ACCIDENT OCCUR THAT AROSE OUT OF AND IN THE COURSE OF THE PETITIONER'S EMPLOYMENT BY THE RESPONDENT, THE ARBITRATOR FINDS AS FOLLOWS:**

Petitioner credibly testified that during the course of the day, on July 13, 2006, she began experiencing some pain in her neck and shoulders with tingling in her hands radiating to her elbows. She noted that as part of her job duties she conducted deposit verification and bundled, sorted, collated, tallied, rebanded, bagged and stacked currency consisting of bricks of paper currency and bags of coin for 12 hours per day in the two weeks immediately preceding her injury on July 13, 2006.

This job also required her to use a computer to tally and verify large deposit amounts received from banks, ATMs, and commercial customers throughout Illinois all day long in a glass booth. This computer was on a counter that aligned up to Petitioner's body about chest high. Additionally, she had to verify the other tellers' counts which required her to lift and carry bricks of banded bills in 10 brick packages which weighed about 15 pounds, put same in a sorter which was to her side and which came up to about thigh high and divided the money into denomination slots. After sorting, Ms. Jones had to reband the brick and put 12 to 16 of these brick packages into a plastic bag which she had to load onto gurney carts three feet tall behind her to be sent to the Federal Reserve Bank. Ms. Jones also had to lift, carry and load 20 to 30 pound bags of coins into bins for counting. She also noted that her sorter was faster and that as a result they brought her a large volume to sort.

Petitioner testified that she reported these problems to her superiors on July 13, 2006 and sought treatment at the St. James Hospital Emergency Room the following day.

Therefore, based on the above, and the record taken as a whole, the Arbitrator finds that Petitioner sustained accidental injuries arising out of and in the course of her employment on July 13, 2006.

**WITH RESPECT TO ISSUE (F), IS THE PETITIONER'S PRESENT CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:**

Petitioner testified that on July 13, 2006 she began experiencing pain in her neck and shoulders with tingling in her hands radiating to her elbows. She extensively described her work duties for Respondent, particularly the two weeks leading up to the date of the injury. To wit, she noted that the counters she works at are high, extending to her elbow. She indicated that in the middle of the counter are computers and to the left is the assembly line sorter, that comes to her thigh. She testified that she would stack bills in the sorter, which feeds the bills through and divides them by denominations. She noted that all the work would be piled on the floor and that she would have to reach down to pull out bills, reach for straps and reach for transactions. Petitioner testified that she was assigned the highest volume, since her sorter was the fastest, including bags containing "bricks" of cash weighing 15 pounds. She stated that during the last two to three hours of an eight hour day all the work from the other tellers would come to her, then it would have to be wrapped up and sent to the Federal Reserve. She indicated that she would have to enter the dollar amounts into a computer and fill bags, and that she had to make 22 bags containing approximately two to four million dollars in currency. Petitioner noted that the "fed tanker", which is a one ton tanker on wheels, and which had to be filled and sealed, had been down for two weeks. Petitioner testified that she had worked in this position during those two weeks and that it was very strenuous.

Petitioner testified that the following day she presented to St. James Hospital Emergency Room. A St. James Hospital "Trauma Teaching" form dated July 14, 2006 recorded the following handwritten history: "Neck/shoulder pain/ [illegible] pain[.] Neck/shoulder pain started yesterday at 4 pm, pain shoots down back. Tried Tylenol did not help, cannot sleep because of pain. Happened at work, loading bags of money, felt back [illegible] shoulder hurt. Like a burning. Tingling in Lleft] thumb and forearm [with] swelling." (PX1). (Emphasis added). The clinical diagnosis was noted to be "L[eft] neck/back sprain/contusion[.] Work injury." (PX1). X-rays of the cervical spine were interpreted as evidencing degenerative changes mainly at the C5-C6 level – namely, a large spur involving the anterior and inferior aspect of C5-C6 and encroachment of the neural foramina between C5, C6 and C7 bilaterally. (PX1). X-rays of the lumbar spine revealed no acute fracture and minimal spurring involving the anterior and superior aspect of L4 and L5. (PX1).

In an ESIS "Injury Report for Workers' Compensation" report, filled out and signed by Petitioner on July 21, 2006, the injury was described as follows: "I had been counting & Lifting All day. Annette said Fed Truck is still broken we need to bag & Label all money. Hurt Back, Shoulder & Neck lifting heavy lot." (PX4). She noted that the injury occurred on "7-13-06 ... between 4:30 – 5:00 pm." (PX4). Petitioner also indicated that her symptoms included "Pain & Swelling – Lower Back, Shoulders and Neck." (PX4).

Petitioner testified that a friend recommended PainCare America where she began treating on July 24, 2006. In a "New Patient Medical Consultation" report from this provider dated July 24, 2006, certified physician assistant Aubrey Linder noted that Petitioner "suffered a work-related injury on July 13, 2006. She was at work at the bank as a vault teller and she was doing some very [sic] lifting. She had a severe onset of neck and lower back pain." (PX3). It was reported that Petitioner presented at that time with complaints of pain "... mainly in the posterior cervical region with upper extremity radiculopathy into the shoulders and down the upper extremities all the way to the hands. It is sharp pain with burning, numbness, tingling and pins-and-needles sensations, as well as weakness. It is also radiating. The pain has become worse and she has missed work due to the problem. The patient's symptoms are more noticeable with any prolonged activity. Lying down on her

stomach makes the pain better. The patient denies any lower extremity radiculopathy with numbness or tingling, or any pain in the lower extremities. Her main pain is in the posterior cervical region.” (PX3). (Emphasis added). A “Review of System” noted the following: “Positive for frequent headaches, swollen joints, neck pain, back pain, arm pain, weakness of the arms and difficulty sleeping.” (PX3). (Emphasis added). The assessment was 1) cervical pain, 2) cervical radiculopathy, and 3) low back pain. (PX3).

In a PainCare America “Functional Rehab Assessment” report dated July 31, 2006, physical therapist Steve Arpon noted that “[t]he patient reports that she suffers with pain in the left side of her cervical spine and left side of her lumbar spine. This all started on July 13, 2006. At that time, she was lifting 20 lb. to 30 lb. bags at work and she felt a back and neck strain. The patient went to the Emergency Room on that day... The patient reports that she has been doing this line of work at Loomis and Fargo for approximately two years; however, after the first three months of lifting, she reported that her low back pain symptoms began.” (PX3).

Petitioner testified that she underwent physical therapy at PainCare America from July 2006 through November 2006. She indicated that this treatment involved therapy for her neck, shoulder, back and arms, and included myofascial therapy, trigger point releases, massage therapy, electrical stimulation, ultrasound treatment and three epidural injections to her cervical spine.

In a PainCare America “Patient Medical Consultation” report dated August 29, 2006, Dr. Donald Roland recorded that Petitioner had been referred to him “... for an evaluation of pain that she is experiencing in her neck, shoulders and arms, as well as in the midback. The patient describes the pain as being sharp, dull and burning its [sic] character. It is always present and the intensity varies. She is currently rating her pain at 10 out of 10. The patient has weakness in arms bilaterally, as well as tingling and pins-and-needles sensations into her arms and hands. She complains of some swelling in her forearms, as well as some stiffness in her thumbs, which comes and goes... The patient has had these symptoms since July 13, 2006. At that time, the patient was at work. She states that she had to lift and throw bags of money weighing up to 50 pounds. While she was throwing these bags onto a truck, she began to experience this pain. She states that she has had shoulder pain in the past, but this would resolve with Tylenol or ibuprofen; however, her current symptoms have not.” (PX3). (Emphasis added). The Arbitrator notes that the second page from this particular report does not appear to be included in this exhibit. (PX3).

At the request of Respondent, Petitioner was examined by Dr. Frank M. Phillips for purposes of a §12 examination. In a report dated October 24, 2006, Dr. Phillips recorded a history of injury on “... 7/13/2006 when she was lifting a bag of money. She developed the acute onset of neck pain radiating towards the shoulders with mid-back pain and low back pain. She also describes pain and swelling in the left arm since that time.” (Emphasis added). (RX1). Following his examination, and after noting that Petitioner’s cervical MRI was “a completely normal study”, Dr. Phillips opined that “Ms. Jones likely sustained a spinal sprain-strain. I do not believe that she sustained any significant structural injuries to her spine.” (RX1). Dr. Phillips recommended an additional two weeks of therapy at which point he believed Petitioner “could return to regular duty at maximum medical improvement. Unfortunately I think that her return to work will be compromised by [her] pain-focused behavior.” (RX1).

In a PainCare America “New Patient Medical Consultation” report dated October 31, 2006, Dr. Wayne D. Kelly noted that he was seeing Petitioner “... in consultation for evaluation of tingling and numbness of her hands and arms with poor balance and weakness of her upper extremities.” (PX3). Dr. Wayne noted that “[t]his patient is a 48-year-old, left handed female with a history of the above starting on September 26, 2006, after her third cervical epidural steroid injection... The patient is positive for numbness and tingling of the entire left hand and forearm, as well as proximally over the right shoulder area with bilateral neck pain. The patient is positive for



occasional stabbing and shooting pains into the left upper extremity. She has not had a prior EMG.” (PX3). Following his examination, Dr. Kelly noted that he was “strongly suspicious of 1) a possible cervical radiculopathy with superimposed carpal tunnel syndrome, 2) probable left S1 sacral radiculopathy with lower back pain radiating to her gluteal region, and 3) there is no clinical evidence on examination of a cervical myelopathy at all.” (PX3). Dr. Kelly recommended an EMG of the upper extremities. (PX3).

On that same day, October 31, 2006, Dr. Kelly noted that the EMG was abnormal and was consistent with 1) a chronic bilateral C7-8 cervical polyradiculopathy with evidence of primarily chronic axonal involvement, which he noted was quite significant in nature, 2) a superimposed right, moderate to severe, compression/entrapment ulnar neuropathy at the elbow (cubital tunnel syndrome) with evidence of focal demyelination and chronic axonal involvement, 3) a left moderate and right mild carpal tunnel syndrome with evidence of focal demyelination, as well as acute and chronic axonal involvement on the left, and 4) no electrophysiological evidence of an underlying sensory/motor polyneuropathy. (PX3). Dr. Kelly recommended a trial of Cymbalta to help with neuropathic pain, the use of a cock-up wrist splint for the left hand to help prevent her nocturnal paresthesias with the carpal tunnel syndrome, and right ulnar nerve and left carpal tunnel median nerve blocks to be performed by Dr. Roland. (PX3).

In a PainCare America “Physical Performance Measurement Studies” report dated November 17, 2006, Dr. Don Counihan, DC noted that he believed that “... this patient should have a weight restriction of 10 lb. occasionally. I do not believe that this patient in any way, shape or form has the physical capacity to lift 50 lb. in any way, whether it is physical or behavioral in nature. It is my opinion that the patient should have either a new weight restriction or job relocation; however, I do not believe that the patient will be able to perform the job duties as described to me about her lifting up to 50 lb. four to five times per hour in order to fulfill her job description.” (PX3).

Petitioner eventually visited Dr. Harry A. Moffitt, D.O. at Indy Orthopedics in Merrillville, Indiana on April 17, 2007. (PX2). In a handwritten office note on that date, Dr. Moffitt’s staff recorded the following under “Chief Complaint”: “L[eft] wrist – carpal tunnel. Pt. is L[eft] handed. 1<sup>st</sup> symptoms – night time only, pain numbness, tingling. Difficulty grasping x’s 1 month. R[ight] elbow – cubital tunnel – Tingling & pain. Feeling of ‘over worked’ – it needs rest. EMG Oct. 06.” (PX2). Following his examination, Dr. Moffitt diagnosed bilateral carpal tunnel syndrome, greater on the left, and left cubital tunnel syndrome. (PX2).

Dr. Moffitt subsequently performed surgery on May 2, 2007 consisting of a left ulnar nerve transposition at the elbow as well as left carpal tunnel release. (PX2). The pre and post operative diagnoses were left cubital tunnel syndrome and left carpal tunnel syndrome. (PX2). In a Saint Margaret Mercy Healthcare Centers “Consult for Surgery” report dated May 2, 2007, it was noted that “[p]atient complains of bilateral upper extremity numbness tingling ... and that “[p]atient relates to having these symptoms for approximately 6 months progressively worse over time, she denies any injury or trauma.” (PX2).

At the request of Respondent, Dr. Paul Papierski performed a records review. Dr. Papierski testified by way of evidence deposition on February 23, 2010. (RX1). Dr. Papierski testified that he was of the opinion that there was no causal relationship between the alleged incident in July 2006 and the diagnosis of bilateral carpal tunnel syndrome. (RX2, p.13). Dr. Papierski noted that the records “talked about problems of the neck and back; and although people can have numbness and tingling as a result of problems of the neck in particular ... carpal tunnel is a condition of the wrist, and there was no evidence that I could find in the medical records showing an injury to the wrists.” (RX2, pp.13-14). Dr. Papierski also “did not think that activities involved [in] working as a cash teller would be contributory or causing carpal tunnel syndrome”, based on medical literature he’s

reviewed and his personal observations of bank tellers. (RX2, pp.18-19, 33-34). Dr. Papierski offered the same opinion with respect to Petitioner's cubital tunnel syndrome. (RX2, pp.20-21).

In arriving at his opinion, it appears that Dr. Papierski was not fully aware of the true nature of and the specific activities associated with Petitioner's job for Respondent. More to the point, it appears that Dr. Papierski was under the mistaken impression that Petitioner worked as a typical bank teller position, at least the kind he was familiar with through personal observation at his financial institution. In fact, Petitioner credibly testified that her job involved the kind of grip strength, awkward positioning and repetitive activity Dr. Papierski himself indicated might contribute to repetitive trauma type injuries, such as carpal tunnel and cubital tunnel syndrome. Furthermore, Dr. Papierski was believed that the medical records following the alleged accident only referred to problems of the neck and back. However, the medical record reflects that Petitioner had complaints relative to her left arm, in addition to her neck and back, as early as her initial visit to the E.R. on July 14, 2006 when it was noted that Petitioner had complaints of "Tingling in L[eft] thumb and forearm [with] swelling." (PX1). Thereafter, Petitioner made similar complaints at various points throughout her treatment at PainCare America (PX3), as noted above, and even complained to Respondent's initial §12 examining physician, Dr. Phillips, on October 24, 2006 that she had been experiencing pain and swelling in her left arm since the incident on July 13, 2006. (RX1). Thus, the Arbitrator finds the opinion of Dr. Papierski with respect to causation to be unpersuasive.

Furthermore, there is no evidence to suggest that Petitioner was suffering from any symptoms or sought treatment relative to her left arm or wrist prior to the alleged accident in question.

Therefore, based on the above, and the record taken as a whole, the Arbitrator finds that Petitioner's conditions of ill-being with respect to her neck and back, as well as her left arm and hand, were causally related to the accident on July 13, 2006.

**WITH RESPECT TO ISSUE (J), WERE THE MEDICAL SERVICES THAT WERE PROVIDED TO PETITIONER REASONABLE AND NECESSARY AND HAS RESPONDENT PAID ALL APPROPRIATE CHARGES FOR ALL REASONABLE AND NECESSARY MEDICAL SERVICES, THE ARBITRATOR FINDS AS FOLLOWS:**

The bills of St. Margaret Hospital (PX6) and of Indy Orthopedics (PX7) are found to be reasonable and necessary and Respondent is held liable for same. These bills were incurred in Indiana. According to the medical fee schedule, these bills shall be payable at 76% of the total.

Therefore, based on the above, and the record taken as a whole, the Arbitrator finds that Petitioner is entitled to reasonable and necessary medical expenses totaling \$8,034.20 – based on \$4,519.20 owed to St. Margaret Hospital and \$3,515.00 owed to Indy Orthopedics – pursuant to §8(a) and the fee scheduled provisions of §8.2 of the Act.

**WITH RESPECT TO ISSUE (K), WHAT AMOUNT OF COMPENSATION IS DUE FOR TEMPORARY TOTAL DISABILITY, THE ARBITRATOR FINDS AS FOLLOWS:**

The Arbitrator notes that there does not appear to be any reference in the St. James Hospital Emergency Room records dated July 14, 2006 as to Petitioner's work status. (PX1). However, these records are for the most part hand written and difficult to read. Indeed, it appears that Petitioner was simply examined, x-rays were taken and that she was diagnosed with a neck/back sprain/contusion, prescribed Vicodin, told to follow up with occupational medicine and/or return if her pain worsened, and discharged. (PX1).

**11IWCC0903**

While Petitioner testified that following her initial E.R. visit she was referred to Dr. Kelly by a friend and that Dr. Kelly kept her off work while he treated her, the record does not appear to contain any reports or notes by Dr. Kelly until a "New Patient Medical Consultation" report dated October 31, 2006. (PX3).

The first visit to Pain Care America appears to have been on July 24, 2006. (PX3). At that time, certified physician assistant Aubrey Linder noted, in a "New Patient Medical Consultation" report dated July 24, 2006, that Petitioner "... is not on disability, but she is receiving Workman's Comp... The patient is not working at this time." (PX3). There is no specific reference to Petitioner being taken off work by any physician at that time, or previously. (PX3).

Indeed, it is not until August 7, 2006 that there is any documented recommendation by a medical provider that Petitioner remain off work. To wit, in a PainCare America "Patient Followup Report" dated August 7, 2006, physician assistant Aubrey Linder noted that "[t]he patient will be off for the next three weeks. She will be reevaluated on September 8 and at that point we will have her go back to work on at [sic] modified duty. Hopefully the following month she will go back to work full time." (PX3).

Thereafter, Petitioner underwent various forms of therapy at PainCare America through November of 2006. In a PainCare America "Physical Performance Measurement Studies" report dated November 17, 2006, Dr. Don Counihan, DC noted that he believed that "... this patient should have a weight restriction of 10 lb. occasionally. I do not believe that this patient in any way, shape or form has the physical capacity to lift 50 lb. in any way, whether it is physical or behavioral in nature. It is my opinion that the patient should have either a new weight restriction or job relocation; however, I do not believe that the patient will be able to perform the job duties as described to me about her lifting up to 50 lb. four to five times per hour in order to fulfill her job description." (PX3).

There is no evidence that Petitioner sought any treatment thereafter until she visited Dr. Harry A. Moffitt, D.O. at Indy Orthopedics in Merrillville, Indiana on April 17, 2007. (PX2). There is also no evidence that Petitioner sought employment within the restrictions outlined by Dr. Counihan on November 17, 2006 during the five (5) month interval leading up to her initial visit to Dr. Moffitt.

In a handwritten office note dated April 17, 2007, Dr. Moffitt's staff recorded the following under "Chief Complaint": "L[eft] wrist – carpal tunnel. Pt. is L[eft] handed. 1<sup>st</sup> symptoms – night time only, pain numbness, tingling. Difficulty grasping x's 1 month. R[ight] elbow – cubital tunnel – Tingling & pain. Feeling of 'over worked' – it needs rest. EMG Oct. 06." (PX2). Following his examination, Dr. Moffitt's diagnosis was bilateral carpal tunnel syndrome, greater on the left, and left cubital tunnel syndrome. (PX2).

Dr. Moffitt subsequently performed surgery on May 2, 2007 consisting of a left ulnar nerve transposition at the elbow as well as left carpal tunnel release. (PX2). The pre and post operative diagnoses were left cubital tunnel syndrome and left carpal tunnel syndrome. (PX2). In a Saint Margaret Mercy Healthcare Centers "Consult for Surgery" report date May 2, 2007, it was noted that "[p]atient complains of bilateral upper extremity numbness tingling ... and that "[p]atient relates to having these symptoms for approximately 6 months progressively worse over time, she denies any injury or trauma." (PX2).

In a prescription slip dated May 15, 2007, Dr. Moffitt noted that Petitioner was "[s]till unable to work." (PX2).

In a prescription slip dated June 26, 2007, Dr. Moffitt noted that "Sheree may return to work July 09, 2007. No restrictions L[eft] cubital tunnel & carpal tunnel." (PX5).

Based on the above, and the record taken as a whole, in addition to the Arbitrator's finding as to accident and causation (issues "C" and "F", supra), the Arbitrator finds that Petitioner was temporarily totally disabled from August 7, 2006, when she was first restricted from work by any of her medical providers, through November 17, 2006, when Dr. Counihan placed her on a 10 pound lifting restriction and after she which failed to show that she was unable to work within these restrictions, and from April 17, 2007, when she first visited Dr. Moffitt, through July 8, 2007, or the day prior to Dr. Moffitt's full duty release as of July 9, 2007, for a period of 26-4/7 weeks.

**WITH RESPECT TO ISSUE (L), WHAT IS THE NATURE AND EXTENT OF THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:**

As a result of the accident in question, Petitioner sustained a neck and back strain/sprain as well an injury to her dominant left arm. She received conservative treatment with respect to her neck and back, including physical and massage therapy, electrical stimulation and three (3) epidural injections to her cervical spine. In addition, Petitioner eventually underwent surgery on her left hand and arm in the form of left carpal tunnel syndrome and left cubital tunnel syndrome releases on May 2, 2007. Petitioner was subsequently released without restrictions as of July 9, 2007.

Petitioner testified that she currently works as a certified nursing assistant for Lexington Health Care. She indicated that as part of this job she assists patients to their room and with daily toiletries. She noted that she has had this job since 2007.

Petitioner testified that she currently experiences difficulties in her daily activities such as lifting/carrying grocery bags weighing 10-15 pounds, washing her hair as well as reaching behind her head to wash her back, cleaning out the tub/shower, opening up a jar, and pushing her furniture. She also noted excruciating pain in her back and neck as well as a lot of tingling in her left elbow and wrist. In addition, Petitioner testified that she notices stiffness and pain with weather changes with pain in the wrist radiating to her elbow. She noted that she currently takes ibuprofen at least twice a week.

Based on the above, and the record taken as a whole, the Arbitrator finds that Petitioner suffered the loss of use of 15% of her left hand and 15% of her left arm pursuant to §8(e)9 and §8(e)10 of the Act. In addition, the Arbitrator finds that as the result of her neck and back strain/sprain Petitioner suffered the permanent partial loss of use of 5% of a person-as-a-whole pursuant to §8(d) of the Act.