

ILLINOIS WORKERS' COMPENSATION COMMISSION
DECISION SIGNATURE PAGE

Case Number	22WC000656
Case Name	Kathy Green v. H. Felde Tool & Machine Co.
Consolidated Cases	
Proceeding Type	19(b) Petition Remand Arbitration
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	22
Decision Issued By	Dennis OBrien, Arbitrator

Petitioner Attorney	Stephen Kelly
Respondent Attorney	Timothy Steil

DATE FILED: 5/9/2024

/s/ Dennis OBrien, Arbitrator
Signature

THE INTEREST RATE FOR THE WEEK OF MAY 7, 2024 5.155%

STATE OF ILLINOIS)
)SS.
COUNTY OF PEORIA)

<input type="checkbox"/>	Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/>	Rate Adjustment Fund (§8(g))
<input type="checkbox"/>	Second Injury Fund (§8(e)18)
<input checked="" type="checkbox"/>	None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)

KATHY GREEN
Employee/Petitioner

Case # **22 WC 000656**

v.

Consolidated cases: _____

H. FELDE TOOL & MACHINE CO.
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 **Dennis O'Brien**, Arbitrator of the Commission, in the city of **Peoria**, on **February 20, 2024**. 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. Is Petitioner entitled to any prospective medical care?
- L. What temporary benefits are in dispute?
 TPD Maintenance TTD
- M. Should penalties or fees be imposed upon Respondent?
- N. Is Respondent due any credit?
- O. Other _____

FINDINGS

On the date of accident, **December 14, 2021**, 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.

In the year preceding the injury, Petitioner earned **\$31,626.92**; the average weekly wage was **\$608.21**.

On the date of accident, Petitioner was **45** years of age, *single* with **1** dependent child.

Respondent shall be given a credit of **\$10,244.51** for TTD, **\$0.00** for TPD, **\$0.00** for maintenance, and **\$0.00** for other benefits, for a total credit of **\$10,244.51**.

Respondent is entitled to a credit of **\$0.00** under Section 8(j) of the Act.

ORDER

Petitioner's medical conditions, left wrist TFCC tear with mild ulnar impaction syndrome, trapezium bruising and first CMC joint arthropathy, are causally related to the accident of December 14, 2021.

Petitioner was temporarily totally disabled as a result of the accident of December 14, 2021, from April 29, 2022 to August 27, 2023, a period of 69 3/7 weeks, said weeks payable at a rate of \$405.47 per week.

Petitioner was temporarily partially disabled as a result of the accident of December 14, 2021, from August 28, 2023 to February 20, 2024, a period of 25 2/7 weeks, said weeks payable at a rate of \$5.47 per week.

All of the bills introduced into evidence in Petitioner's Exhibit 5 are related to the Petitioner's diagnoses, are reasonable, and were necessitated to treat or cure Petitioner's injuries suffered in this accident, and are to be paid pursuant to the Medical Fee Schedule.

Petitioner is entitled to prospective medical treatment as recommended by Dr. Li, surgeries to treat and/or repair Petitioner's left TFCC tear, mild ulnar impaction syndrome, trapezium bruising, and first CMC joint arthropathy.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

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

May 9, 2024

ICArbDec19(b)

FINDINGS OF FACT:

TESTIMONY AT ARBITRATION

Petitioner

Petitioner testified that her employment began with the Respondent on November 1, 2021. She said her job title was that of a shop supervisor / forklift driver in Respondent's tool die machine shop. Her duties included packaging and placing parts on a pallet, loading them, and then on a forklift, take them to the racks off the van, load them on to the van, deliver and pick up parts. Petitioner also put the serial numbers on them. The Petitioner would clean all the machines of all the metal scrapings. Petitioner said she had to sweep, mop, clean bathrooms, the shop, as well as organize all the pallets with parts on them.

Petitioner identified Respondent's Exhibit #9 as one of the parts she was responsible for putting on the pallets. Petitioner testified that these parts weighed in the range from 40 pounds to 120 pounds. Petitioner identified Respondent Exhibit #10 as another part she worked with, that she would pick up and place on the pallets. Petitioner identified Respondent's Exhibits #11 and #12 as being a host in another worker's workplace.

Petitioner testified that prior to employment with Respondent she had no problems with her left thumb, hand, or forearm. Petitioner testified that prior to her employment with the Respondent she had not sought any medical care for her left thumb, wrist, or forearm. Finally, Petitioner testified that prior to her employment with the Respondent she did not have doctor any appointments for treatment to her left thumb, wrist, or forearm.

Petitioner testified that from November 4, 2021, through December 14, 2021, she had no issues with her left thumb, wrist, or forearm, nor was she under any active care for her left thumb, wrist, or forearm. Finally, Petitioner testified that from November 4, 2021, through December 14, 2021, she did not have doctor any appointments for treatment to her left thumb, wrist, or forearm.

Petitioner testified that on December 14, 2021, she was driving a forklift to move pallets at work and when she went to hit the brakes, the brakes failed. As a result of the brake failure of the forklift she put her left hand and arm up to brace herself while she was hitting a wall. Petitioner testified that she smashed her left hand and forearm between the forklift and the concrete wall.

Petitioner testified that she felt pain and throbbing to her left hand and that her left hand swelled three times the size within three minutes. The Petitioner attempted to complete a delivery after the accident, but she had to turn around after a short distance and returned to the facility due to the pain she felt.

Petitioner testified that she immediately went to Pekin Hospital emergency room. Petitioner testified that the hospital took x-rays of her left hand, wrist, and elbow. Petitioner testified the hospital gave her a brace to wear on her left hand and told her to follow up with a licensed orthopedic physician. Petitioner testified that she did not work from December 14, 2021, through December 18, 2021.

Petitioner testified that between December 14, 2021, and December 18, 2021, her left thumb, wrist, and forearm developed a bruise. Petitioner identified Petitioner's Exhibit #7 as a picture she took of her left thumb, wrist, and forearm on December 18, 2021. Petitioner's Exhibit #7 shows a small three-quarter inch long area outside of the left arm. She said the darker area on the photo was a shadow.

Petitioner testified that from December 18, 2021, through February 5, 2022, she noticed swelling in the left thumb and wrist area, and she could not pick anything up with her left hand during this timeframe. Petitioner testified she tried to go to seek medical care at Midwest Orthopedic but could not get seen because authorization was not given by Respondent.

On February 5, 2022, Petitioner was able to see Dr. Lawrence Li, because Dr. Li did not require ore-approval from Respondent. Petitioner testified that Dr. Li ordered an MRI after the first examination, and placed work restrictions on her of lifting of more than 10 pounds. Petitioner said that during March of 2022 Dr. Li cast her hand.

Petitioner testified she worked with Respondent from February 5, 2022, through April 29, 2022, that during April she was working with light duty restrictions from Dr. Li, but during this time frame she was required to perform her full duties except for cleaning the machines. Petitioner said Respondent was having her work beyond the restrictions placed upon her by Dr. Li. Petitioner testified that on April 29, 2022 Dr Li took her off work completely.

Petitioner testified she continued with the medical care with Dr. Li from April 2022 through at least September 2022, receiving therapy. Petitioner testified that in September 2022 Dr. Li recommended surgery to her left thumb and wrist.

Petitioner acknowledged that she was seen on surveillance video dated May 9 and May 10 of 2022. Petitioner admitted she was performing activities such as carrying a small gas can, positioning a flag, and running a weed-whacker for several minutes, while she showed her son how to do it. Petitioner confirmed that she is right-handed, and she only used her left hand to guide the weed-whacker. Petitioner testified that she did not injure her left hand or wrist while performing these activities.

Petitioner testified that during the time frame that Dr Li had taken her off work, she did not make any money performing activities such as painting or dry walling. She denied engaging in canoeing, kayaking or bowling activities while Dr. Li had her off work. Petitioner denied ever performing any digging activity around a pool during the time frame Dr. Li had her off work.

Petitioner testified that she did not work anywhere from April 2022 through August 2023. Petitioner testified in regard to some text messages about painting being performed at a friend's home, and said she supervised the work being done by others, she did not work as a painter while Dr. Li had her off work. Petitioner testified that she did begin employment as a Porter at Scheer Volvo on August 28, 2023. This job was obtained after Dr. Li allowed the Petitioner to return to work in a light duty capacity.

Petitioner testified her hourly pay rate for the Respondent was \$16 an hour, for a 40 hour work week. The new job pays the Petitioner \$15 an hour for a 40-work week.

Petitioner testified that her travel to Dr. Li's office is 98 miles round trip. Petitioner testified that she is required to make the trips to Bloomington because the Respondent would not authorize any care and treatment in the Peoria area.

At the time of trial, Petitioner stated she could not lift anything with her left hand, saying her left thumb gives out. Petitioner said she feels tingling and pain in the wrist. Petitioner testified that at the time of trial the pain in the left thumb and wrist was four to five out of ten.

On cross-examination, Petitioner again noted that the painting being noted as completed in texts was not completed by her, but by other workers, that her friend did not want strangers in her house, so Petitioner agreed to supervise the work. She said when she texted that she had "worked this weekend," she must have had a

misspelling or an autocorrection, as she had not meant to text “work.” She could not remember what she had meant to text. Petitioner agreed that while she was wearing a cloth on her wrist at the time of arbitration, she was not required to wear it and did not wear it all of the time.

During the arbitration hearing, Petitioner, the attorneys, and the arbitrator viewed a surveillance video slightly less than eight minutes long, Respondent Exhibit 1A, and Petitioner then said it did not show her wearing a brace on her left hand. The arbitrator narrated what he saw in the video into the record, the video showing Petitioner walking, fueling a lawn mower after holding the two gallon can (which Petitioner testified was not full) with her left hand for a short period of time, as well as between her legs for a period of time, with her son watching and receiving instructions from Petitioner. She also unfolded a flagpole and inserted it into a holder on the side of her home, which involved lifting it above her shoulder, she also operated a weed-whacker with her right hand holding the trigger handle and her entire left hand on the shaft, moving the shaft from right to left.

Petitioner said she was a union painter when she was 19 years old, but had not painted for herself or anyone else subsequent to this accident. She said that while she had in the past worked off and on as a bartender for 22 years, she had not done so since the date of this accident. She said she was hired by Respondent to drive a forklift and as a supervisor, though she did not understand who she was to supervise, as she was the only person in the shop.

Petitioner gave a more detailed description of what she was doing at the time of the accident, where she was moving pallets from and to, and how she was on a ramp from the outside of the building to go inside the building when she was hurt. She said no one else witnessed the accident, as she was in the shop by herself. She said that after the accident she walked into the other room of the shop, crying, sat down on a pallet, and Ed, who worked the first machine, her father, and Joe, came to her. She said she did not tell Joe about the accident, saying he could see what had happened.

Petitioner said that after being seen in the emergency room, she returned to work four or five days later, doing as much of the same job she had been doing as she could. She said she asked other employees for help as lifting metals out of machines hurt her hand. She said she was put on light duty prior to the dates shown on Petitioner Exhibit 2, pages 41 through 44, but she could not recall the exact date. She said light duty sheets had been faxed to Respondent by the doctor. She said she faxed one restricted work slip to Nancy in the office, and personally gave an off work slip to Nancy and another to Joe Vodisek. She said she was advised by Nancy that there was no light duty work in the shop.

Petitioner testified that her pain was initially 9/10, decreased to 6 or 7/10 during physical therapy, and as of the date of arbitration was a constant 4 to 5/10.

Petitioner testified that she was required to handle, lift or move, rings that would weigh from 40 to 110 plus pounds while she was to be on light duty. Petitioner would turn these rings on the pallet so they could be lifted by the forklift. She said she tried to use her right arm as much as possible.

On redirect examination Petitioner testified that she did not hurt her arm or hand while doing the activities shown in the video, and the activities shown in the video were less than the work she performed for Respondent.

After a ruling on a Respondent exhibit was made, Petitioner was recalled by Respondent to testify in regard to the subject matter of the rejected portions of Respondent Exhibit 5. Petitioner testified she had not done any digging around a swimming pool owned by Tanner and Katherine Lowe, she helped with chemicals,

she helped purchase and put in chemicals to remove fog and film from the pool. She said grandchildren had been digging around the pool. She said a text talking about working was an autocorrect error, it should not have said “worked.” She said she did not know on what dates certain photos in Respondent Exhibit 5 were taken.

LOGAN HEATON

Logan Heaton was called as a witness by Petitioner and testified that he is the son of Petitioner. He said he is shown on the surveillance video marked as Respondent’s Exhibit 1-A. He testified that the Petitioner did a little weed-whacking as she was demonstrating to him how to use the weed-whacker, but he spent up to an hour performing weed-whacking activities on the date of the surveillance. He said Petitioner did not hurt herself when she was demonstrating the use of the weed-whacker. He said he also cut the grass that day. He said he did so as Petitioner could not do it.

Logan Heaton said he lived with Petitioner starting in June 2022 and continued to live with her as of the date of arbitration. He said he had no knowledge of Petitioner working for money while she was taken off work by Dr. Li. Logan Heaton testified that the date of the surveillance is the only time that Petitioner performed weed whacking activities. Although Logan has cerebral palsy, he said he takes care of all the chores around the house because Petitioner is unable to do so.

On cross-examination Logan Heaton testified that as of the date of arbitration Petitioner transported cars from customers to and from the shop. He said he does the chores at home. He said he had a minor case of cerebral palsy, which affects his walking, but not daily tasks. He said he did not know of his mother doing cleaning, dusting or dishes, that he and his brother, Kota, did those activities.

KOTA HEATON

Kota Heaton was called as a witness by Petitioner. He said he is the half-brother to Logan Heaton. Kota Heaton said he moved in with Petitioner in the Spring of 2023, and that from the Spring of 2023 up to August of 2023, Petitioner did not perform any of the tasks around the house. He said he and Logan Heaton performed all the chores around the house, as Petitioner could not do them due to her hand. Kota Heaton said he had no knowledge of Petitioner making money for work aside from her new job at Volvo.

On cross-examination Kota Heaton said he had no knowledge of Petitioner performing painting, dry walling, or cleaning of pools.

NANCY MAAS

Nancy Maas was called as a witness by Petitioner. She said she is employed at Miracle Ear in Bloomington Illinois. Ms. Maas testified that she worked with Petitioner in the past at a bar called Shawn’s Public House, and has been friends with Petitioner since 2015. Ms. Maas testified that Petitioner was an honest person, and a hard worker.

Ms. Maas said she is the owner of the house where the Petitioner allegedly worked as a painter in August 2022. She testified that she did have her house painted during that time frame, but she had hired another painter

to perform that activity, Ms. Maas could not be present, and she did not have anyone else to be at the house. Ms. Maas testified that Petitioner did not paint or drywall at her house in August 2022, and that Petitioner was never paid for any painting of drywall activity in August 2022.

On cross-examination Ms. Maas said Petitioner was only present in the house when the upstairs was painted. She said Petitioner worked for Ms. Maas as her front office assistant from 2020 through October of 2021, when the dry walling was done in Ms. Maas's basement. She said Petitioner ceased working with her as she obtained a job working with her father which paid more and was closer to her home. She said the painting at her house was done sometime in 2022. She said she and Petitioner visit about monthly.

RALPH GREEN

Ralph Green was called as a witness by Petitioner. He testified that he is the father of Petitioner, and had been an employee of Respondent for over 51 years. Mr. Green testified Respondent's business is that of tool and machine company.

Mr. Green testified that on December 14, 2021, Petitioner came over to him at work immediately following the accident, she was holding her arm, and she appeared to be hurt. He said everyone at work was informed that Petitioner was injured.

Mr. Green testified that the only light duty jobs in the facility were that of putting part numbers on the parts and driving a truck. He said the ring in Respondent's Exhibit #9 weighs close to 100 pounds. Mr. Green testified Petitioner probably worked with that part after the date of this accident. Mr. Green testified that employees were required to maneuver the heavy rings to get those parts to the hoist.

On cross-examination Mr. Green said he was a machinist by trade. He said Petitioner had been hired to primarily to do deliveries and clean up the shop, including sweeping, taking out trash, and loading parts. He said the parts varied in weight, some weighing less than a pound. He said the hoist seen in Petitioner's Exhibits 11 and 12 was currently in working condition, and he was not aware of it being broken in the past two years. He said he had never seen Petitioner lift the heaviest ring shown in the photographs.

Mr. Green said when he saw Petitioner on the date of the accident she was bent over, sweating, and appeared to be in a great amount of pain. He said at that point the truck had already been loaded, and Petitioner would have been the person who loaded it. He said sweeping the floor was actually difficult, as chips would accumulate and the person would then have to use a shovel to dump them in a container. He said he was not aware of Petitioner working any other jobs since the accident, including painting, cleaning pools, or bartending, other than working for Scherer Volvo for the four months prior to the hearing.

JOSEPH VODISEK

Joseph Vodisek was called as a witness for Respondent, and testified that he had been employed by Respondent for forty plus years, currently as a foreman, basically running the company, which was owned by a trust since the owner died two years earlier. Mr. Vodisek testified that Respondent makes parts, mostly for Caterpillar. He said he hired Petitioner, and Petitioner did not have a specific job title when she was hired.

Mr. Vodisek described the work Petitioner performed including sweeping and hooking metal chips/pebbles and shavings, which had to be swept and shoveled into a dumpster, then the dumpster would be lifted by a forklift to a larger dumpster. He said she would drive a truck with removeable sides to make her deliveries, removing the side which was being loaded using a forklift. He said Petitioner did not play any role in moving rings from the machine to the skid, that was done by the machine operator, who would move the smaller rings, weighing 40 to 45 pounds, by hand, and using a jack-operated elevator cart for the larger rings. A hoist was used to lift the discs and place them on the skid. He testified that the company made over 200 different parts which weighed between 2 ounces and 140 pounds. Mr. Vodisek said that once the rings were loaded on the pallet, Petitioner would wrap them with Saran Wrap and use a forklift to put them on the truck.

Mr. Vodisek testified he was aware of the work accident of December 14, 2021, that he and others saw her crying, with tears in her eyes, and she said that while operating the forklift she had pinched her arm against the doorway. He said Petitioner at that time pointed to the meaty portion of her left forearm as the area she had injured, though he did not see any change in color or swelling of the forearm or of her left hand. He said Petitioner attempted to continue working, beginning a delivery route, but turning back at about Chillicothe. He testified that the Petitioner between December 14, 2021 and April 5, 2022 was performing “pretty much” her regular duty work, though she did not do all of her regular duties, some of her workload was reduced, she did not empty the machines of chips, and she was told to get someone to assist her if she needed to move anything, which she did. Mr. Vodisek said he never saw Petitioner lifting 100 pounds while working up to April 5, 2022. He said he received a work slip from Petitioner in April of 2022, but he did not recollect which slip he received. He said he did not remember asking Petitioner to perform more work than she was capable of performing.

On cross-examination Mr. Vodisek testified Petitioner was able to work unrestricted from hire date to accident date. He testified that there were certain modifications to Petitioner’s work duties when she initially returned to work after the injury. He testified that Petitioner did inform him that she was having problems with her work duties due to her work injuries, and they tried to help her out with those, as she told him her duties were aggravating her condition. He said that if work slips were given to the insurance company or Respondent’s attorney, he may not have gotten those.

Mr. Vodisek testified that the item in Respondent Exhibit #9 is an item that could weigh over 100 pounds. He said Petitioner’s job did require her to handle the item in Respondent’s Exhibit #9, but only to wrap them. Petitioner job tasks did require her to use her hands, and there was no light duty jobs available to Petitioner after the work accident.

DARREN BURTON

Darren Burton was called as a witness by Respondent and said he was employed by Respondent as a machinist, having worked there for 44 years. He said he ran the largest machine in the shop, and the parts made at his machine were of different sizes. He testified that when the rotary dial rings are on the pallet they could be moved by an individual, they would be slid onto a cart and then taken to a pallet where they would be lying flat. He said he only moved the finished product by hoist. After lying flat on the pallet, they would be moved by forklift to a truck. He said the hoist has worked at all times.

Mr. Burton said he saw Petitioner following the accident, she walked up to his machine and sat down, and she looked like she was in pain, and said she had hurt her left mid forearm. He said she did not mention her left hand at that time, and he did not see signs of redness or bruising. He said Petitioner worked after the day of the accident, and she asked him to help her open the roll up door. He said he never saw her pick up or lift the large disc seen in Petitioner's Exhibit 9.

Mr. Burton said Petitioner's duties would require her to lift more than 10 pounds at a time. He said there were times the Petitioner was working in a different part of the shop, and he did not observe how she performed her tasks. Darren testified that Petitioner could have been maneuvering the parts on the pallet, that sometimes the parts were not all in place and may need positioning by the Petitioner.

NANCY LANGAN

Nancy Langan was called as a witness by Respondent and testified she has worked for Respondent for ten years as an Office Secretary. She testified that Petitioner was hired to pack, ship, and deliver parts, in addition to cleaning the shop. Ms. Langan testified that she was not at work on the date of this accident. She said Petitioner only told her that she injured her forearm in the injury. Ms. Langan testified that there is no light duty program at the Respondent's place of business. (TR 228,229,230,231,233,235)

MEDICAL EVIDENCE

On December 14, 2021, Petitioner presented to Carle Health Pekin Emergency department. The history provided to the emergency room staff was "...left forearm and left hand pain following a crush injury at work today". X-rays of the left hand/wrist and left forearm were taken and interpreted as negative for fracture. The emergency room physician noted that there was an injury to the left forearm and left hand. The physical exam was positive for left forearm and hand pain. A wrist cock-up splint was provided to Petitioner as well as Norco. The clinical impression was contusion of left forearm and contusion of the left hand. The emergency room record notes that Petitioner was instructed on pain management in addition to follow up with her doctor as needed. (PX 3 p.128,130,132-134)

On February 9, 2022, Petitioner initially reported to Dr. Li. Petitioner provided a history of the accident that she got her "left-hand wrist crushed between the forklift and a wall," and reported pain 7/10 for her left thumb and left wrist. She also reported shooting pain from the mid forearm volarly down into the hand, which had not gotten better. Dr. Li's diagnosis was that Petitioner had a left wrist-occult fracture or TFC injury. He noted that "(b)ased on her mechanism of injury, prompt seeking of medical treatment, physical examination and having no prior issues with her left wrist," he believed the accident at work caused Petitioner's condition and need for medical treatment. An MRI was recommended. (PX 2 p.7-12)

On February 14, 2022, a left wrist MRI was performed. The MRI revealed abnormalities involving mild thinning and signal changes of the central portion of the triangular fibrocartilage, mild ulnar plus variance with mild marrow edema at the ulnar base which could represent mild/early ulnar impaction syndrome, and

nonspecific bone marrow edema in the region of the trapezoid which could represent a small fracture versus contusion. (PX 2 p.13,14)

On February 25, 2022, the Petitioner followed up with Dr. Li for a follow up of the MRI. Petitioner reported the pain has not changed and it is still a 7/10. He noted the MRI findings of February 14, 2022. Dr. Li scheduled Petitioner for a corticosteroid injection and occupational therapy. Dr. Li's diagnosis changed to "Left wrist TFCC tear with mild ulnar impaction syndrome cause by work-related injury." Petitioner was told to follow-up in 4 weeks. (PX 2 p.15-19)

Petitioner followed up at Dr. Li's office on March 7, 2022, for a corticosteroid injection in the left wrist. She also began occupational therapy on that date. On March 11, 2022, Petitioner was fitted for an orthosis, a short arm thumb spica. (PX 2 p.19-26)

On April 1, 2022, Petitioner followed up with Dr. Li, advising him that the injection in the wrist joint improved the TFC pain for a few weeks but was hurting again. She also told him that she was bothered over the CMC joint where the trapezium was injured. Dr. Li's diagnosis at the time of this appointment was left wrist TFCC tear with mild ulnar impaction syndrome, trapezium bruising and first CMC joint arthropathy, caused by a work-related injury. Dr. Li recommended a corticosteroid injection into the first CMC joint and to continue with occupational therapy. Petitioner was to follow up with Dr. Li again in 4 weeks. (PX 2 p.31-33)

Petitioner followed up at Dr. Li's office on April 4, 2022, for a corticosteroid injection in the left CMC joint. (PX 2 p.36)

On April 5, 2022, Petitioner followed up with Dr. Li's office and met with Nurse Practitioner (NP) Abrahamsen. Petitioner reported her pain was worsening in the wrist and left thumb and reported pain as 9/10. Petitioner was to continue occupational therapy and follow up in 4 weeks with Dr. Li. Petitioner was placed on work restrictions at this time, which were no use of the left arm and light duty until further notice. (PX 2 p.39-44)

On April 29, 2022, Petitioner followed up with Dr. Li, telling him the injection worked for a few days, but the pain was back, and she was experiencing numbness and tingling. Dr. Li found the injury had caused carpal tunnel symptoms but Petitioner did not have full-blown carpal tunnel syndrome yet. Petitioner was to continue occupational therapy and follow up with Dr. Li in 4 weeks. The Petitioner is taken off of work at this time. (PX 2 p.51-57)

On May 27, 2022, Petitioner was seen by Dr. Li, and advised him her numbness and tingling had improved. Dr. Li performed a left wrist ultrasound and found that the injury was improving, as was the carpal tunnel syndrome. Petitioner was to continue with occupational therapy and follow up in 5 weeks. Petitioner was to remain off work. (PX 2 p.64-69)

Petitioner was seen by Dr. Li on July 5, 2022, and reported her CMC joint pain and wrist pain were improved, at 4-6/10. Dr. Li found that the injury has improved but the improvement had plateaued for pain. Petitioner was to continue therapy and remain off work until the next follow up. (PX 2 p.78-84)

Respondent had Petitioner examined by Dr. Brown on July 22, 2022. Dr. Brown took a history of accident, treatment and complaints, and he reviewed medical records for Petitioner's treatment from the date of accident through Dr. Li's visit of May 27, 2022. He performed a physical examination of Petitioner, noted

decreased range of motion of the left wrist on active flexion and extension, which Petitioner said was due to pain, minimal active flexion and extension of the left fingers, but the ability to make a full fist, good active range of motion of the thumb, pain to light palpation over the volar aspect of the wrist over the thenar eminence, no specific tenderness over the TFCC, and decreased grip strength on the left. His impression was that of chronic, nonspecific left wrist pain. He did not believe her symptoms correlated with her physical findings. He had not viewed her MRI and desired to do so. He did not believe ulnar impaction syndrome would be caused by a traumatic injury, it was more typically degenerative in nature. He did not feel Petitioner's treatment had been unreasonable, but depending on his future viewing of the MRI arthrogram, future treatment might not be necessary. He reviewed the video shown at arbitration and, based on what he viewed, he did not see any reason why Petitioner could not return to unrestricted work. (RX 2)

Dr. Brown issued an addendum report on September 12, 2022, after viewing MRI images. He felt there was mild thinning of the TFCC, but did not visualize a discrete tear. He said these findings were consistent with "typical degenerative changes" seen in people in the forties. He said he still did not see evidence of a specific traumatic injury caused by the December 14, 2021 accident. He disagreed with Dr. Li's diagnoses. He did not believe any additional medical treatment was needed. He did not believe she needed any work restrictions. (RX 2)

Dr. Li saw Petitioner again on September 30, 2022. Petitioner at that time reported that her pain had not improved, her range of motion had improved, but she was still unable to grip and lift without pain. Dr. Li felt that her CMC symptoms were the dominant problem, and that all conservative treatment had been exhausted. Dr. Li stated Petitioner required a left first CMC arthroplasty, with ligamentous reconstruction. He noted her case was in litigation, so the surgery would have to be on hold until that was resolved. He continued to restrict Petitioner from work. (PX 2 p.101-106)

Petitioner was seen by Dr. Li again on December 6, 2022. Petitioner reported that her pain has not changed, that she had significant pain with any type of gripping. Dr. Li once again stated that the Petitioner needed surgery on the left wrist due to her work-related injury. Petitioner was again to remain off work. (PX 2 p.109-113)

Petitioner was seen by Dr. Li on March 29, 2023, reporting pain when she would grip, but otherwise felt fine. Dr. Li continued to recommend surgery, but was awaiting approval of her case. She was to remain off work until further notice. (PX 2 p.110-119,121)

On June 30, 2023, Petitioner followed up with Dr. Li, and advised him she did not have pain unless she was gripping or lifting. Dr. Li's diagnosis had not changed, and Petitioner was to remain off work. (PX 2 p.120,122-126)

Petitioner was given a light duty restriction by Dr. Li on August 22, 2023. The light duty included no lifting, pushing, or pulling, but allowed Petitioner to drive. (PX 2 p.127)

DEPOSITION TESTIMONY OF DR. LAWRENCE LI

Dr. Li, a board-certified orthopedic surgeon, was called as a witness by Petitioner. Dr. Li testified that 95% of his practice is that as a treating physician. Dr. Li said he specialized in the treatment of shoulders, hands, knees, with operative and non-operative care to both the upper and lower extremities. (PX 4 p.7,8)

Dr. Li's testimony in regard to history, complaints, testing, diagnoses and treatment was consistent with the medical summary, above.

Dr. Li said he began treating Petitioner on February 9, 2022. Dr. Li placed no work restrictions on the Petitioner after this exam. (PX 4 p.10,15)

Dr. Li testified that due to Petitioner's increased pain complaints in April 2022, he placed work restrictions upon her. Dr. Li's diagnosis in April of 2022 was TFCC tear, mild ulnar impaction syndrome, trapezium bruising, and first CMC joint arthropathy, all caused by the work injury. (PX 4 p.17)

Dr. Li spoke of one condition that was not addressed significantly in the medical records, carpal tunnel symptoms of the left wrist. He said Petitioner had complained of increased numbness and tingling, carpal tunnel symptoms, but she did not have full-blown carpal tunnel syndrome. He said Petitioner should be taken off work to focus on her therapy and to not further aggravate her wrist. He was of the opinion that the swelling from Petitioner's injury increased carpal tunnel pressures and symptoms, causing median neuritis, which he treated as carpal tunnel syndrome. He said the conservative treatment was successful, Petitioner got better, and that condition resolved successfully. (PX 4 p.20,21)

When he last saw Petitioner, on September 30, 2023, Petitioner's pain had not improved any further, with her pain principally being located over the CMC joint. Dr. Li felt conservative treatment had been exhausted and he therefore felt a left CMC arthroplasty where the trapezium which had been bruised would be removed and a tendon would be used to create a ligament, making a new joint for Petitioner was necessary. The bruised bone, the trapezium, would be removed, and replaced by the tendon. (PX 4 p.24-27)

Dr. Li did have the opportunity to review the IME report of Dr. Brown. Dr. Li disagreed with Dr. Brown, noting that the dye that had been injected into Petitioner's wrist joint had leaked out into the distal radius ulnar joint, and that confirmed that the Petitioner did have a TFCC tear. Dr. Li also opined that the Petitioner's condition of ill-being was related to the work injury. He said the radiologist who conducted the MRI on February 14, 2022 reported that he did not visualize a discreet defect, but he did see contrast within the distal radiolunar joint, which he stated would "be in keeping with communication by way of an occult defect." (PX 4 p.28,29,31,34,35,41,42)

Dr. Li said he reviewed the surveillance video dated May 9, 2022 and did not feel there was any aggravation to the Petitioner's condition of ill-being seen on the surveillance footage. Dr. Li testified that the video did not change his recommendations of work restrictions. Dr. Li testified that his work restrictions were related to the work injury. Dr. Li testified that his care and treatment was also related to the work injury. (PX 4 p.30,31,69,70)

Dr. Li stated that Petitioner advised him she had to lift 110-pounds rings while working for Respondent. He said he did not know if she was able to do so successfully, but it was his impression she had to do it more

than one time. Dr. Li said his opinions concerning work restrictions could change if the history provided by Petitioner was not accurate. (PX 4 p.33,73)

Dr. Li testified that the Petitioner's complaints were consistent with an injury to the CMC joint even though Petitioner had no specific thumb pain complaints. Dr. Li testified that he did see trapezium bruising the MR arthrogram dated February 14, 2022, which supported the diagnosis of trapezium bruising and CMC joint arthroplasty. Dr. Li testified that the April 5, 2022 exam was set up by the Petitioner after she complained of increased pain after lifting boxes at work. (PX 4 p.40,45,46)

Dr. Li testified Petitioner reported being bothered over the CMC joint where the trapezium was injured at her April 1, 2022 office visit. Dr. Li testified Petitioner had two new diagnoses consisting of trapezium bruising and first CMC arthropathy at this visit. Dr. Li testified he did not provide those two diagnoses in the prior visits, but he recognized there was trapezium bruising but did not put it down as a diagnosis as there were no symptoms. (PX 4 p.45,46)

Dr. Li said the reason he took Petitioner completely off work was based on her symptomatic complaints. Dr. Li said Petitioner did not appear to have 9/10 pain or even 5/10 pain based on his review of the video surveillance. Dr. Li testified he believed the appropriate work restrictions based on his review of the video surveillance would be no lifting, pushing, or pulling with the left hand of more than five pounds. Dr. Li testified that based on his review of the video it did not appear Petitioner could work unencumbered without restrictions. (PX 4 p.67-69)

DEPOSITION TESTIMONY OF DR. DAVID M. BROWN

Dr. Brown, a board-certified orthopedic surgeon, was called as a witness by Respondent. Dr. Brown testified as to the IME he performed of Petitioner on July 22, 2022, and his testimony in regard to history and complaints made by Petitioner, physical examination findings, and diagnoses was consistent with the medical summary, above.

Dr. Brown testified his original diagnosis was chronic wrist pain and nonspecific wrist pain. He said in reviewing the diagnostic images he did not see any evidence of a specific traumatic injury that he could directly relate to the accident. Dr. Brown opined the treatment up until the time of his examination was reasonable but ineffective. Dr. Brown testified his opinion at the time of the exam was conditional on seeing the actual images of the MR arthrogram but assuming it did not show anything unexpected, he did not believe Petitioner required any specific activity or work restrictions based on what he reviewed in the video surveillance. (RX 3, p.20-25)

Dr. Brown said he prepared an addendum report after he had the opportunity to review the MR arthrogram, which he said did not show evidence of a significant traumatic injury and no evidence of a traumatic ligament tear, tendonitis, or fracture. Dr. Brown testified the MR arthrogram documented expected findings of somebody in their mid 40s which showed degenerative changes within the TFCC with some thinning of ligament. Dr. Brown testified a person in their 40s will get some thinning of the ligament which is no longer airtight, so when there is an injection of dye under pressure, a little bit of leakage of fluids into the DRUJ will be seen, but there certainly was no discrete tear seen on Petitioner's MR arthrogram (RX 3, p.25,26)

Dr. Brown believed Dr. Li misinterpreted the MR arthrogram. (RX 3, p.29)

Dr. Brown disagreed with the four diagnoses provided by Dr. Li, left wrist TFCC tear, ulnar impaction syndrome, trapezium bruising and first CMC joint arthropathy. Dr. Brown also disagreed with the diagnosis of carpal tunnel syndrome as he did not find it on examination. (RX 3, p.31-33)

Dr. Brown testified that if Petitioner did have an injury in December, it would have initially been a contusion, but he saw no evidence of significant traumatic injury that explained Petitioner's clinical presentation on exam. Dr. Brown testified he believed Petitioner's treatment was reasonable. Dr. Brown believed it would be best for Petitioner to start using her hand and wrist as normally as possible and he would not keep her completely off work now that Petitioner was seven or nine months after the injury and had an unremarkable diagnostic study combined with the video surveillance. Dr. Brown did not see a basis for Petitioner requiring any work restrictions based on the negative diagnostic studies, examination findings and what he saw in the video on the date of the video on May 9, 2022. Dr. Brown testified he had no further treatment recommendation from a hand surgical point of view. Dr. Brown testified he would not agree with Dr. Li's recommendation for a left CMC arthroplasty. (RX 3, p.33-35)

Dr. Brown testified that if Petitioner did have very early sub-radiographic arthritis, then it would certainly not be to the point she would require surgical treatment and it would have nothing to do with the work injury. Dr. Brown testified Petitioner had reached MMI and she likely reached MMI by the time that he saw her on July 22, 2022, probably before that date. (RX 3, p.35,36)

On cross-examination Dr. Brown said he knew of no information indicating any injury, complaints, or medical treatment to the left wrist and thumb prior to December 14, 2021. Dr. Brown testified he was not providing an opinion Petitioner did not sustain a work injury on December 14, 2021. He said the accident as described by Petitioner could cause a host of possible injuries to the left hand and wrist, including a tear of the TFCC, an aggravation of a pre-existing ulnar impaction syndrome, trapezium bruising, and acute carpal tunnel syndrome. (RX 3, p.38-41)

Dr. Brown said that the records indicated that Petitioner's complaints never went away, and did not improve whatsoever despite the treatment she received, and he had no criticism of the treatment she was provided, it just was not effective. He said he did not agree with the recommendation that Petitioner be taken off work. (RX 3, p.46,47)

ARBITRATOR CREDIBILITY ASSESSMENT

Petitioner was not an ideal witness, she would start answering before questions were fully asked, apparently assuming she knew where the question was going. She also would expand upon the questions, providing information which had not been requested. She had to repeatedly be told by both attorneys and the arbitrator to listen to the questions, as it was apparent she was not answering what was asked. But she answered questions from both attorneys in the same manner, and it did not appear to be an attempt to avoid questions, as once re-directed to the actual question she would answer that question. Some of her answers were contradicted by other witnesses, for instance her saying she was hired as a supervisor, while her duties reflected she supervised no other person, per the testimony of other employees, including her father, and she said she herself

did not know who she was supposed to supervise. Her physical complaints were fairly consistent, however, and while she did not initially voice left hand complaints to her co-workers on the date of accident, those complaints appeared early on in her emergency room treatment and continued on thereafter. Petitioner's testimony in regard to her physical actions moving large parts in Respondent's plant was also contradicted by other employees, who said she was not required to lift metal discs weighing in excess of 100 pounds, but other portions of her testimony, such as pushing on the discs she later had to move via forklift, was possible. Petitioner did not appear to be exaggerating her subjective complaints. Petitioner was very believable in regard to the description of her accident and her immediate complaints to coworkers, and her pointing at her left forearm instead of also saying her left wrist and hand were also crushed seemed reasonable based on the physical trauma she suffered. Petitioner's testimony in regard to her actions in her yard instructing her son on use of a weed trimmer, etc. was overall consistent with the short video introduced into evidence and corroborated by her son. The Arbitrator finds Petitioner to have been a fairly credible witness, whose manner of speaking made her a difficult witness to question.

All other lay witnesses called by both Petitioner and Respondent answered all questions put to them by both attorneys, apparently to the best of their ability. They all limited their testimony to what they personally knew or witnessed, with no obvious attempt to testify to things beyond their personal knowledge. The Arbitrator finds all of said witnesses to have been credible.

While Dr. Li's opinions and Dr. Brown's opinions were diametrically opposed in regard to causation and need for treatment, both answered all questions put to them by both attorneys with no apparent attempt to avoid questions or argue with the questioning attorney. Both Dr. Li and Dr. Brown appeared to testify honestly in regard to their findings and opinions and the Arbitrator finds both to have been credible.

CONCLUSIONS OF LAW:

In support of the Arbitrator's decision relating to whether Petitioner's current conditions of ill-being, a left wrist TFCC tear with mild ulnar impaction syndrome, trapezium bruising and first CMC joint arthropathy, are causally related to the accident of December 13, 2021, the Arbitrator makes the following findings:

The findings of fact, above, are incorporated herein.

The summaries of medical evidence and deposition testimony, above, are incorporated herein.

The Arbitrator's credibility assessments, above, are incorporated herein.

Petitioner testified that from November 4, 2021, through December 14, 2021, she had no issues with her left thumb, wrist, or forearm, had no doctor appointments in regard to her left thumb, wrist or forearm, and was not receiving any active care for her left thumb, wrist, or forearm.

Petitioner testified that on December 14, 2021, she was driving a forklift to move pallets at work and when she went to hit the brakes, the brakes failed. As a result of the brake failure of the forklift she put her left hand and

arm up to brace herself while she was hitting a wall. Petitioner testified that she smashed her left hand and forearm between the forklift and the concrete wall. Petitioner made immediate complaints in her left forearm to her fellow employees immediately following this accident. Her discomfort was severe, she attempted to drive a delivery of parts to an out-of-town location, but quite quickly turned around and returned to Respondent's plant due to her pain. On the date of the accident Petitioner was treated at the Carle Health Pekin Emergency Department, and the history provided to the staff at that time was, "left forearm and left hand pain following a crush injury at work today." X-rays of the left hand/wrist and left forearm were taken and interpreted as negative for fracture. A wrist cock-up splint was provided to Petitioner at that time, as was pain medication Norco. The clinical impression of the emergency room staff was contusion of left forearm and contusion of the left hand. Petitioner attempted to perform accommodated work thereafter, but she testified her left hand pain continued and she therefore went to Dr. Li for treatment.

During his first examination of Petitioner, on February 9, 2022, Dr. Li received a history from Petitioner of the accident that she got her "left-hand wrist crushed between the forklift and a wall," and complaints of pain in her left thumb and left wrist, as well as volarly down into the hand. Dr. Li's diagnosis was that the Petitioner had a left wrist-occult fracture or TFC injury, and said that "(b)ased on her mechanism of injury, prompt seeking of medical treatment, physical examination and having no prior issues with her left wrist," he believed the accident at work caused Petitioner's condition and need for medical treatment.

Dr. Li continued treating Petitioner through 2022 and 2023, always for left hand and wrist complaints. On April 5, 2022, Dr. Li. Placed Petitioner on work restrictions, no use of the left arm and light duty until further notice. On April 29, 2022 he restricted her from all work. On February 14, 2022, a left wrist MRI was performed, which the radiologist interpreted as showing abnormalities involving mild thinning and signal changes of the central portion of the triangular fibrocartilage, mild ulnar plus variance with mild marrow edema at the ulnar base which could represent mild/early ulnar impaction syndrome, and nonspecific bone marrow edema in the region of the trapezoid which could represent a small fracture versus contusion.

On February 25, 2022, Petitioner followed up with Dr. Li for a follow up of the MRI. Petitioner reported the pain has not changed and it is still a 7/10. He noted the MRI findings of February 14, 2022. Dr. Li scheduled Petitioner for a corticosteroid injection and occupational therapy. On that date Dr. Li's diagnosis changed to "Left wrist TFCC tear with mild ulnar impaction syndrome cause by work-related injury."

Dr. Li continued to treat Petitioner through September of 2023, with her complaints always centered around her left hand and wrist. He noted that early on she had an ultrasound showing indications of carpal tunnel syndrome in the left wrist and hand, but he did not make that diagnosis, as she was merely showing symptoms of that problem, and it ultimately resolved with no permanent evidence of that syndrome. When he saw Petitioner on September 30, 2022, Petitioner reported that her pain had not improved, and she was still unable to grip and lift without pain. Dr. Li felt that her CMC symptoms were the dominant problem, that all conservative treatment has been exhausted, and he felt Petitioner required a left first CMC arthroplasty, with ligamentous reconstruction. He noted the surgery would have to be on hold until her workers' compensation issues had resolved. He continued to restrict Petitioner from work.

Dr. Li reviewed the video of Petitioner working with a weed trimmer in a yard and did not feel there was any aggravation to the Petitioner's condition of ill-being seen on the surveillance footage. Dr. Li testified that the

video did not change his recommendations of work restrictions. Dr. Li testified that his work restrictions were related to the work injury. He testified that his restrictions were based upon Petitioner's subjective pain complaints. He noted that Petitioner had told him she had to lift 110 pound rings while working for Respondent, and that his opinions concerning work restrictions could change if the history provided by Petitioner was not accurate. Neither attorney asked if Petitioner could perform the work described by Petitioner and other workers at arbitration or if he would have restricted her from work had such a description been known to him.

Dr. Brown examined Petitioner at the request of Respondent and his opinions and he issued two reports, the second after viewing MRI images. He said he interpreted the MRI images to show mild thinning of the TFCC, and he did not visualize a discrete tear. He said these findings were consistent with typical degenerative changes of people in the forties. He said he still did not see evidence of a specific traumatic injury caused by the December 14, 2021 accident. He disagreed with Dr. Li's diagnoses. He did not believe any additional medical treatment was needed. He did not believe she needed any work restrictions.

The Arbitrator finds that Petitioner's medical conditions, left wrist TFCC tear with mild ulnar impaction syndrome, trapezium bruising and first CMC joint arthropathy, are causally related to the accident of December 14, 2021. This finding is based upon the testimony of Petitioner, the emergency room records of Carle Health Pekin Emergency Department, and the medical records and testimony of Dr. Li. The Arbitrator gives greater weight to the opinions of Dr. Li than to the opinions of Dr. Brown, as Dr. Li had examined, tested, met with, and observed Petitioner on far more occasions than the one examination of Dr. Brown.

The Arbitrator further finds that the chain-of-events also support a finding of causal connection. This finding is based upon Petitioner's un rebutted testimony to a pre-accident state of asymptomatic good health in the left wrist, hand, and forearm prior to her having an accident on December 14, 2021 and her immediately after said accident having sudden pain, immediate medical treatment and new diagnoses based on diagnostic testing and physical examinations. Certi-Serve, Inc. vs. Industrial Commission, 101 Ill.2d 236,244 (1984)

In support of the Arbitrator's decision relating to what temporary benefits Petitioner is entitled to as a result of the accident of December 14, 2021, the Arbitrator makes the following findings:

The findings of fact, above, are incorporated herein.

The summaries of medical evidence and deposition testimony, above, are incorporated herein.

The findings in regard to causal connection, above, are incorporated herein.

The Arbitrator's credibility assessments, above, are incorporated herein.

Petitioner claimed to be temporarily totally disabled from April 29, 2022 to August 27, 2023, a period of 69 2/7 weeks.

Petitioner claimed to be temporarily partially disabled from August 28, 2023 to the date of arbitration, February 20, 2024, a period of 25 1/7 weeks.

Respondent denied liability for any period of temporary total or temporary partial disability based upon foundation and no liability.

Respondent claimed credit for \$10,244.51 it had paid in temporary total disability, a figure agreed to by Petitioner.

Petitioner testified that she missed a few days after this accident and then worked for Respondent through April 29, 2022, that during April she was working with light duty restrictions from Dr. Li, but that during this time frame she was required to perform her full duties except for cleaning the machines. Petitioner said Respondent was having her work beyond the restrictions placed upon her by Dr. Li. Petitioner testified that on April 29, 2022, Dr Li took her off work completely.

Petitioner said she was seen on surveillance video dated May 9 and May 10 of 2022, saying she was performing activities such as carrying a small gas can, positioning a flag, and running a weed-whacker for several minutes, while she showed her son how to do it. Petitioner confirmed that she is right-handed, and she only used her left hand to guide the weed-whacker. Petitioner testified that she did not injure her left hand or wrist while performing these activities. Petitioner's son, Logan Heaton, supported her testimony that she only performed those tasks while instructing him how to do so. His half-brother, Kota Heaton, testified that he and Logan Heaton performed all the chores around the house, as Petitioner could not do them due to her hand.

Petitioner was asked numerous questions on cross-examination about text messages referring to painting, drywalling, and digging around a swimming pool. Petitioner testified that during the time frame that Dr Li had taken her off work, she did not make any money performing activities such as painting or dry walling, she did not do any of those things, that children were digging around a pool, and she was only supervising the painting for a friend. Petitioner's testimony was supported by Nancy Maas, a friend and former co-worker in a previous job, who testified she was the owner of the house where Petitioner allegedly worked as a painter in August 2022, that she did have her house painted during that time frame, but she had hired another painter to perform that activity, that she could not be present, so Petitioner was there as Ms. Maas did not have anyone else to be at the house. Ms. Maas testified that Petitioner did not paint or drywall at her house in August 2022, and was never paid for any painting of drywall activity in August 2022. Respondent introduced no evidence to contradict the testimony of Petitioner and Ms. Maas other than the ambiguous text messages.

Petitioner testified that she did begin employment as a Porter at Scheer Volvo on August 28, 2023. This job was obtained after Dr. Li allowed the Petitioner to return to work in a light duty capacity. Dr. Li's records reflect that on August 29, 2023 Petitioner's light duty restriction included no lifting, pushing, or pulling, but allowed Petitioner to drive. Petitioner testified that her hourly pay rate for the Respondent was \$16 an hour, for a 40 hour work week, and that the new job at Scheer Volvo pays her \$15 an hour for a 40-work week.

As noted above, Dr. Li totally restricted Petitioner from work from April 29, 2022 through August 29, 2023, and thereafter she had restrictions of no lifting, pushing, or pulling but she was allowed to drive.

As noted above, Respondent's Dr. Brown did not believe Petitioner needed any additional treatment, surgery or work restrictions.

The Arbitrator finds that Petitioner was temporarily totally disabled as a result of the accident of December 14, 2021, from April 29, 2022 to August 27, 2023, a period of 69 3/7 weeks, said weeks payable at a rate of \$405.47 per week. This finding is based upon the testimony of Petitioner and the medical records

and testimony of Dr. Li. While Petitioner's description of her job duties was not accurate, as she testified she had to move and lift the 110 pound rings, and other employees indicated she would never have to lift one of those rings, or even move them, she and other employees also testified that she had to wrap the rings and Petitioner testified she moved them in doing so. Her father, a longtime employee of Respondent, testified Petitioner probably worked with that part after the date of this accident, and that employees were be required to maneuver the heavy rings to get those parts to the hoist. It is also noted that Petitioner said the hoist was broken at times, while other employees said it was not broken. Despite this, Petitioner was felt to be credible in her physical complaints, both to the arbitrator and to Dr. Li, who testified he restricted her due to her pain complaints.

The Arbitrator further finds that Petitioner was temporarily partially disabled as a result of the accident of December 14, 2021, from August 28, 2023 to February 20, 2024, a period of 25 2/7 weeks, said weeks payable at a rate of \$5.47 per week. This finding is based upon Petitioner's obtaining employment at Scheer Volvo on August 28, 2023 at a rate of \$15 per hour, 40 hours per week, or \$600.00 per week. Petitioner testified that her hourly pay while working for Respondent was \$16 per hour, but her stipulated average weekly wage was \$608.21, slightly more than \$15.20 per hour. 66 2/3% of the \$8.21 difference is \$5.47.

In support of the Arbitrator's decision relating to whether the medical services that were provided to Petitioner were reasonable and necessary as a result of the Accident of December 14, 2021, the Arbitrator makes the following findings:

The findings of fact, above, are incorporated herein.

The summaries of medical evidence and deposition testimony, above, are incorporated herein.

The findings in regard to causal connection and temporary total disability, above, are incorporated herein.

The Arbitrator's credibility assessments, above, are incorporated herein.

A review of the medical bills included in Petitioner's Exhibit 5 reveals that the medical services provided and listed in that exhibit were for medical conditions causally connected to Petitioner's accident of December 14, 2021, and were provided to treat, test or cure Petitioner for the injuries incurred in that accident.

The Arbitrator finds that all of the bills introduced into evidence in Petitioner's Exhibit 5 are related to all the Petitioner's diagnosis are reasonable and were necessitated to treat or cure Petitioner's injuries suffered in this accident and are to be paid pursuant to the Medical Fee Schedule. This finding is based upon the medical records introduced into evidence and the testimony of the Petitioner and Dr. Li.

In support of the Arbitrator's decision relating to whether Petitioner is entitled to any prospective medical treatment, the Arbitrator makes the following findings:

The findings of fact, above, are incorporated herein.

The summaries of medical evidence and deposition testimony, above, are incorporated herein.

The findings in regard to causal connection, temporary total disability, and medical services, above, are incorporated herein.

The Arbitrator's credibility assessments, above, are incorporated herein.

The Arbitrator finds that Petitioner is entitled to prospective medical treatment as recommended by Dr. Li, surgeries to treat and/or repair Petitioner's left TFCC tear, mild ulnar impaction syndrome, trapezium bruising, and first CMC joint arthropathy. This finding is based upon Petitioner's testimony and the medical records and testimony of Dr. Li. The opinions of Dr. Li are again given greater weight than those of Dr. Brown.