

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**C.M., Appellant**

**and**

**DEPARTMENT OF COMMERCE, BUREAU  
OF CENSUS, Dallas, TX, Employer**

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**Docket No. 09-873  
Issued: March 19, 2010**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On February 12, 2009 appellant filed a timely appeal from the Office of Workers' Compensation Programs' January 22, 2009 merit decision affirming the denial of her consequential injury claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she developed right radial tunnel syndrome or right finger edema as a consequence of her May 24, 2006 employment injury.

**FACTUAL HISTORY**

On May 30, 2006 appellant, then a 40-year-old field representative, filed a traumatic injury claim alleging that on May 24, 2006 she sustained a right elbow injury when her arm was struck by a door while completing a census survey. The Office accepted her claim for right elbow sprain and epicondylitis. It authorized an arthroscopic lateral epicondylar release which

was performed on September 29, 2006. Appellant was paid appropriate compensation for all periods of disability. She stopped work on May 25, 2006 and resigned on May 30, 2007.

Appellant was initially treated by Dr. Brian J. Ipsen, a Board-certified orthopedic surgeon, from June 1 to August 14, 2006 for right elbow pain which developed after her arm was slammed in a door while performing her census duties. Dr. Ipsen noted that an x-ray of the elbow revealed no obvious fracture, dislocation or subluxation. He diagnosed sprained right elbow and right elbow bursitis. Dr. Ipsen recommended an ace wrap and returned appellant to work with a lifting restriction. Appellant came under the care of Dr. Jonathan L. Grantham, a Board-certified orthopedic surgeon. In reports dated August 22 to December 14, 2006, Dr. Grantham treated her right elbow injury. He noted tenderness to palpation over the right lateral epicondyle and diagnosed psoriasis, urinary problems and arthritis. Dr. Grantham noted an August 17, 2006 magnetic resonance imaging (MRI) scan of the right elbow revealed right elbow lateral epicondylitis. On September 29, 2006 he performed an arthroscopic right elbow lateral epicondylar release and diagnosed right lateral epicondylitis. Dr. Grantham advised that appellant was progressing well postoperatively but still had significant elbow pain.

On January 2, 2007 Dr. Grantham reported that appellant had an episode of swelling in all digits of the right hand except the index finger which resolved with physical therapy. He diagnosed right elbow lateral epicondylar release and right finger swelling secondary to psoriasis. Dr. Grantham recommended physical therapy and work restrictions. On January 30, 2007 appellant presented with swelling in the elbow and fingers. It appeared that she developed radial tunnel syndrome from postoperative edema, which was a known complication of psoriasis. Dr. Grantham indicated that any stressor including surgery on appellant's elbow would likely initiate or exacerbate her symptoms. In March 1 and 20, 2007 notes, he treated appellant in follow up and diagnosed right radial tunnel syndrome and psoriatic arthritis with edema in the right index finger. On March 27, 2007 Dr. Grantham opined that appellant's radial tunnel syndrome was related either directly to her job or secondarily due to swelling after her lateral epicondyle release surgery which was to treat her job-related lateral epicondylitis.

Appellant sought treatment from Dr. Dennis Estep, Board-certified in occupational medicine, from May 1 to June 12, 2007. Dr. Estep diagnosed status post right lateral epicondylitis release and residual edema of the right index and fifth digit. He recommended physical therapy and advised that appellant could return to work in the light work level subject to the restrictions. On June 12, 2007 Dr. Estep saw appellant for reevaluation and noted improvement in her symptoms with therapy. He noted minimal difficulty associated along the radial tunnel, diminished edema in the right hand and excellent range of motion for the index finger and fifth digit.

On January 22, 2008 the Office referred the case record to the Office medical adviser, Dr. Daniel D. Zimmerman. On February 18, 2008 Dr. Zimmerman noted that psoriasis was a systemic skin condition which could not be caused, aggravated, accelerated or precipitated by the work-related event. The medical adviser stated that Dr. Grantham's description of findings was vague and he failed to provide an anatomic description of the symptoms said to be due to the radial tunnel syndrome. Dr. Zimmerman noted that the radial tunnel symptoms did not manifest for three or more months after the September 26, 2006 surgery and that the August 22, 2006

MRI scan report should have documented soft tissue changes if the condition was related to the original incident.

Appellant submitted the August 22, 2006 MRI scan of her right elbow. The MRI scan revealed no bone marrow contusion, fracture or joint effusion and no hematoma or foreign body. In a January 16, 2008 report, Dr. Grantham noted that appellant's recovery was slowed following surgery due to continued pain and swelling in her hand which was believed to be related to psoriasis. Appellant presented with pain in the index finger of her right hand and tingling on the fingertip with a loss of flexion in the digit. Dr. Grantham diagnosed right elbow lateral epicondylitis, status post lateral epicondylar release. He advised that appellant reached maximum medical improvement and could return to work without restrictions.

On June 15, 2008 the Office medical adviser reviewed the August 22, 2006 MRI scan report and noted that it revealed no soft tissue edema which would be expected to be present if the condition was related to the original incident. He stated that it was not medically viable that the edema which occurred after the traumatic event on May 24, 2006 led to the development of radial tunnel syndrome considering the medical evidence of record.

In a July 18, 2008 decision, the Office denied appellant's claim for a consequential injury finding that the medical evidence did not establish that her right radial tunnel syndrome was causally related to her May 24, 2006 injury.

On July 21, 2008 appellant, through her attorney, requested an oral hearing that was held on November 5, 2008. In a June 29, 2006 report, Dr. Ipsen diagnosed right elbow sprain and bursitis and recommended a compression elbow sleeve. Appellant also submitted a November 16, 2006 prescription note from Dr. Grantham who diagnosed right lateral epicondyle release. On February 14, 2007 she was treated by Dr. Estep who noted that she developed right ring finger edema and "concern at this time is that it may be related to psoriasis versus difficulty from the surgical release. It is felt that she developed radial tunnel syndrome." Dr. Estep administered a steroid injection with moderate reduction in appellant's discomfort. In a June 27, 2007 report, he diagnosed status post right epicondylar release for lateral epicondylitis and residual edema, right fifth and index fingers. Dr. Estep noted appellant's difficulty associated with radial tunnel syndrome significantly improved and opined that she was at maximum medical improvement. On July 11, 2007 he noted mild edema with the index finger and the fifth digit with stiffness. Dr. Estep reiterated that appellant was at maximum medical improvement and released from care. Appellant submitted an x-ray of the right hand dated April 12, 2007 which was noted as being unremarkable.

In a January 22, 2009 decision, an Office hearing representative affirmed the July 18, 2008 decision finding that the evidence did not establish that appellant's radial tunnel syndrome or right finger edema were due to the accepted injury or surgery.

### **LEGAL PRECEDENT**

The general rule respecting consequential injuries is that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an

independent intervening cause, which is attributable to the employee's own intentional conduct. The subsequent injury is compensable if it is the direct and natural result of a compensable primary injury. With respect to consequential injuries, the Board has stated that, where an injury is sustained as a consequence of an impairment residual to an employment injury, the new or second injury, even though nonemployment related, is deemed, because of the chain of causation to arise out of and in the course of employment and is compensable.<sup>1</sup>

A claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, he must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. Rationalized medical evidence is evidence which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.<sup>2</sup>

### ANALYSIS

The Office accepted appellant's claim for right elbow sprain and epicondylitis. It authorized an arthroscopic lateral epicondylar release which was performed on September 29, 2006.

Following surgery, appellant was treated by Dr. Grantham who on January 2, 2007, noted swelling in the digits of the right hand except the index finger and diagnosed right elbow lateral epicondylar release and right finger swelling secondary to psoriasis. On January 30, 2007 Dr. Grantham noted her continued complaint of swelling in the elbow and fingers. He opined that it appeared that appellant developed radial tunnel syndrome from postoperative edema and noted this was also a known complication of psoriasis. Dr. Grantham stated generally that any stressor, including surgery, on appellant's elbow would likely initiate or exacerbate her symptoms. On March 1, 2007 he treated appellant in follow up for right radial tunnel syndrome and lateral epicondylar release. Dr. Grantham again diagnosed right radial tunnel syndrome and psoriatic arthritis with edema in the right index finger. In a March 27, 2007 note, he stated that it "appeared" appellant's radial tunnel syndrome was related either directly to her job or secondarily due to swelling after the lateral epicondyle release surgery which was performed as treatment of her accepted lateral epicondylitis. In a January 16, 2008 report, Dr. Grantham noted that following surgery appellant had continued pain and swelling in her hand; however, he attributed appellant's condition to psoriasis not to her work-related condition. The Board finds that Dr. Grantham's reports are insufficient to establish that the diagnosed radial tunnel syndrome or right finger edema are a consequence of the accepted work injury or her surgery of September 29, 2006. Dr. Grantham did not provide a specific and rationalized opinion as to the causal relationship between appellant's employment and the diagnosed radial tunnel syndrome. He equivocally opined that appellant's surgery would "likely" initiate or exacerbate her symptoms of radial tunnel syndrome and that it "appeared" her condition was due to her job or

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<sup>1</sup> S.S., 59 ECAB \_\_\_ (Docket No. 07-579, issued January 14, 2008).

<sup>2</sup> *Charles W. Downey*, 54 ECAB 421 (2003).

surgery. Dr. Grantham did not provide sufficient explanation of his opinion on causal relation.<sup>3</sup> He did not explain how surgery for a lateral epicondylar release would cause or aggravate edema or radial tunnel syndrome, first noted some three months post surgery. Dr. Grantham did not adequately address how appellant's surgery impacted the radial nerve at the elbow.<sup>4</sup> The need for reasoning, or rationale, is important since he also indicated that radial tunnel syndrome was also related to psoriasis, a condition not accepted as employment related.

Dr. Estep diagnosed status post right lateral epicondylitis release and residual edema of the right index and fifth digit. On February 14, 2007 he noted that appellant developed right ring finger edema. Dr. Estep listed "concern at this time is that it may be related to psoriasis versus difficulty from the surgical release. It is felt that she developed radial tunnel syndrome." Dr. Estep diagnosed right radial tunnel syndrome, right index finger edema and status post lateral release. In reports dated June 27 and July 11, 2007, he noted appellant's difficulty associated with the radial tunnel significantly improved with therapy and opined that she was at maximum medical improvement. As noted, however, Dr. Estep's opinion on the etiology of appellant's condition is equivocal. He stated that appellant's condition "may be related" to either psoriasis or the surgical release.<sup>5</sup> Dr. Estep did not adequately address the issue of causal relation. Therefore, his reports are insufficient to establish appellant's claim.

An Office medical adviser reviewed the medical evidence of record. On February 18, 2008 Dr. Zimmerman stated that psoriasis was a systemic skin condition which could not be caused, aggravated, accelerated or precipitated by the work-related injury. He noted that Dr. Grantham's description of physical findings was vague and failed to provide an anatomic description of the symptoms stated to be due to the radial tunnel syndrome. The medical adviser noted that the radial tunnel symptoms did not manifest for three months after the September 26, 2006 surgery. Moreover, the August 22, 2006 MRI scan of the right elbow did not reveal soft tissue changes as would be expected if the condition was related to the original incident. Dr. Zimmerman found that it was not medically viable that the edema which occurred after the traumatic event on May 24, 2006 led to the development of radial tunnel syndrome considering the chronological medical record.

The Board finds that appellant has not established that her diagnosed radial tunnel syndrome or right finger edema developed as a consequence of her May 24, 2006 work injury. Therefore, appellant has not shown that she developed these consequential conditions.

### CONCLUSION

The Board finds that appellant has failed to establish that her right radial tunnel syndrome or right finger edema is consequential to the accepted injury of May 24, 2006.

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<sup>3</sup> *T.M.*, 60 ECAB \_\_\_\_ (Docket No. 08-975, issued February 6, 2009) (the Board has held that medical opinions which are speculative or equivocal in character have little probative value).

<sup>4</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>5</sup> *See supra* note 3.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 22, 2009 and July 18, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 19, 2010  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board