

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F103538

DEBORAH CRANE	CLAIMANT
PARIS SCHOOL DISTRICT	RESPONDENT
RISK MANAGEMENT RESOURCES INSURANCE CARRIER	RESPONDENT

OPINION FILED FEBRUARY 2, 2004

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Fort Smith, Sebastian County, Arkansas.

Claimant represented by JOE BYARS, Attorney, Fort Smith, Arkansas.

Respondents represented by JAMES ARNOLD, II, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on October 30, 2003, in Fort Smith, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on July 21, 2003. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

The following stipulations were submitted by the parties and are hereby accepted:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. March 20, 2001, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to left breast in the form of a hematoma, left shoulder, face, and hands.

4. Medical expenses paid to February 1, 2002.

5. The parties agreed that no temporary total disability has been paid to this claimant by the respondent subsequent to August 27, 2001.

By agreement of the parties the issues to litigate are limited to the following:

1. Compensable injury of right knee, right thumb, and T.M. J.
2. Additional medical from February 1, 2002 to the left breast and the left shoulder.
3. Medical expenses for right knee, right thumb, and T.M.J.
4. Additional temporary total disability from August 27, 2001, to a date yet to be determined.
5. Attorney's fees.

In regard to the foregoing issues the claimant contends that she suffered a compensable injury arising out of and in the course of her employment with the respondent. The respondent-employer failed to pay temporary total disability from the date of injury through a date yet to be determined and have denied payment for medical expenses related to the workers' compensation accident.

In regard to the foregoing issues the respondents contend that the claimant has received all compensation benefits to which she is entitled as a result of the March 20, 2001 incident.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No.

1. The claimant submitted medical records marked Claimant's Exhibit No. 1. The respondents submitted medical records marked Respondents' Exhibit No. 1, the deposition of Dr. Jeffrey Evans marked Respondents' Exhibit No. 2 and the deposition of Dr. Ann K.

Passmore marked Respondents' Exhibit No. 3. All these exhibits were admitted without objection.

#### DISCUSSION

The claimant testified that she was the bookkeeper/secretary for the respondent and was working on March 20, 2001. The claimant testified that she was delivering paychecks to the field house, tripped over a handicap ramp and fell which resulted in her injuring her left breast, her right knee, her hands, the side of her face and breaking her glasses. The claimant testified that at that time she did not know if she had broken her knee. The claimant testified that her right thumb looked like it was dislocated and she also had hurt her left shoulder in the fall. The claimant clarified that she hit the left side of her face and had a large hematoma as well as bruises down her face. The claimant testified that she reported her injury that date and her husband, who is also an employee with the respondent, took her to the hospital. The claimant testified that following this incident she missed a few days of work then tried to come back to work but was in such pain she had to take off work for a period of time. The claimant testified that she received temporary total disability benefits during the time she was off until August 2001.

The claimant testified that she had had problems with her right knee and right thumb before her fall on March 20, 2001. The claimant testified that she thought it had been about a year since she had any problems with her right knee and that she had consulted a physician concerning her right thumb in December 2000 but the

problems she was having then were much different than she was experiencing after her fall. The claimant testified that, as to her thumb, she had been doing a lot of work on the ten key and developed thumb pain, had seen a doctor for this and had received some arthritis medicine as treatment. The claimant testified that she had fallen at school several years ago injuring her right knee and since that time she has had problems with it about twice a year. The claimant testified that following her March 2001 fall she had to be on crutches for about two weeks because she could not put any weight on her knee.

The claimant agreed that before her March 20, 2001, fall it had been recommended to her to have breast reduction surgery. The claimant testified that Dr. Enns had talked with her about having breast reduction surgery but she felt she had no reason to have it done at that time. The claimant agreed that as a result of her March fall she suffered a hematoma in her left breast and because of this hematoma she decided to go forward with the breast reduction surgery. The claimant testified that after her fall she developed a knot the size of her fist in her left breast and was referred by Dr. Enns to Dr. Passmore for treatment. The claimant testified that she waited approximately a year to undergo surgery on her breasts in hopes that the knot would dissipate. The claimant testified that Dr. Passmore removed the knot from her breast on July 9, 2002, and she was off work until sometime in August 2002 as a result of this surgery.

The claimant testified that Dr. Enns referred her to Dr. Evans for her left shoulder problems and Dr. Evans performed surgery on her shoulder on July 20, 2001. The claimant testified that she returned to work on the first day of school following her surgery but, because of the strenuous schedule, she could not take it. The claimant testified that she tried to return to Dr. Evans concerning her shoulder problems but since he was out of town, she went to Dr. Enns who took her off work for two weeks. The claimant testified that she did not realize that she was not authorized to be seen by Dr. Enns so, therefore, she was never paid for this time off work. In regard to her left shoulder, the claimant testified that following her fall her shoulder was stiff and hard to maneuver with very limited mobility. The claimant testified that her work aggravated her problems and caused pain to go up from her shoulder into her neck and into her TMJ.

The claimant testified that several years earlier she had been treated by a doctor for TMJ but had not had any problems with it for several years. The claimant testified that after her fall Dr. Enns referred her to Dr. Brandebura for her TMJ problems. The claimant testified that Dr. Brandebura x-rayed her and referred her to her dentist who made her a mouth piece to wear at night. The claimant testified that this treatment helped resolve her symptoms of TMJ.

The claimant testified that after her fall Dr. Enns referred her to Dr. Evans for treatment of her right knee and that Dr. Evans did surgery on her right knee on March 20, 2002. The claimant

testified that she had this surgery during spring break and might have been off work a week or so after spring break. The claimant testified that Dr. Evans also treated her for her right thumb problems. The claimant agreed that she did have surgery on her right thumb but this surgery was done after she had already quit working for the respondent.

On cross examination, the claimant agreed that before March 20, 2001, she had had problems and medical treatment for her left shoulder, right hand and right knee. The claimant did testify that she was not, however, having any problems with her left shoulder, right hand and right knee at the time she had her fall. The claimant testified that the bruises and contusions which she sustained during her fall have healed and she did not miss any work as a result of these abrasion and contusions. The claimant agreed that in the nineties she received treatment from a TMJ specialist for left sided TMJ. The claimant testified that she had not had any TMJ problems for the past few years until her fall on March 20, 2001. The claimant agreed that her TMJ treatment is on the same side which she had had treatment prior to her March fall. The claimant agreed that the extent of her treatment for left TMJ was a visit to Dr. Brandebura and Dr. Spivey who had constructed a splint for her. The claimant testified that currently she is able to avoid any pain or problems by staying out of the heat and light and she has just learned to take care of it.

The claimant testified, on cross examination, that she has had several falls. One of the falls was when she slipped on ice in

1996 and injured her right knee. The claimant also agreed that she had a fall in the year 2000 and injured her right thumb. The claimant further agreed that she had x-rays and treatment by Dr. Enns for her right thumb less than three months before her March fall. The claimant stated that she was taking arthritis medications at the time she was seeing Dr. Enns for her right thumb complaints. The claimant testified that she had expressed to her doctor as far back as December 28, 1993, that she had chronic arthritic problems in her fingers. Continuing on cross examination, the claimant testified that following her March 20, 2001, fall she had pain in her right knee off and on. The claimant explained that her knee did not hurt her constantly but sometimes it would give way on her. The claimant was asked if she had had these same problems with her right knee before her March fall and the claimant responded that her problems were much worse after her fall, and it would swell some but not like it did after she had fallen. The claimant indicated that she had constant pain in her right knee after her March fall and that she still has pain. The claimant agreed that Dr. Heim had told her before March 20, 2001, that because of an abnormality in her right knee she would eventually have to have surgery. The claimant agreed that in March 2002 she underwent knee surgery and missed approximately two and a half days of pay as a result of this surgery.

The claimant also agreed on cross that she continued to work for the respondent up until she had a severe asthma attack in May 2002. The claimant testified that her asthma attack was brought on

by stress resulting from the pain she had been experiencing. The claimant testified that she was taken off work for one month following this asthma attack. The claimant testified that she used forty days of sick leave and agreed that she received her full pay for these days off work. The claimant testified that in her opinion she is entitled to temporary total disability for two weeks in September 2001, two and a half days in March 2002 and then from the time she was off following her asthma attack in May 2002 to a date to be determined. The claimant testified that her asthma was brought on because of the pain that she was experiencing and by that time she was not able to go anywhere or do anything. The claimant testified that she was kept on contract by the school for the school year 2002 to 2003, she has not received any unemployment benefits and within the past two months she has begun receiving social security disability. The claimant agreed that she did not injure her right breast in her fall and she is not asking for benefits due to the infection which she developed in her right breast following her surgery.

The claimant testified that she had her breast surgery on July 9, 2002, after she had had her asthma attack. The claimant testified that following this breast surgery her activities were restricted for a period of approximately six weeks. The claimant testified that following her thumb surgery on November 5, 2002, she had restricted duty as a result of that surgery for approximately six weeks as well.

The claimant underwent a CT scan of her face on March 20, 2001, which was negative. The claimant also had a scan run of her right thumb which revealed mild degenerative changes of the right thumb with no fractures. The scan of the claimant's right knee showed that her joint spaces were relatively well maintained and there was mild extra articular spurring and mild spurring of both tibular spines, there is no joint effusion or fracture and the claimant's patellar tendon is normal. The claimant was diagnosed with mild degenerative changes involving all three compartments of her right knee. A medical note from the Cooper Clinic in Paris dated April 24, 2001, sets forth that the claimant is having problems related to her recent accident at work and is also experiencing fatigue. It is noted that the claimant has experienced weight gain due to her decreased activity following her accident and she has a lot of facial pain like her old TMJ noting that she had a large hematoma below her left eye but had a normal CT of her face. The claimant reports pain in her left shoulder and complains of tingling in her left hand, her right thumb still hurts from the injury and she is still working with a large hematoma in her left breast. The claimant was assessed with excessive fatigue, know hyperthyroidism, asthma and internal derangement left shoulder due to her accident. A note from the Cooper Clinic dated May 9 sets forth that the claimant is in a lot of left shoulder pain and also lots of pain in her left breast. It is noted that the claimant wonders about breast reduction surgery to remove the clot as she has been thinking about it for a long time because of the

massive size of her breast causing shoulder and neck pain. It is noted that she reports persistent pain in her right thumb. The medical records continue to set forth that the claimant received treatment for her left shoulder and the hematoma in her left breast. The claimant began physical therapy for her complaints of right thumb and forearm pain, neck pain and left shoulder pain at the North Logan County Mercy Hospital on May 29, 2001. A sonogram of the claimant's left breast revealed a hematoma/seroma of the left breast.

The medical records set forth that Dr. Evans operated on the claimant's left shoulder for her impingement syndrome and frozen shoulder. On August 7, 2001, Dr. Evans saw the claimant for follow up from her shoulder surgery and it is noted that she also asked him to look at her right thumb which she also injured in the same fall. Dr. Evans returned the claimant to work on August 20, 2001, with no restrictions but to follow up in six weeks. The claimant again was seen by Dr. Evans on September 9, 2001, for a flair up of her shoulder problems and her complaints of right thumb CMC arthritis. Dr. Evans increased the claimant's medications, prescribed physical therapy for her left shoulder, had her to continue to wear her right thumb splint and he recommended that she work only four hours per day, noting that he would have her off for two weeks prior to him seeing her this date.

The claimant underwent an MRI of her right knee on February 12, 2002, which showed moderate joint effusion, extensive chondromalacia patella involving the lateral facet, mild to

moderate arthritic changes particularly involving the hyaline cartilage and subchondral bone and in substance degeneration without evidence of tear involving the posterior horn of the lateral meniscus. Dr. Jeffery Evans writes on February 21, 2002, that he has reviewed the claimants MRI and notes that it shows degenerative changes with some inter meniscal signal increase in the lateral meniscus. Dr. Evans notes that the claimant has tenderness over her right thumb and on evaluation her right knee has crepitation noted with range of motion. The doctor assesses the claimant with right thumb CMC degenerative disc joint disease and right knee degenerative joint disease. Dr. Evans performed right knee arthroscopic chondroplasty on the claimant on March 20, 2002.

Dr. Wayne Enns writes on June 19, 2002, that he has examined the claimant for the hematoma in her left breast. Dr. Enns notes that since the claimant is scheduled to have breast reduction, he would recommend that her hematoma be excised or at least biopsied at the time of surgery.

The claimant was seen by Dr. Ann Passmore for evaluation of the hematoma in her left breast and, at the time of this evaluation, bilateral breast reduction was discussed. At the time of her evaluation, Dr. Passmore opined that following the claimant's breast surgery she would need to be off work for approximately two to four weeks.

Dr. Ann Passmore performed a bilateral reduction mammoplasty on the claimant on July 9, 2002. Dr. Passmore did follow up with the claimant for her breast reduction as well as removal of the

hematoma in her left breast. On July 22, 2002, Dr. Passmore removed the claimant's sutures and recommended that she continue to "take it easy" but allowed her to drive and to do routine activities as long as there was no heavy exertion. Dr. Enns writes on September 4, 2002, that the claimant has done amazingly well with her breast surgery and is in near recovery stage. Dr. Enns also mentions that the claimant has ongoing problems with her right thumb and continuing problems with her knee.

Dr. Jeffrey Evans saw the claimant on June 18, 2001, for her complaints of left shoulder problems as well as pain in her right thumb. After examination, the claimant was assessed with left shoulder impingement syndrome and frozen shoulder as well as right thumb probably carpal metacarpal degenerative disease. Dr. Evans' notes continue to follow the claimant throughout her treatment for her right shoulder also including various treatments for her right thumb complaints. On October 29, 2001, Dr. Evans writes that, in his opinion, the claimant had arthritis in her right thumb joint which predated the fall of March 20, 2001, however, she injured her right thumb in the fall causing it to be symptomatic. Dr. Evans sets forth that it is his opinion that while she did have degenerative, changes in her right thumb, the condition was certainly exacerbated by her fall of March 20, 2001. Dr. Evans, at that time, indicated that the claimant would be treated conservatively as well as with injections in her right thumb and if these do not resolve her problems they will proceed with right thumb surgery. Dr. Evans operated on the claimant's thumb for her

CMC degenerative disc disease performing a right thumb suspension plasty on November 5, 2002. Dr. Evans writes on November 12 for follow up of her thumb surgery noting that they would place her in a short arm thumb cast for three weeks then she will follow up for cast removal, K wire removal and referral to physical therapy. Dr. Evans again writes on December 3, 2002, that he has removed the claimant's cast and placed her in a game keeper's splint for a month, recommended physical therapy and that she is to remain off work for one month.

Dr. Enns took the claimant off work for one month on January 13, 2003, recommended she go on a diet and prescribed medications for her. On February 18, 2003, Dr. Enns writes that the claimant is having tremendous pain in her right hand when she tries to use it and she has a lump and swelling on the back of her hand. Dr. Enns notes that the claimant is still having some problems with her knees although this is a little better since she is actively working to lose weight. Dr. Enns' notes that the claimant's right hand is healing following her surgery and recommended that she continue with her weight loss program, stay off work and he wrote her a prescription for medications. Dr. Enns saw the claimant in April as well as in May where it is noted that she is still having problems with discomfort in her feet and knees. The claimant was also being treated for ear problems and Dr. Enns recommended, on May 9, 2003, that she stay off work for another month. Dr. Evans writes on July 21, 2003, that he has seen the claimant for her right knee degenerative joint disease and right thumb degenerative

joint disease. Dr. Evans notes that the claimant's scars on her right wrist and right thumb have healed very well and she has full range of motion of her thumb. The doctor writes that the claimant's right knee has full range of motion but there is crepitation with the range of motion but no effusion noted. Dr. Evans writes that there is mild medial joint line tenderness and no ligamentous laxity. Dr. Enns lastly writes on August 20, 2003, that he has seen the claimant and she reports her usual aches and pains of her legs, knees, ankles and right hand and notes that she is doing fairly well however with the Oxycotin. Dr. Enns assesses the claimant with having severe degenerative arthritis in her knees and feet as well as lumbar degenerative disc disease. He continues her on Oxycotin and other medications, recommended that she continue to work on her weight loss and to be rechecked in about a month.

There is a letter dated May 8, 2001, signed by Dr. John Brandebura concerning the claimant. Dr. Brandebura's memo sets forth that he saw the claimant on May 8, 2001, for her complaints of left TMJ noting that she reported that her pain began one month earlier and started after a fall she had while working. Dr. Brandebura writes that examination revealed an incisal opening of 50mm and the claimant had pain to palpitation of the left temporomandibular joint and the masseter muscle. Dr. Brandebura writes that there were opening and closing clicks in the right and left temporomandibular joints with deflection of the mandiblae on opening to the left. X-rays taken were within normal limits and

Dr. Brandebura diagnosed the claimant with internal derangement of the right and left temporomandibular joints and recommended a centric occlusion splint. Dr. Brandebura referred the claimant to Dr. Tom Spivey for his services.

Dr. Jeffrey Evans testified in his deposition that he first saw the claimant on June 18, 2001, for her complaints of left shoulder pain resulting from a fall on March 20, 2001. Dr. Evans testified that at this same evaluation he also examined her right thumb since the claimant complained of right thumb pain which had also begun since her fall. Dr. Evans was asked if the claimant complained of any right knee problems and he responded, "no." Dr. Evans testified that since the claimant had gone through extensive physical therapy before he saw her for her shoulder he did not continue to pursue conservative treatment. The doctor stated that he did a arthroscopic subacrominal decompression of her left shoulder on July 20, 2001. Dr. Evans indicated that the claimant has had a satisfactory result from her shoulder surgery. Dr. Evans testified that the claimant was released to return to work without restrictions on August 20, 2001. The doctor stated that no permanent impairment rating for the shoulder was given at that time because he was moving on to address her other physical problems. The doctor stated that he did not recommend any further treatment for the claimant's left shoulder after she completed her recuperative period. The doctor did recall that due to a flair up he did prescribe some Celebrex in order to settle down her symptoms for her left shoulder and then with just follow up treatment for

symptoms as needed. When asked, Dr. Evans indicated that since this one symptomatic episode, her left shoulder has not been an issue during the course of her treatment for her knee and thumb.

In Dr. Evans' deposition he was asked what his findings were as it related to her thumb on June 18, 2001. Dr. Evans responded that the claimant had prominent right thumb CMC joint explaining that carpometacarpal is the base of the thumb where it meets the wrist. Dr. Evans noted that this area was tender to palpitation and there was crepitation noted with range of motion of that joint. The doctor stated that there were x-rays taken on the date of her fall but he did not see them at his initial visit with the claimant but it is his memory that they did cross his desk at some point. Dr. Evans was asked what was the claimant's diagnosis as it related to her right thumb and Dr. Evans responded, "she had degenerative disease at the right thumb carpometacarpal joint. When asked, Dr. Evans stated that he thought that the claimant probably had degenerative joint disease of the thumb before she fell and that the fall exacerbated it. Dr. Evans agreed that part of his opinion that her fall exacerbated her pre-existing degenerative joint disease in her thumb was based on his information that she was not having any thumb symptoms before her fall. Dr. Evans was asked that if the claimant had had tenderness to palpitation at the base of her thumb over the scaphoid and over the thenar eminence as well as the extensor pollicis longus tendon as recently as three months before her fall, would these symptoms be consistent with her degenerative disease? Dr. Evans responded, "it could be, yes."

Dr. Evans testified that initially he treated the claimant's thumb problems conservatively by placing her in a splint. Dr. Evans testified that on October 29, 2001, he saw the claimant for follow up of her shoulder as well as her right thumb degenerative disease. The doctor stated that at that point they continued her in her splint but he also injected her joint with medications. Dr. Evans testified that he did surgery on the claimant's thumb on November 5, 2002, doing what is called a suspensionplasty which is a type of carpometacarpal arthroplasty. Dr. Evans agreed that during this surgery there were no findings of fractures or abnormalities other than those that would be consistent with degenerative disease. Dr. Evans testified that he was treating her and operated on her for her symptomatic degenerative thumb disease and could not state with certainty if, but for her fall, she would have needed surgery for her thumb. Dr. Evans agreed that the only resolution of the previous question is when she started having symptoms. Dr. Evans testified that the claimant did recover uneventfully following her surgery and that since she has an acceptable return of range of motion of her right thumb after her surgery, no impairment rating has been assessed. Dr. Evans was asked if the claimant was currently in need of any further treatment as it related to her right thumb condition and the doctor responded, "no."

The deposition continued with Dr. Evans stating that at the time of his first visit with the claimant on June 18, 2001, her complaints were only of her shoulder and her thumb and that she did not complain of any knee problems. Dr. Evans agreed that,

according to his records, the first time the claimant complained to him of knee pain was on February 21, 2002. Dr. Evans testified that in February 2002 when the claimant was being seen for follow up of her thumb she also noted that she had right knee pain since her fall on March 20, 2001, and reported to him buckling, swelling and locking of her right knee. Dr. Evans testified that he examined the claimant's knee and she had crepitation noted with range of motion, that her range of motion was 0 to 130 degrees and she had defused joint line tenderness both medially and laterally with no ligamentous laxity. Dr. Evans indicated that the claimant did not give him a history of any knee problems before her March 20, 2001, fall. Dr. Evans testified that he learned after the fact that one of his partners, Dr. Stephen Him, had previously treated the claimant for right knee problems. Dr. Evans stated that from the claimant's MRI that Dr. Him had done she certainly had problems with her right knee before her March 2001 fall. Dr. Evans stated that he thinks that her fall could have exacerbated an underlying condition and he was not sure why it took so long for it to come up into the course of her treatment. Dr. Evans was asked that if the fall had produced significant exacerbation of her underlying degenerative joint disease in her knee would he have expected her to have complained of her right knee pain immediately after the fall, the doctor responded, "I would have." When questioned further about the absence of documented complaints by the claimant of knee pain for a period of approximately six months after her fall would that be inconsistent with a conclusion that the March 20

fall exacerbated or at least was a significant exacerbation of her underlying condition, Dr. Evans responded, "I would think that if it was a significant exacerbation, it would have come to light sooner." When asked, Dr. Evans testified that in his opinion her degenerative changes probably predated her fall and he would say that a single fall would probably not account for more than 50 percent of her total problem with her knee. Dr. Evans testified that the claimant is still under active treatment for her symptoms in her right knee but no impairment rating has been assessed. When questioned again, Dr. Evans testified that the claimant, in his opinion, was not in need of additional medical treatment for her left shoulder or her right thumb.

Dr. Ann Passmore, in her deposition taken on September 11, 2003, states that she saw the claimant on a referral from Dr. Enns as a result of a hematoma in her left breast resulting from a fall while at work. Dr. Passmore testified that she examined the claimant and measured the hematoma in her left breast stating that it was approximately two inches by three inches. Dr. Passmore testified that she also discussed and noted in her notes that the claimant had a current bra size of a 44 F which was quite large and this is information that she always gets when a patient is there for a macromastia and back and shoulder pain. Dr. Passmore testified that actually she could not determine pathologically what the mass was in the claimant's left breast, just that it was a hard firm pretty well circumscribed mass. Dr. Passmore testified that based on the claimant's history of a specific trauma as well as the

information from Dr. Enns, it was pretty well determined that the claimant had a hematoma in her left breast. Dr. Passmore testified that usually a hematoma will resorb but due to the amount of bleeding inside the claimant's left breast, it did not resorb. Dr. Passmore stated that anytime you have a breast mass, you almost have to get either all of it out or a piece of it to make sure what the diagnosis is for 100 percent certainty. Dr. Passmore testified that the claimant was sent to her for evaluation of breast reduction and that the hematoma was just an added problem. Dr. Passmore was asked if, in her opinion, the reduction mamoplasty was a reasonably necessary procedure to treat the claimant's hematoma or whether the reduction mamoplasty was a condition or a procedure that the claimant needed because of her large breasts and Dr. Passmore responded, "well, the fall did not make her have large breasts." Dr. Passmore stated that whether the claimant had had a hematoma or not, the reduction mamoplasty was certainly indicated because she just looked uncomfortable. Dr. Passmore testified that the reduction surgery allowed her to remove the hematoma with less visible scars than if she had gone in and removed the hematoma. The doctor explained that just to remove the hematoma would have left the claimant with a viable scar in the upper inner quadrant of her left breast. Dr. Passmore testified that the claimant was off work as a result of her bilateral breast reduction for a period of six weeks. Dr. Passmore testified that if she had just removed the hematoma from the claimant's left breast using a procedure which would not leave the claimant with an unsightly scar over her left

breast, the healing period would have been approximately the same. The doctor was asked about the cost differences between the bilateral breast reduction as well as surgery just to remove the hematoma. Dr. Passmore testified that she was not involved in the pricing or billing aspect of the surgery. The doctor did testify, however, that the approximate cost for doing a more complex procedure with less scarring just to remove the hematoma and the more direct surgery to remove the hematoma, the cost would be different because of the length of time necessary to perform the more complex surgery. Dr. Passmore testified that she follows a patient following surgery for a period of twelve months because, in her opinion, that is the length of time required for maximum wound healing. Dr. Passmore testified that she does not have anymore scheduled appointments with the claimant. On cross examination, Dr. Passmore testified that the claimant's hematoma may have been the major reason that the claimant made the decision to undergo the breast reduction but the major cause for her to have the procedure was because she had large pendulous breasts that were heavy. Dr. Passmore testified that having the breast reduction certainly benefitted any problems which the claimant was having with her left shoulder.

After a review of this entire record, I find that the claimant has proven by a preponderance of the evidence that she sustained a compensable injury to her right thumb and exacerbated her TMJ on the left side of her face at the time she fell on March 20, 2001. Dr. Evans has clearly stated that even though she had preexisting

degenerative disease in her right thumb, she was not symptomatic at the time of her fall and consistently complained of right thumb pain following her fall necessitating treatment and eventually surgery to correct her problems. Dr. Brandebura, in his brief medical note, indicated that, in his medical opinion, her fall of March 20, 2001, exacerbated and made symptomatic her TMJ requiring Dr. Spivey to provide her with an apparatus to help her control this facial pain. Therefore, the respondents should pay for the medical cost and treatment for this claimant's right thumb complaints up and until Dr. Evans released her. Dr. Evans has indicated that the claimant is in no need of any further medical treatment for her right thumb and, based on her range of motion, he would not assess her with an impairment rating. The respondents should be responsible for the payment to Dr. Brandebura as well as to Dr. Spivey for the apparatus which he constructed for her TMJ. According to the claimant's own testimony, her TMJ problems have resolved or she has learned to control them and it is not an ongoing problem, therefore, no further medical treatment is approved.

I further find that the claimant has failed to prove by a preponderance of the evidence that her right knee problems are a result of her March 20, 2001, fall. The early medical records do not indicate that the claimant made complaints of her knee prior to about February 2002 when it was mentioned to Dr. Evans. Dr. Evans, in his deposition, has clearly indicated that, in his opinion, if she had exacerbated her preexisting knee problems at the time of

her fall, it would be his opinion that she would have made complaints of these problems before February 2002. The medical records indicate and the claimant has testified that she had prior knee problems and that in fact she did have extensive right knee abnormalities. It is not questioned that this claimant may be in need of medical treatment for her right knee but it is my opinion that her need for medical treatment resulting in eventual surgery for her right knee was not caused by her fall on March 20, 2001. Therefore, no benefits will be awarded to this claimant for her right knee.

The claimant has requested additional medical treatment for her left breast as well as left shoulder subsequent to February 1, 2002. The claimant underwent breast surgery on July 9, 2002, undergoing a bilateral breast reduction with removal of a hematoma in her left breast. The records reflect that the claimant was in need of having a bilateral breast reduction of her pendulous breasts prior to her fall of March 20, 2001, however, these same records clearly set forth that the hematoma was a result of her fall and Dr. Passmore has testified that it was medically necessary to remove this hematoma in order to determine its true nature. Dr. Passmore has testified that certainly the claimant's fall on March 20, 2001, did not cause this claimant to have large pendulous breasts but it did result in the claimant's need to undergo surgery for the removal of her hematoma. I, therefore, find that the respondents should be responsible for the cost which would have been associated with a keyhole excision of this claimant's hematoma

in her left breast but should not be responsible for the full cost of the claimant's bilateral breast reduction. Dr. Passmore was uncertain as to the exact cost of any of these surgeries but the respondent and the claimant can determine these cost through inquiry of the surgical facility. I find that the claimant is not in need of additional left shoulder treatment and Dr. Evans has clearly set forth that, in his opinion, the claimant has no need for additional treatment for her left shoulder as has Dr. Passmore indicated that the claimant is not in need of additional treatment for her left breast hematoma removal after a year following her surgery.

The claimant has requested additional temporary total disability from August 27, 2001, to a date to be determined. Based on the medical records and the testimony of Dr. Evans, I find that the claimant is entitled to temporary total disability from August 27, 2001, to September 9, 2001, as it pertained to her left shoulder as set forth by Dr. Evans. The claimant is entitled to additional temporary total disability from July 9, 2002, for a period of six weeks which is the period of time Dr. Passmore had indicated the claimant would have been unable to work as a result of her breast surgery. The claimant again would be entitled to temporary total disability from November 5, 2002, until January 3, 2003, which is the period of time indicated by the medical records that she would have needed to have been off work as a result of her thumb surgery. Since the claimant's right knee problems are not

found to be compensable, no temporary total disability will be considered for these medical problems.

FINDINGS & CONCLUSIONS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. March 20, 2001, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to left breast in the form of a hematoma, left shoulder, face, and hands.

4. Medical expenses paid to February 1, 2002.

5. The parties agreed that no temporary total disability has been paid to this claimant by the respondent subsequent to August 27, 2001.

6. The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury to her right knee on March 20, 2001, while working for the respondent. Therefore, no medical treatment or temporary total disability will be awarded for any right knee problems. See discussion above.

7. The claimant has proven by a preponderance of the evidence that she sustained a compensable injury to her right thumb as well as exacerbated her TMJ on the left side of her face as a result of her fall on March 20, 2001. Dr. Brandebura who treated the claimant for her TMJ contributes the claimant's fall to her TMJ problems and recommended treatment thereof for these TMJ problems. Dr. Evans has also stated that although the claimant had preexisting degenerative disease in her right thumb before March

20, 2001, it was not symptomatic until after her fall necessitating medical treatment for her right thumb. All see discussion above.

8. The claimant is not entitled to additional treatment for her left shoulder subsequent to February 21, 2002. See discussion above.

9. The claimant is entitled to medical treatment for the removal of the hematoma from her left breast and the respondents should be responsible for the cost of this removal based on the surgical cost for a keyhole excision. See discussion above.

10. The claimant is entitled to additional temporary total disability from August 27, 2001, to September 9, 2001, for her left shoulder, and from July 9, 2002, for a period of six weeks which is the period of time Dr. Passmore has indicated the claimant would be unable to work following the removal of the hematoma from her left breast. The claimant would also be entitled to temporary total disability following her thumb surgery from November 5, 2002, until January 3, 2003, which is the period of time set forth by the claimant's physicians that she was unable to work following her thumb surgery. All see discussion above.

11. The respondents have controverted this claimant's entitlement to additional benefits as set forth in the issues listed in the pre-hearing order.

12. The claimant's attorney is entitled to the maximum statutory attorney's fee based on the benefits awarded herein.

ORDER

The claimant has proven by a preponderance of the evidence that she sustained an injury to her right thumb and TMJ as a result of her fall while working for the respondent on March 20, 2001. Therefore, this claimant will be entitled to medical treatment for her right thumb as well as TMJ at the expense of the respondents.

The claimant has failed to prove her entitlement to additional medical treatment for her left shoulder.

The claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury to her right knee while working for the respondent on March 20, 2001. Therefore, no benefits will be awarded to this claimant for her right knee problems.

The claimant has proven that she is in need for treatment for the removal of the hematoma from her left breast from July 9, 2002, for a one year period of time.

The claimant has proven by a preponderance of the evidence that she is entitled to additional temporary total disability from August 27, 2001, to September 9, 2001, and from July 9, 2002, for a six week period of time following her breast surgery. The claimant is also entitled to temporary total disability from November 5, 2002, until January 3, 2003, as a result of her thumb surgery.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the additional benefits awarded herein, with one half of said attorney's fee to be paid by the

respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE