

NO. 45928-1-II

COURT OF APPEALS,
DIVISION II
IN THE STATE OF WASHINGTON

Bruce E. Butson, *Appellant/Plaintiff*

v.

Department of Labor and Industries, *Respondent/Defendant*.

RECEIVED
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COURT OF APPEALS
DIVISION II

BRIEF OF APPELLANT

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Assignment of Error

The trial court erred in dismissing Bruce Butson's appeal to a decision of the Board of Industrial Insurance Appeals as a matter of law pursuant to *CR 50*.

Issues Pertaining to Assignment of Error

1. Was there a legally sufficient evidentiary basis for a reasonable jury to have found for Mr. Butson on the issues of treatment or time loss benefits?
2. The Superior Court having appellate jurisdiction to hear appeals from decisions of the Board of Industrial Insurance Appeals, should the trial court have considered the testimony of the witnesses for the Department of Labor and Industries before dismissing the case on the issue of treatment?
3. Should the trial court have equated Dr. Paul Won's testimony that Mr. Butson could only perform an observatory job to the ability to perform sedentary to light work from June 4, 2010, through January 25, 2011?

4. Is there an issue of fact as to whether Mr. Butson had a documented plan interruption that prevented him from participation in his vocational plan from June 4, 2010, through January 25, 2012?

Statement of the Case

On January 15, 2004, Bruce Butson was working as a plumber's helper for Blue Heron Plumbing in Vancouver, Washington, when he fell 8 to 12 feet from a ladder onto a concrete floor, landing on his outstretched left arm. The fall fractured his arm at a 45° angle with both bones severed, and his thumb was twisted around pointing in the opposite direction. Mr. Butson was able to drive himself to Southwest Washington Medical Center, almost passing out on the way. In Emergency, Dr. McGarey, an orthopedic surgeon with Kaiser Permanente, reset the two bones at the wrist that were severed with three pins. Dr. McGarey wanted to wait before performing surgery on his thumb. Dr. Weirich, a hand surgeon at Kaiser, eventually performed surgery on his left thumb, fusing the joint with a screw. Between his wrist and thumb, Mr. Butson had a total of seven casts on his left arm. The casts started at his elbow, then progressively became shorter, three or four for the wrist and two or three for the thumb. (Certified Appeal Board Record, Butson - Direct, page 9, lines 10, 18, 22 and 25; page 10, lines 8, 11,

17 and 25; page 11, lines 2, 8, 15, 18 and 25; page 12, lines 15, 21 and 23; and Dr. Won - Direct, page 10, lines 18, 21 and 24).

Mr. Butson was assigned a vocational counselor by the Department of Labor and Industries, and found unable to return to work without vocational retraining. Michelle Stuedli, a private vocational counselor, was assigned by the Department, and a goal of return to work as an accounting clerk through schooling at Clark College was arrived at and approved by the Department. Mr. Butson commenced school in June of 2008 and was to complete his program at Clark College in June of 2010 with an associate's degree. In October 2008, Mr. Butson was diagnosed with diverticulitis, which he describes as the most painful condition he has ever had to deal with next to breaking his wrist and thumb. During fall quarter of 2009, Mr. Butson's older sister contracted MRSA in a hospital in Southern California, and, as the only male in the family, Mr. Butson had to withdraw from school to go down to Southern California to help sustain his sister on life support. Mr. Butson returned for the winter quarter of 2010 at Clark College. (CABR, Butson - Direct, page 6, lines 18, 24 and 26; page 7, lines 4, 6 and 9; page 13, lines 2, 4, 16, 20 and 24; page 14, line 23; and page 15, line 16).

Initially, there was a lot of typing, or keyboarding, as part of Mr. Butson's vocational plan at Clark College. At first, it was fine with his left hand, but as time went on the more he used his left thumb, especially with the space bar, his left hand condition became worse. Mr. Butson initially took two keyboarding classes at Clark College and made it through those. Mr. Butson would spend many hours typing with his classes, and by winter quarter 2010, it was getting too much for his thumb and wrist. At the time, Mr. Butson was spending five to six hours a day on the computer. Mr. Butson completed the winter quarter at Clark College, carrying 18 hours and earning A's and B's. (CABR, Butson - Direct, page 14, line 12; page 16, lines 22 and 24; page 17, lines 4, 7 and 10; page 30, lines 3, 6 and 15; and Dr. Won - Re-Direct, Page 33, line 18).

Spring quarter 2010, Mr. Butson had signed up for 18 hours as well, but his left hand and wrist were overworked with keyboarding, and he was having intense pain in his joints. Mr. Butson could not keep up with his classes and continue with his left thumb and wrist the way they were. It got to the point physically where he would start typing and would experience the immediate onset of pain. Mr. Butson talked to his teachers, and they said the best thing he could do at the time was to withdraw from class instead of receiving failing grades. Mr. Butson decided to withdraw from his classes so

he could later continue at Clark College. (CABR, Butson - Direct, page 30, line 23; page 31, lines 3, 5 and 11; and page 35, line 8).

Mr. Butson first saw Dr. Rabie at Kaiser Permanente on May 27, 2010. Dr. Rabie ordered a bone scan, which Mr. Butson had on June 2, 2010. Dr. Rabie also increased his pain medication, limited Mr. Butson's use of the computer to two hours a day, and ordered physical therapy which he had three times per week, one-and-a-half hours a day, through July 2010. Mr. Butson first saw Dr. Paul Won, an industrial medicine specialist at Kaiser, on June 17, 2010. Dr. Won reviewed the bone scan, which showed an increase in the uptake of the radioactive material, indicating inflammation of the left thumb. Dr. Won referred Mr. Butson to Dr. Weirich for a surgical consultation. Dr. Weirich saw Mr. Butson on October 5, 2010, and recommended conservative treatment, and ordered paraffin baths. Mr. Butson purchased a paraffin bath that had a heating element that contains paraffin, which heats up to a liquid and provides extreme penetrating heat through the joints. Mr. Butson continued to use the paraffin bath on a daily basis. Mr. Butson was also given exercises for his thumb, hand and wrist, which he continued to do every day. (CABR, Butson - Direct, page 17, lines 15, 17 and 20; page 18, lines 17 and 25; page 19, line 25; page 20, lines 2, 13, 17, 22 and 24; page 21, lines 1, 3 and 8; and

Dr. Won, page 3, lines 22 and 24; page 7, line 7; page 8, line 20; page 13, line 7; page 15, lines 1, 7 and 15; and page 16, lines 5 and 9).

Dr. Won saw Mr. Butson back on December 2, 2010. Mr. Butson was doing better, because he had stopped school and was not having to type as much. Dr. Won decided that if the number of his credit hours were reduced, Dr. Won thought he could continue with his vocational training. Dr. Won limited the number of credit hours Mr. Butson could take to 12, and recommended that he restart vocational training and continue with paraffin baths. Dr. Won saw Mr. Butson back on January 7, 2011, and he was doing better and not taking any medication. Mr. Butson wanted to resume his vocational training, and Dr. Won determined that the flare-up of his thumb and wrist had resolved, but continued to limit Mr. Butson to 12 hours per quarter. (CABR, Dr. Won - Direct, page 18, lines 1, 4 and 25; page 19, lines 5 and 10; page 20, lines 4, 6, 11, 14 and 18; page 21, lines 15 and 17; and page 22, lines 3 and 13).

Rather than consider *RCW* 51.32.099(5)(b), enacted in 2009, providing for vocational plan interruption where continuation of a vocational plan is outside the control of the worker due to documented changes in the accepted medical condition that prevent further participation in the vocational plan, the Department, on June 4, 2010, suspended vocational

benefits for failure to cooperate in reasonable efforts at vocational rehabilitation. The Notice of Decision suspending vocational benefits, CABR, Exhibit No. 3, is attached as appendix "A". Then, when the Department closed the claim on December 23, 2010, and Dr. Won protested and requested reconsideration of the closure on January 11, 2011. The Department affirmed the closure on January 25, 2011, without recommending vocational services as requested pursuant to *RCW 51.32.099 (5)(b)*. (CABR, pages 48-49, 50 and 68).

Dr. David Karges, a Board Certified orthopedic surgeon, who testified on behalf of the Department, examined Mr. Butson on October 30, 2010, at the request of the claims manager at the Department, for the sole purpose of rating permanent impairment of his left upper extremity. Dr. Karges testified that Mr. Butson's major problem was the untreated CMC arthritis and lateral subluxation as shown by the x-rays. The CMC joint at the base of the thumb became more of a problem because the MP joint above it had been fused. The CMC arthritis is casually related to the industrial injury and will need further treatment in the not too distant future because of increasing symptomatology. Dr. Karges' diagram of the left hand is included as appendix "B". Dr. Karges is not a big fan of paraffin baths, but he has

seen them applied. (CABR, Dr. Karges - Cross, page 23, line 25; page 46, lines 6 and 12; page 47, lines 2, 8, 13 and 18; and page 48, line 1).

Dr. Won recommended paraffin baths because they are better than hot packs. The paraffin surrounds the skin and hardens, and is more efficient. Paraffin baths are not going to make the pain go away, but they help in the healing process. As well as the issue of whether Mr. Butson had reached maximum medical improvement, there was an issue on appeal as to whether Mr. Butson was able to return to work on a reasonably continuous basis during the period from June 4, 2010, through January 25, 2011. Dr. Won concluded that if Mr. Butson had an observatory job, he probably could have done that, but otherwise, he was probably temporarily totally disabled during this period of time. (CABR, Dr. Won - Direct, page 26, lines 3 and 8; and Cross, page 29, lines 5 and 10).

Michelle Stuedli, the vocational counselor assigned to Mr. Butson by the Department, testified that had Mr. Butson completed his vocational plan, he would be employable as an accounting clerk and office manager. But, since Mr. Butson had not completed his vocational plan, he was now only employable as a general office clerk. On April 29, 2010, Ms. Stuedli received a message from Mr. Butson that he was no longer attending class and was in contact with the Department. On June 1, 2010, Ms. Stuedli

received a copy of the chart note from Dr. Rabie dated May 27, 2010, stating that Mr. Butson should be restricted to two hours per day typing. (CABR, Stuedli - Direct, page 83, line 4; page 87, line 2; page 91, line 26; and page 93, line 2).

After the testimony of Mr. Butson and Dr. Won was read to the jury the afternoon of the first day of trial on December 9, 2013, the Department moved for judgment as a matter of law pursuant to *CR 50*, claiming that Mr. Butson had not established a *prima facie* case on the issue of the need for further treatment and the payment of time loss benefits from June 4, 2010, through January 25, 2011. Though the Superior Court has appellate jurisdiction on appeal from a decision of the Board of Industrial Insurance Appeals, the trial court would not consider the testimony of Dr. Karges which was favorable to Mr. Butson, and equated Dr. Won's testimony that Mr. Butson could only perform an observatory job to being able to perform sedentary to light work. Though the issues of treatment and time loss benefits had been decided as issues of fact before the Board of Industrial Insurance Appeals, the trial judge on the start of the second day of trial decided the issues as a matter of law and dismissed the jury before hearing the Department's witnesses. (Report of Proceedings, page 2, line 17; page

16, line 24; page 22, line 17; page 25, line 9, page 29, line 15; page 35, line 18; and page 40, line 17).

Argument

Assignment of Error

The trial court erred in dismissing Bruce Butson's appeal to a decision of the Board of Industrial Insurance Appeals as a matter of law pursuant to *CR 50*.

Issues Pertaining to Assignment of Error

1. Was there a legally sufficient evidentiary basis for a reasonable jury to have found for Mr. Butson on the issues of treatment or time loss benefits?
2. The Superior Court having appellate jurisdiction to hear appeals from decisions of the Board of Industrial Insurance Appeals, should the trial court have considered the testimony of the witnesses for the Department of Labor and Industries before dismissing the case on the issue of treatment?
3. Should the trial court have equated Dr. Paul Won's testimony that Mr. Butson could only perform an observatory job to the ability to

perform sedentary to light work from June 4, 2010, through January 25, 2011?

4. Is there an issue of fact as to whether Mr. Butson had a documented plan interruption that prevented him from participation in his vocational plan from June 4, 2010, through January 25, 2012?

CR 50(a)(2) provides that a motion for judgment as a matter of law may be made at any time before submission of the case to the jury. Pursuant to *CR 50(a)(1)*, when a party has been fully heard on an issue, and there is no legally sufficient evidentiary basis for a reasonable jury to have found for that party, the court may grant a motion for judgment as a matter of law against that party.

A challenge to the sufficiency of the evidence admits the truth of the plaintiff's evidence, and all inferences that can be reasonably drawn from the evidence. The trial court and the appellate courts must interpret the evidence most strongly against the Department of Labor and Industries and most favorably to Mr. Butson. *Spino v. Dep't of Labor & Indus.*, 1 Wn. App. 730, 731, 463 P.2d 256 (1969); *Warner v. Dep't of Labor & Indus.*, 68 Wn.2d

607, 414 P.2d 628 (1966); *Sawyer v. Dep't of Labor & Indus.*, 48 Wn.2d 761, 296 P.2d 706 (1956).

The claimant in industrial injury litigation has the burden of producing substantial evidence, as distinguished from a scintilla of evidence, to make a case for the jury. By substantial evidence is meant that character of evidence which would convince an unprejudiced thinking mind to the truth of the fact to which the evidence is directed. Only when the evidence is nothing more substantial than would permit the jury to speculate on two or more conjectural theories, is there insufficient evidence to support the claim. *Miller v. Dep't of Labor & Indus.*, 1 Wn. App. 473, 474, 478 and 480, 462 P.2d 558 (1969); *Saylor v. Dep't of Labor & Indus.*, 69 Wn.2d 893, 421 P.2d 362 (1966); *Omeitt v. Dep't of Labor & Indus.*, 21 Wn.2d 684, 152 P.2d 973 (1944).

In determining whether sufficient evidence has been produced by the non-moving party, though the evidence is in some respects unfavorable to him, Mr. Butson, is not bound by the unfavorable portion of such evidence, but is entitled to have his case submitted to the jury on the basis of the evidence which is more favorable to his contention. *Venezelos v. Dep't of Labor & Indus.*, 67 Wn.2d 71, 72-73, 406 P.2d 603 (1965); *Hyde v. Dep't of Labor & Indus.*, 46 Wn.2d 31, 278 P.2d 390 (1955).

On the issue of treatment, the question is was there sufficient evidence to submit the case to the jury on the need for further treatment. Pursuant to *WAC* 296-20-01002, an injured worker is entitled to all necessary and proper medical treatment until his condition has reached maximum medical improvement, or has become medically fixed. Medical treatment can be diagnostic, curative, or rehabilitative. Rehabilitative treatment allows an injured worker to regain functional activity. Dr. Paul Won's testimony on this issue is at page 24 of his deposition testimony on May 24, 2012, in the Certified Appeal Board Record, Clerk's Papers, No. 6, page 24, lines 2 through 12, states:

Q. During this period of time from June 3, 2010, when you noted as far as his being compensated, would the paraffin baths during that period of time from that date, would those have been rehabilitative as far as he was concerned?

A. Yes. It would have helped decrease the pain.

Q. And were his conditions that he was being treated for approximately caused by the industrial injury of January 15, 2004, related to his left upper extremity?

A. Yes.

As of January 25, 2011, Mr. Butson then had not reached maximum medical improvement, and his treatment would have been rehabilitative, to enable him to regain functional capacity. *WAC* 286-20-02001 The Department's medical witness, Dr. David Karges, conducted a medical

evaluation at their request on October 30, 2010, and concluded that Mr. Butson's CMC arthritis at the base of his thumb, and lateral subluxation, are even more of a problem because he has a fused MP joint above it. The CMC arthritis is casually related to the industrial injury, and will need further treatment in the not too distant future. (CABR, Dr. Karges - Cross, page 40, line 24; page 46, line 6; page 47, lines 2, 8 and 13; and page 48, line 1).

Since Dr. Karges' testimony had not been read to the jury, the trial court would not consider the testimony of Dr. Karges as to whether Mr. Butson had reached maximum medical improvement as of January 25, 2012. (Report of Proceedings, Page 40, line 17). Since the Superior Court has appellate jurisdiction in worker compensation cases on appeal from the Board, as opposed to original jurisdiction, and Dr. Karges' testimony was available as part of the Certified Appeal Board Record, the trial court should have considered it before deciding the motion. *RCW 51.52.115, Fay v. N.W. Airlines*, 115 Wn.2d 194, 796 P.2d 412 (1990).

Interpreting the evidence most favorably to Mr. Butson, and all inferences that can reasonably be drawn from the evidence, there was more than a mere scintilla of evidence on the issue of whether Mr. Butson had reached maximum medical improvement as of January 25, 2012.

reached maximum medical improvement as of January 25, 2012. Mr. Butson should not be bound by any unfavorable portion of either Dr. Won or Dr. Karges' testimony as long as the favorable portion of their testimony supports his claim. Mr. Butson was entitled to have his case submitted to the jury on the issue of treatment, and the *CR 50* motion should not have been granted on that issue. *Spino v. Dep't of Labor & Indus.*, 1 Wn. App. at page 731; *Wilber v. Dep't of Labor & Indus.*, 1 Wn. App., at page 474; *Venezelos v. Dep't of Labor & Indus.*, 67 Wn.2d, at page 72-73.

On the issue of temporary total disability, or the payment of time loss benefits from June 4, 2010, through January 25, 2012, the trial court also decided there was insufficient evidence to submit the case to the jury. Dr. Won's testimony on this issue is at page 25 of his deposition, commencing at line 24, and continuing through page 26, line 8, of the CABR and states:

Q. So, in your opinion based upon reasonable medical probability, was he temporarily totally disabled during the period of time June 4, 2010, through January 25, 2011?

A. Like I said, if he had an observatory job, then he probably could have done it. But he wasn't able to continue what he was doing.

Q. Was that inability approximately caused by the industrial injury on June 15, 2004?

A. Yes.

When Dr. Won testified that Mr. Butson could only perform an observatory job, the trial court in granting the Department's *CR 50* motion equated an observatory with light duty or sedentary work without any evidentiary foundation what so ever. (RP, page 22, line 23 through page 23, line 7). At no time did Dr. Won testify that Mr. Butson could work as a clerk. Michelle Stuedli, the vocational rehabilitation counselor for the Department, testified that Mr. Butson could perform as a general office clerk, but the trial judge did not think that he could consider Ms. Stuedli's testimony. (CABR, Stuedli - Direct, page 93, line 2).

The dictionary definition of observe, as opposed to work, is to see. watch or notice; to regard with attention; or to watch, view or note for a scientific or other special purpose. The definition of work means to actively participate in some form of physical activity. Sedentary and light refers to the actual level of physical activity. Being able to perform an observatory job, watching someone work, does not include being able to perform the duties of a general office clerk, which would involve some level of physical activity. The distinction between an observatory job and sedentary or light work is substantial. The jury would not have to speculate on two or more conjectional theories, and there is sufficient evidence to decide the case in

favor of Mr. Butson as an issue of fact. (*Miller v. Dep't of Labor & Indus.*, 1 Wn. App. at page 477).

As of January 25, 2011, Dr. Won was recommending that Mr. Butson be allowed to continue his vocational rehabilitation program at Clark College with reduced credit hours, and Mr. Butson would be employable if he completed that program. (CABR, Dr. Won - Direct, page 25, lines 9, 15 and 18). *RCW* 51.32.095(5)(b) provides that if there is a vocational plan interruption due to documented changes in the worker's accepted medical condition that prevents the worker from participating in his vocational plan, the plan interruption is considered outside of the control of the worker, and the vocational plan should be recommenced by the Department. See plaintiff's proposed instruction No. 11, included as appendix "C". (Clerk's Papers, No. 15).

Mr. Butson had documented changes in his left thumb that prevented him from participating in the vocational plan from June 4, 2010, through January 25, 2011. When Mr. Butson was able to be seen by Dr. Ezra Rabie on May 27, 2010, Dr. Rabie limited his use of a computer to two hours a day, which had been five to six hours a day, and ordered a bone scan, which he had on June 7, 2010. Dr. Rabie on May 27, 2010, also ordered physical therapy, which Mr. Butson had three times a week for one-and-a-half hours a

day through July 2010. On June 17, 2010, Dr. Paul Won saw Mr. Butson, and reviewed the bone scan which showed increased inflammation of the left thumb. Dr. Won referred Mr. Butson to Dr. Weirich, who had previously performed surgery on Mr. Butson's left thumb, for a surgical consultation. Dr. Weirich saw Mr. Butson on October 5, 2012, and recommended conservative treatment and ordered paraffin baths.

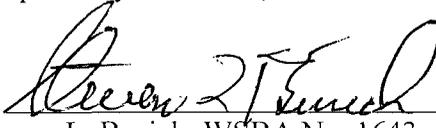
On December 2, 2012, when Dr. Won saw Mr. Butson, he was doing better because he had stopped school and was not having to type as much. Dr. Won recommended that Mr. Butson's credit hours be reduced from 18 to 12 credit hours per quarter or term, and that he restart vocational retraining, but continue with the paraffin baths. There is substantial evidence of a question of fact, or which reasonable minds could differ, as to whether there were documented changes in Mr. Butson's medical condition that prevented him from participating in his vocational plan, and whether the Department should restart his vocational plan as of January 25, 2011. *Spino v. Dep't of Labor & Indus.*, 1 Wn. App. at page 731; *Miller v. Dep't of Labor & Indus.*, 1 Wn. App., at page 474; *Venezelos v. Dep't Labor & Indus.*, 67 Wn.2d, at pages 72-73.

Conclusion

There was a legally sufficient evidentiary basis for a reasonable jury to have found for Mr. Butson on the issues of treatment as of January 25, 2012, time loss benefits from June 4, 2010, through January 25, 2012, and restarting vocational services as of January 25, 2012, and Mr. Butson should be awarded a new trial.

Dated June 6, 2014

Respectfully submitted,



Steven L. Busick, WSBA No. 1643
Attorney for Bruce E. Butson,
Appellant/Plaintiff

STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
DIVISION OF INDUSTRIAL INSURANCE
PO BOX 44291
OLYMPIA, WA 98504-4291

MAILING DATE 06/04/2010
CLAIM NUMBER Y343274
INJURY DATE 01/15/2004
CLAIMANT BUTSON BRUCE E

EMPLOYER BLUE HERON PLUM
UBI NUMBER 601 702 396
ACCOUNT ID 908, 058-00
RISK CLASS 306
SERVICE LOC Vancouver

BRUCE BUTSON
6318 E EVERGREEN BLVD
VANCOUVER WA 98661-7624

NOTICE OF DECISION

It is hereby ordered that your right to vocational benefits be suspended effective the date of this order for failure to cooperate.

This action is taken in accordance with RCW 51.32.110 which states in part as follows:

"If the worker...shall refuse or obstruct evaluation or examination for the purpose of vocational rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department, with notice to the worker may suspend any further action on any claim of such worker so long as such refusal, obstruction, non-cooperation, or practice continues and reduce, suspend, or deny any compensation for such period."

The suspension will remain in effect until you cooperate or the claim is closed.

Supervisor of Industrial Insurance
By Robert Buchanan
Claims Manager
(360) 902-4270

MAILED TO: WORKER - BRUCE BUTSON
6318 E EVERGREEN BLVD, VANCOUVER WA 98661-7624
PROVIDER - FLEISS JASON A MD
KAISER PERMANENTE, 2211 E MILL PLAIN BLVD, VANCOUVER WA 986

	THIS ORDER BECOMES FINAL 60 DAYS FROM THE DATE IT IS	
	COMMUNICATED TO YOU UNLESS YOU DO ONE OF THE FOLLOWING: FILE	
	A WRITTEN REQUEST FOR RECONSIDERATION WITH THE DEPARTMENT OR	
	FILE A WRITTEN APPEAL WITH THE BOARD OF INDUSTRIAL INSURANCE	
	APPEALS. IF YOU FILE FOR RECONSIDERATION, YOU SHOULD INCLUDE THE	
	REASONS YOU BELIEVE THIS DECISION IS WRONG AND SEND IT TO:	
	DEPARTMENT OF LABOR AND INDUSTRIES, PO BOX 44291, OLYMPIA, WA	
	98504-4291. WE WILL REVIEW YOUR REQUEST AND ISSUE A NEW ORDER.	
	IF YOU FILE AN APPEAL, SEND IT TO: BOARD OF INDUSTRIAL INSURANCE	
	APPEALS, PO BOX 42401, OLYMPIA WA 98504-2401 OR SUBMIT IT ON AN	
	ELECTRONIC FORM FOUND AT HTTP://WWW.BIIA.WA.GOV/.	

Metacarpophalangeal Joint

Navicular

DRUS
 Distal radio-ulnar
 +
 (not inherently stable)

MC MP jt

MC

CMC jt

Trapezium

Trapezoid

Styloid Process of the Radius

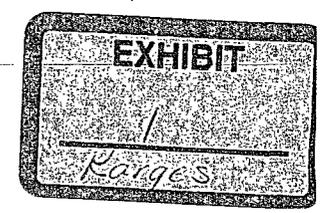
Scaphoid (navicular)

Capitate

Radius

Hip jt (stable)

Interosseus membrane



INSTRUCTION NO. 11

The law provides that if there is a vocational plan interruption due to documented changes in the worker's accepted medical condition, in this case his left hand and wrist including the thumb, that prevents the worker from participation in his vocational plan, the plan interruption is considered outside of the control of the worker, and the vocational plan should be recommenced by the Department of Labor and Industries.

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COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

Bruce E. Butson,)	Court of Appeals Case No. 45928-1-II
Appellant,)	Clark County Case No. 13-2-00113-0
v.)	PROOF OF SERVICE
Department of Labor and Industries,)	
Respondent.)	

The undersigned states that on Friday, the 6th day of June, 2014, I deposited in the United States Mail, with proper postage prepaid, Brief of Appellant, dated June 6, 2014, addressed as follows:

Kaylynn What, Assistant Attorney General
Attorney General of Washington
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct:

June 6, 2014 Vancouver, WA


STEVEN L. BUSICK