

CONNECTICUT LOIS WINS ON CHALLENGING ADDITIONAL BODY PARTS



The claimant was injured on January 31, 2022, while pushing a stretcher in a driveway, slipping, and falling on ice. At the hearing on August 1, 2022, the claim was established to the left shoulder with an AWW of \$1,050.39 without prejudice. At a hearing on December 6, 2022, the Law Judge found PFME for left-hand carpal tunnel syndrome.

An IME was performed on December 24, 2022. He diagnosed a left shoulder labral tear, bicep tendonitis with subacromial impingement, and left cubital tunnel syndrome. He opined that there was no clinical evidence of carpal tunnel syndrome and questioned the accuracy of the EMG/NCV. He also noted that the claimant is in need of left shoulder surgery.

The deposition of the IME physician did not result in an appearance. However, we noted that our adversary did not properly subpoena the IME timely and properly under the Civil Procedure Laws and Regulations (CPLR). During the treating doctor's deposition we confronted him with the fact that this report did not state that the carpal tunnel syndrome was a direct and natural consequence of the established left shoulder injury. We also had the doctor confirm that the claimant's Tinel's sign was negative, which means that the claimant did not have a tingling sensation despite her subjective complaints of same.

At the hearing the Law Judge heard summations with respect to the issue of causally related left carpal tunnel syndrome. LOIS attorney Adam Lowenstein pointed out the failure of claimant's counsel to properly subpoena the IME as well as the multiple concessions of the treating physician. Ultimately, the Law Judge was persuaded by our arguments and disallowed the left carpal tunnel syndrome claim. Leading to this decision he found that the treating physician's report

was insufficient to establish causal relationship. He also did not preclude the report of the IME as he was not properly subpoenaed. The case was continued on the issue of degree of disability without the addition of left carpal tunnel syndrome.



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