

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F600083

ELIZABETH A. JOHNSON, EMPLOYEE **CLAIMANT**

**DILLARD'S DOLLAR, INC.,
EMPLOYER** **RESPONDENT NO. 1**

**FIDELITY & GUARANTY INS. CO.,
INSURANCE CARRIER/TPA** **RESPONDENT NO. 1**

**DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND** **RESPONDENT NO. 2**

SECOND INJURY FUND **RESPONDENT NO. 3**

OPINION FILED SEPTEMBER 5, 2008

Hearing conducted before Administrative Law Judge S. Dale Douthit in Little Rock, Pulaski County, Arkansas.

Claimant was represented by Mr. Gail O. Matthews, Attorney at Law, Little Rock, Arkansas.

Respondent No. 1 was represented by Mr. James C. Baker, Jr., Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 was represented by Ms. Christy King, Attorney at Law, Little Rock, Arkansas.

Respondent No. 3 was represented by Mr. David Pake, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On June 9, 2008, the above captioned claim came on for a hearing in Little Rock, Arkansas. A prehearing conference was conducted on April 7, 2008, and a Prehearing Order was entered on that same date. A copy of the April 7, 2008,

ELIZABETH A. JOHNSON - F600083

Prehearing Order was marked as Commission Exhibit "1" and made a part of the record herein without objection, subject to any modifications made at the full hearing.

At the full hearing, the parties stipulated to the following:

- 1) The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
- 2) The employee-employer-carrier relationship existed at all relevant times, including December 31, 2004.
- 3) The parties agreed that claimant's applicable compensation rates are \$196.00 per week for temporary total disability and \$154.00 for permanent partial disability.
- 4) The claimant sustained a compensable neck injury on December 31, 2004, for which some benefits have been paid.
- 5) The claimant reached maximum medical improvement from her compensable neck injury on January 24, 2007.

At the full hearing the parties agreed to litigate the following issues:

- 1) Extent of claimant's whole body impairment.
- 2) Whether claimant is now permanently and totally disabled due to her compensable injury, or in the alternative, entitled to wage loss disability benefits.
- 3) Second Injury Fund liability.
- 4) If claimant is found to be permanently and totally disabled, whether Respondent No. 1 is entitled to a credit for payment of permanent disability benefits prior to January 24, 2007.
- 5) Whether claimant's stroke and/or seizures are a compensable consequence of her December 31, 2004, injury.

ELIZABETH A. JOHNSON - F600083

6) Whether claimant is entitled to psychiatric treatment.

Initially, at the full hearing, claimant contended that she is entitled to a 55% whole body anatomical impairment due to her stipulated compensable injury; however, at the end of the hearing, claimant modified her contention regarding whole body anatomical impairment to 51%. The claimant contended that she is now permanently and totally disabled due to her compensable injury or, in the alternative, entitled to wage loss disability benefits. The claimant contended that her stroke and seizures starting on June 29, 2006, are related to her compensable injury and resulting surgeries. The claimant contends that Respondent No. 1 has controverted all permanent benefits over a 10% whole body impairment and that the claimant is entitled to psychiatric treatment.

Respondent No. 1 contended at the full hearing that the claimant is not permanently and totally disabled and that Respondent No. 1 has accepted a 12% whole body impairment rating. Respondent No. 1 controverts Dr. Calhoun's assessment of a 55% impairment to the whole body attributable to the claimant's compensable incident. Respondent No. 1 contends they should be given a credit for all permanent disability benefits paid. Respondent No. 1 further contends that the claimant's stroke and seizures are not related to the December 31, 2004, compensable injury, and Respondent No. 1 controverts any psychiatric treatment. Alternatively, Respondent

ELIZABETH A. JOHNSON - F600083

No. 1 contends Second Injury Fund liability.

Although Respondent No. 2 deferred to the outcome of litigation and did not attend the full hearing, Respondent No. 2 did contend the following as outlined in the Prehearing Order:

- 1) Second Injury Fund liability must be determined prior to consideration of the Death & Permanent Total Disability Trust Fund liability.
- 2) If the Second Injury Fund is found to not have liability and the claimant is found to be permanently and totally disabled, the Trust Fund stands ready to commence weekly benefits.
- 3) The Trust Fund has therefore not controverted the claimant's entitlement to benefits.
- 4) If claimant is found to be permanently and totally disabled, Respondent No. 1 is not entitled to a credit for payment of permanent disability benefits against its maximum liability as defined in A.C.A. § 11-9-502, prior to the date upon which the claimant reached the end of her healing period and became permanently and totally disabled pursuant to the Death and Permanent Total Disability Trust Fund v. Legacy Insurance.

Respondent No. 3 contended at the full hearing that Respondent No. 1 has failed to meet their burden of proving Second Injury Fund liability. Respondent No. 3 contended that claimant is not entitled to any additional wage loss or permanent partial disability benefits, and Respondent No. 3 contends that the claimant is not now permanently and totally disabled.

DISCUSSION

The claimant, now age 50, worked for Respondent No. 1 as a clothing

ELIZABETH A. JOHNSON - F600083

salesperson on December 31, 2004. On that date, the claimant sustained an admittedly compensable neck injury. The claimant testified as follows regarding the incident that caused her compensable neck injury:

Q It has been stipulated you sustained an injury on December the 31st of 2004?

A Yes, sir.

Q Just briefly, tell us what happened.

A Well, it was New Year's Eve. It was crazy wild, and some of the dresses – I worked back in formal wear in the junior department. The long dresses were dragging the floor. I was trying to help lift a huge rack, a metal rack. And the girl's hand slipped and this big metal rack with a glass, about three inches thick on the top for display, all crashed down on my head, right here. (Indicating). And I didn't –

Q You're pointing to the top of your head?

A Right here, yes, sir. (Indicating)

(T. pg. 17, lines 13-25).

The claimant testified that as a result of her injury she was not rendered unconscious and she testified she immediately reported the compensable event to her employer. The claimant testified that following the incident she was in pain but continued to work and finish out the workday.

The medical records contained herein show that the claimant's first medical treatment following her compensable neck injury occurred on January 2, 2005, at the

ELIZABETH A. JOHNSON - F600083

Baptist Health Medical Center emergency room. (Joint Ex. No. 1, pp. 33-36). The Baptist emergency room diagnosed the claimant on January 2, 2005, with cervical sprain and contusion to the scalp. The Baptist emergency room prescribed the claimant Flexeril, Ibuprofen, and Vicodin. The claimant was then advised to follow up with her primary care physician within two to three days and return to the emergency room if needed. At the emergency room an X-ray of the claimant's cervical spine was conducted and found degenerative disc disease at C5-6, straightening of the normal lordotic curve, possibly related to muscle spasms. The medical records show claimant then underwent some physical therapy but with continued pain, and was referred ultimately to Dr. Calhoun.

Dr. Calhoun referred the claimant to Imaging Solutions of Arkansas for an MRI of her cervical spine which was conducted on May 4, 2005. The MRI of the claimant's cervical spine resulted in the following impressions: "1. Prominent posterior osseous ridging with a moderate left paracentral disc protrusion at C5/6 resulting in moderate to severe central canal stenosis and prominent left anterolateral cord flattening as well as severe left foraminal narrowing." (Joint Ex. No. 1, pp. 71-72). Upon reviewing the claimant's MRI, Dr. Calhoun recommended surgery for the claimant's cervical disc herniation. On June 27, 2005, Dr. Calhoun conducted a C5/6 anterior cervical discectomy and fusion.

ELIZABETH A. JOHNSON - F600083

Following the June 27, 2005, surgery the claimant started having numbness in her hands. On August 10, 2005, Dr. Calhoun noted that the claimant was depressed and noted that the claimant had a preexisting psychiatric problem with depression and paranoia. Dr. Calhoun noted in his August 10, 2005, report that the stress of the claimant's surgery may have made her depression and paranoia slightly worse. Dr. Calhoun continued to refer the claimant to physical therapy and on September 23, 2005, physical therapist Shannon Ayers reported, "Patient reports feeling improved overall, . . . greater balance noted with weight bearing activities. . . . Patient's symptoms improving. . . ." (Joint Ex. No. 1, pg. 90). Following her June 27, 2005, surgery the claimant continued having problems and ultimately on June 2, 2006, another MRI of the claimant's cervical spine was conducted which found a large bone spur that was severely compromising the claimant's spinal cord. (Joint Ex. No. 1, pp. 128-130). Dr. Calhoun opined that the bone spur was a consequence of the claimant's previous surgery and recommended a second surgery to remove the bone spur. The claimant underwent a second surgery on her cervical spine at the same level to remove the bone spur on June 27, 2006.

Following the claimant's second surgery on June 27, 2006, the claimant reported problems with seizures and/or strokes. Dr. Calhoun in his August 7, 2006, letter stated, "I really am uncertain as to how her seizures could be related to the

ELIZABETH A. JOHNSON - F600083

surgery . . . “ (Joint Ex. No. 1, pg. 152). Following the claimant’s second surgery she continued to have complaints of neck pain, depression, anxiety, seizures, and strokes; and saw Dr. Reginald Rutherford for an IME. Dr. Reginald Rutherford referred the claimant for an ambulatory EEG and neurological testing in order to form an opinion on the etiology of the claimant’s seizures.

On June 18, 2007, Dr. Victor Biton conducted a 24 hour ambulatory EEG Video Monitoring for two days which essentially found the claimant within normal limits. (Joint Ex. No. 1, pp. 201-203). The claimant also treated with Dr. Gary Souheaver who found that the claimant did not sustain a traumatic brain injury but rather that the claimant suffered from a Somatization Disorder, with underlying chronic depression and anxiety. (Joint Ex. No. 1, pp. 204-207). After reviewing the claimant’s EEG results, Dr. Rutherford ultimately found that claimant suffered an 11% whole body anatomical impairment as a result of her compensable injury which took into account both surgeries. (Joint Ex. No. 1, pp. 208-209).

The claimant contends that as a result of her compensable injury on December 31, 2004, that she has suffered a whole body impairment of 51% and is now permanently and totally disabled as a result of her compensable injury. The claimant is also requesting that her stroke and/or seizures be found a compensable consequence of her December 31, 2004, compensable injury, and the claimant is

ELIZABETH A. JOHNSON - F600083

requesting psychiatric treatment.

ADJUDICATION

This claim largely turns on the claimant's credibility, which, for reasons I will outline further below, I found to be lacking. The first issue to be addressed is extent of permanent impairment. The claimant has contended that she is entitled to a 51% whole body anatomical impairment and that respondents have contended that claimant is entitled to 11% whole body impairment. Permanent impairment is any permanent functional or anatomical loss remaining after the healing period has been reached. Ouachita Marine v. Morrison, 246 Ark. 882, 440 S.W.2d 216 (1969). Pursuant to A.C.A. § 11-9-522(g), the Commission has adopted the *Guides to the Evaluation of Permanent Impairment* (4th Ed. 1993) as an impairment rating guide. Any determination of the existence or extent of physical impairment shall be supported by objective and measurable physical and mental findings. A.C.A. § 11-9-704(c)(1)(B).

Permanent benefits shall be awarded only upon determination that the compensable injury was the major cause of the disability or impairment. A.C.A. § 11-9-102(F)(ii). Major cause means more than 50% of the cause, and a finding of major cause shall be established according to the preponderance of the evidence. A.C.A. § 11-9-102(14). In this instance, I have two anatomical ratings from Drs. Rutherford and Calhoun. Dr. Calhoun, in his June 27, 2007, report found at Joint Exhibit No. 1,

ELIZABETH A. JOHNSON - F600083

page 200, found the claimant to have a 51% whole body impairment rating. Dr. Calhoun based 12% of his rating on the claimant's two cervical surgeries and 39% of the rating due to the claimant's upper extremity difficulties with digital dexterity. Dr. Rutherford, in his September 21, 2007, report found at Joint Exhibit No. 1, pages 208-209, used the AMA 4th Edition *Guides to the Evaluation of Permanent Impairment* and found that the claimant sustained an 11% whole body anatomical impairment rating. I find Dr. Rutherford's impairment rating should be given greater weight for a number of reasons. First, as will be outlined further below, the claimant's digital dexterity problems and upper extremity problems for which Dr. Calhoun assigns a 39% permanent impairment is based primarily on subjective complaints by the claimant which I find to be not credible. Also, Dr. Calhoun based his ratings on the AMA 5th Edition *Guides to the Evaluation of Permanent Impairment* and not the 4th Edition as mandated by the Commission. I find that Dr. Rutherford correctly calculated the claimant's permanent impairment for her first surgery at 9% and then an additional 2% for the second surgery as outlined in Table 75, page 113 of the AMA 4th Edition *Guides to the Evaluation of Permanent Impairment* for a total of 11%. Therefore, I find that the claimant's extent of her permanent physical impairment as a result of her December 31, 2004, compensable neck injury is 11% to the body as a whole. There was much discussion about the attorney's fees associated with the 11%

ELIZABETH A. JOHNSON - F600083

impairment rating but ultimately the parties agreed that any issues regarding attorney's fees had been resolved. (See, Transcript, pages 103-105).

The claimant contends she is permanently and totally disabled. "Permanent total disability" is the "inability, because of compensable injury or occupational disease, to earn any meaningful wages in the same or other employment." A.C.A. § 11-9-519(e). Permanent benefits may be awarded only if the compensable injury was the major cause of the disability or impairment. A.C.A. § 11-9-102(4)(F)(ii)(a).

As stated earlier, this case largely turns on the claimant's credibility. The claimant's request for permanent and total disability benefits is primarily based on her self-limitating testimony which I find to be highly suspect. This record is replete with inconsistencies and convenient memory lapses when it suits the claimant's case. Additionally, the transcript and attached exhibits show a pattern whereby the claimant tells her treating physicians one thing but testifies opposite. For example, Dr. Calhoun in his August 10, 2005, report found at Joint Exhibit No. 1, page 89, states, "Ms. Johnson does have a preexisting psychiatric problem with depression and paranoia." When questioned at the full hearing about whether she had paranoia type symptoms in the past, the claimant testified, "No, sir, only after my first surgery." (Transcript, page 39, line 19). When Dr. Diner conducted his psychiatric independent medical evaluation, the claimant denied the use of any illicit drugs. (Resp. No. 3, Ex. No. 1,

ELIZABETH A. JOHNSON - F600083

page 40). However, at the full hearing the claimant testified as follows regarding her use of marijuana:

Q Okay. Now, regarding the marijuana use, you just told us, on direct, that you have used marijuana in your life.

A Yes, sir.

Q You used it before your surgery and you used it after your surgery?

A Yes, sir.

(T. pg. 36, lines 15-20).

While in the Conway Regional Medical Center emergency room on June 30, 2006, for an alleged seizure the claimant once again denied any drug use to her treating physicians at the emergency room, but privately her husband advised the ER officials that the claimant smokes marijuana on a daily basis. (Joint Ex. No. 1, pg. 143). Further, it is apparent from the medical records that the claimant is not permanently and totally disabled. On November 2, 2005, after the claimant's first surgery she underwent a Functional Capacity Evaluation which found that the claimant gave an unreliable effort. Even with the unreliable effort, the Functional Capacity Evaluation still showed the claimant could conduct light duty work. (Resp. No. 3, Ex. No. 1, pp. 11-24). While it is true that the claimant underwent a second surgery following the Functional Capacity Evaluation, the second surgery was for the

ELIZABETH A. JOHNSON - F600083

removal of a bone spur which should have only increased the claimant's ability to work. However, after the second surgery, the claimant continued with complaints of subjective pain, anxiety, depression, seizures, and strokes, of which I find were purely subjective and unreliable symptoms from the claimant. The only evidence contained in the record which supports the claimant's claim for permanent and total disability is from Drs. Diner and Souheaver. Once again, I find that the claimant's Somatization Disorder as diagnosed by Dr. Souheaver was based solely upon the claimant's verbal statements to Dr. Souheaver and I find all such statements to be totally unreliable. Additionally, Dr. Diner bases his report on no objective basis but solely on the subjective nature of the claimant's statements to him. As I have outlined above, it is easily now shown that some of those statements claimant admitted to at the full hearing were untrue. Based upon the totality of the evidence, I find that the claimant's statements to her doctors were largely unbelievable. Therefore, I give no credibility or weight to the reports and diagnosis from Drs. Souheaver and Diner, and find that the claimant has failed to prove by a preponderance of the evidence that she is permanently and totally disabled.

On addressing permanent and total disability, it is necessary to look into the possibility of wage loss disability benefits. The claimant's entitlement to permanent disability benefits is controlled by A.C.A. § 11-9-522, which states:

ELIZABETH A. JOHNSON - F600083

(b)(1) In considering claims for permanent partial disability benefits in excess of the claimant's percentage of physical impairment, the Workers' Compensation Commission may take into consideration such factors as the employee's age, education, work experience, and other matters to which a compensable injury has affected a claimant's ability to earn a livelihood.

The Commission is charged with the duty of determining disability based upon a consideration of medical evidence and other matters affecting wage loss such as the claimant's age, education, and work experience. Eckhart v. Willis Shaw Express, Inc., 62 Ark. App. 224, 970 S.W.2d 316 (1998). "Other factors" includes the claimant's credibility, motivation, and willingness to cooperate with medical providers. Simply put, when considering all factors, I find that the claimant has failed to prove by a preponderance of the evidence that she is entitled to any wage loss disability benefits over and above her 11% whole body anatomical impairment. I come to this conclusion once again primarily based on the lack of the claimant's credibility. The claimant's unwillingness to cooperate with her physical therapy is also an important factor. On September 23, 2005, Dr. Calhoun stated as follows:

Ms. Johnson's appointment was scheduled for 11 o'clock today. She did not keep her appointment. I talked with her nurse case manager. I am not sure what to do. She did not go to therapy for a month and was finally threatened with cutting off her benefits and then she did go. She has been noncompliant with almost every treatment. We will see if she calls and reschedules. If she does not, then one would have to consider saying that she is maximal medically improved.

(Joint Ex. No. 1, pg. 92).

ELIZABETH A. JOHNSON - F600083

The Functional Capacity Evaluation in which the claimant gave an unreliable effort must also be taken into consideration when determining the claimant's wage loss. As stated above, the claimant's failure to adequately give truthful statements regarding her alcohol and drug use to her medical providers is also a factor to consider when considering wage loss because doctors cannot properly care for their patients if they are not given true social and medical histories.

It is clear Dr. Calhoun was trying to get the claimant off of numerous medications in order to help the claimant recover; however, Dr. Calhoun states in his report from September 24, 2007, "She asked if there was anything that I would give her as far as Xanax or pain medicine. She and I have been through this exhaustively in the past. I have made it quite clear that I would not. She then said that she was planning to kill herself." (Joint Ex. No. 1, pg. 210). Those type of threats to her medical providers is just an example of the claimant's attention seeking statements to achieve whatever end she wants.

The claimant's work history and educational history are outlined in detail in her deposition found at Respondent No. 3, Exhibit No. 2, pages 30-34. The claimant's work history shows that she primarily worked in light duty capacities which is the recommendation that was given in the Functional Capacity Evaluation. The claimant argues that the Functional Capacity Evaluation should not be given any weight

ELIZABETH A. JOHNSON - F600083

because it was done before the second surgery. However, I find that the claimant gave an unreliable effort on the first Functional Capacity Evaluation and her testimony and other evidence lead me to believe that she would not give her best effort or be truthful on any future Functional Capacity Evaluations. When the claimant was asked what problems affect her ability to work, she responds with the following statements, “I have no short-term memory at all. . . . I fall all the time. . . . I can’t hold things. My hands and feet are numb. . . . I’m very emotional right now.” All the claimant’s restrictions or inabilities to work are based upon her subjective feelings. Further, for one to believe the claimant is permanently and totally disabled or entitled to wage loss disability, one would have to find that the claimant’s statements regarding her inabilities are somewhat credible. I find that the credible evidence shows that the claimant cannot be believed when it comes to her true condition. Therefore, after taking into account all factors and considering wage loss, I find that claimant has failed to prove by a preponderance of the evidence that she is entitled to any wage loss disability benefits.

Based on the above findings, the Second Injury Fund liability issue is rendered moot. However, I find that even if the claimant were entitled to any additional permanent disability benefits that Second Injury Fund liability would still not exist. I reach that conclusion based upon the three hurdle test outlined in Mid-State Constr. v.

ELIZABETH A. JOHNSON - F600083

Second Injury Fund, 295 Ark. 1, 746 S.W.2d 539 (1988). For the Second Injury Fund to have liability, Respondent No. 1 would have to prove that prior to the claimant's compensable injury she had suffered a permanent partial disability or impairment. I find that hurdle has not been met. I reached that finding based upon my conclusion that Dr. Diner's report should be given no weight. I realize Dr. Diner finds in his report that the claimant has a Class 2 preexisting psychological disorder. However, I find Dr. Diner's report was based solely upon speculation. Dr. Diner never evaluated the claimant prior to her compensable injury and his report should be given no weight. Dr. Diner's report is based solely on speculation and conjecture, and speculation and conjecture cannot take the place of proof. Further, as stated above, Dr. Diner bases his analysis on what the claimant told him. As has been pointed out herein, anything the claimant told him cannot be believed. Therefore, I find that Second Injury Fund liability does not exist.

The claimant has also requested a determination of whether her alleged stroke and seizures are a compensable consequence of her December 31, 2004, compensable neck injury. The record is void of any objective evidence of stroke or seizure activity and such allegations from the claimant are based solely upon her testimony which I find to be not credible. As stated in Dr. Schluterman's record of June 30, 2006, from the Conway Regional Health System, "This is an essentially normal EEG in the awake

ELIZABETH A. JOHNSON - F600083

and drowsy state. Specifically, there are no definitive epileptiform discharges, electrographic seizures or regions of focal slowing.” (Joint Ex. No. 1, pg. 145). The claimant underwent a 24 Hour Ambulatory EEG Video Monitoring test which did not reveal any epileptiform activity or ictal events. Dr. Victor Biton who conducted the EEG over a two day period stated, “This recording is essentially within the normal limits.” (Joint Ex. No. 1, pg. 202). Even if there were objective findings, it would seem more plausible that claimant’s strokes/seizures were linked to her simultaneous use of marijuana, alcohol, and numerous prescription drugs; rather than her compensable neck injury. I find that there is no causal link with the claimant’s alleged seizures/strokes and her compensable neck injury. My review of the medical evidence shows that the claimant has failed to prove by a preponderance of the evidence that any of her alleged stroke and/or seizure activities were compensable consequences of her December 31, 2004, compensable injury.

The claimant has requested the respondents pay for additional psychiatric treatment. It must be noted that Dr. Souheaver in his November 26, 2007, deposition contained at page 23 of Joint Exhibit No. 2, confirmed that the claimant did not suffer a traumatic brain injury. The claimant also has not alleged a separate mental injury or illness pursuant to A.C.A. § 11-9-113 and it was not listed as an issue at either the full hearing or at prehearing conferences. I can only speculate that the claimant is alleging

ELIZABETH A. JOHNSON - F600083

that her mental injury was aggravated by the December 31, 2004, compensable injury and that therefore she is entitled to additional psychiatric treatment. In order for claimant to be entitled to the additional psychiatric treatment, this examiner would have to give weight to Dr. Diner's report wherein he says that claimant's psychiatric impairment was raised from a Class 2 to a Class 3 as a result of her compensable injury. As stated earlier and for the reasons outlined herein, I do not give any weight to Dr. Diner's report and I do not find that the claimant suffered any psychiatric mental injury or illness as a result of the December 31, 2004, compensable injury. Therefore, I find that the requested psychiatric treatment is not at all related to the claimant's compensable injury and for one to be entitled to additional medical treatment one must prove the additional treatment is reasonable, necessary, and related to the compensable event. I find that the claimant has failed to prove by a preponderance of the evidence that additional psychiatric treatment would be reasonable, necessary, or related to the claimant's 2004 compensable neck injury. Therefore, I find that claimant's request for additional psychiatric treatment is denied.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, to include medical reports, documents, and other matters properly before the Commission and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following

ELIZABETH A. JOHNSON - F600083

findings of fact and conclusions of law are hereby made in accordance with A.C.A.

§ 11-9-704:

- 1) The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
- 2) The stipulations agreed to by the parties are reasonable and are hereby accepted as fact.
- 3) The claimant sustained an 11% whole body anatomical impairment as a result of her admittedly compensable 2004 neck injury.
- 4) The claimant has failed to prove by a preponderance of the evidence that she is now permanently and totally disabled.
- 5) The claimant has failed to prove by a preponderance of the evidence that she is entitled to wage loss disability benefits.
- 6) Based upon the above findings, issue number four outlined herein is rendered moot.
- 7) The Second Injury Fund has no liability in this claim.
- 8) Claimant has failed to prove by a preponderance of the evidence that her alleged seizures and/or strokes are compensable consequences of her 2004 compensable injury.
- 9) The claimant has failed to prove by a preponderance of the evidence that she is entitled to psychiatric treatment; I find psychiatric treatment is not reasonable, necessary, or related to the claimant's compensable 2004 neck injury.

ORDER

For reasons discussed herein, this claim must be, and hereby is, respectfully denied.

ELIZABETH A. JOHNSON - F600083

IT IS SO ORDERED.

S. DALE DOUTHIT
Administrative Law Judge

SDD/pjb