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8 **IN RE THE MATTER OF ARBITRATION BETWEEN:**

9) Arbitration No. 11922
10) **DISMISSAL OF ALL CLAIMS BY CLAIMANT**
11 Claimants,)
12 and)
13)
14)
15)
16 Respondents.)
17

18 Claimant, , hereby dismisses, with prejudice, every claim, action, cause of
19 action, demand, right, damage, cost, loss of service, expense, compensation, and liability of whatever
20 kind or nature, which Claimant ever had, now has, or may hereafter have, arising from or in any way
21 growing out of any and all known and unknown, foreseen and unforeseen bodily and personal injuries,
22 property damages, economic losses, and other losses and damages and the consequences thereof,
23 arising from or in any way associated with the medical care provided by the Respondents,
24 and
25 to Decedent in November and December 2011, in the , State of
26 California, and made the subject of this litigation, initiated by the Demand for Arbitration dated
27 November 20, 2012, and made OIA Arbitration Claim No. 11922, by Claimants and against
28 ///

1 Respondents, and

2

3 **NOTHING IN THIS DISMISSAL PROHIBITS OR RESTRICTS THE ENROLLEE OR THE UNDERSIGNED FROM DISCUSSING OR REPORTING THE UNDERLYING FACTS, RESULTS, TERMS AND CONDITIONS OF THIS DISMISSAL TO THE DEPARTMENT OF MANAGED CARE.**
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7 Dated: March 26, 2013 By: ______________________
8 Claimant, *In Pro Per*

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8 **IN RE THE MATTER OF ARBITRATION BETWEEN:**

, and	Arbitration No. 11922
,	
	ARBITRATION AWARD
Claimants,	
and	
and	
,	
Respondents.	

TO CLAIMANT, , ***in pro per,*** **and RESPONDENTS,** , **and** **:**

Having granted the motion for terminating sanctions to dismiss this case in its entirety, submitted by Respondents, , and , the neutral arbitrator hereby issues this Arbitration award in favor of Respondents, , and

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, and against Claimant, , on all claims asserted in the above-captioned matter. Claimant shall take nothing in this matter.

NOTHING IN THIS ARBITRATION AWARD PROHIBITS OR RESTRICTS THE ENROLLEE OR THE UNDERSIGNED FROM DISCUSSING OR REPORTING THE UNDERLYING FACTS, RESULTS, TERMS AND CONDITIONS OF THIS AWARD TO THE DEPARTMENT OF MANAGED CARE.

Date: 7/9/13

THOMAS E. GNIATKOWSKI, ESQ.
NEUTRAL ARBITRATOR

IN RE ARBITRATION BETWEEN

and ,

Claimants,

vs.

Respondents.

CASE NO. 11867

[PROPOSED] ORDER

DATE: June 18, 2013
TIME: 10:30
Location: Thomas E. Gniatkowski, Esq.
380 S. Melrose Ave.
Suite 363
Vista, CA 92081

On June 18, 2013, this arbitrator granted Respondents, ; and Motion for Summary Judgement.

IT IS ORDERED, ADJUDGED AND DECREED THAT Claimants take nothing in their complaint against Respondents, and judgment be entered in favor of Respondents. Each side shall bear their own costs.

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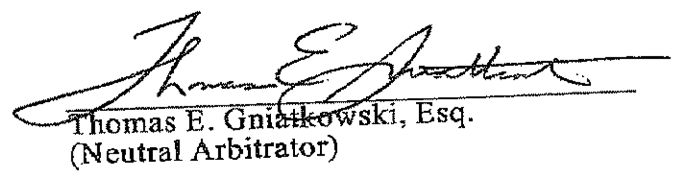
1 **Nothing in this arbitration decision (Motion for Summary Adjudication) prohibits or**
2 **restricts the enrollee from discussing or reporting the underlying facts, results, terms and**
3 **conditions of this decision to the Department of Managed Health Care (DMHC).**
4
5 DATED: 6/26/13



Thomas E. Gniatkowski, Esq.
(Neutral Arbitrator)

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IN RE ARBITRATION BETWEEN

, Claimants, vs. Respondents.	CASE NO. 11867 **[PROPOSED] JUDGMENT BY NEUTRAL ARBITRATOR UNDER CCP §437c** DATE: June 18, 2013 TIME: 10:30 Location: Thomas E. Gniatkowski, Esq. 380 S. Melrose Ave. Suite 363 Vista, CA 92081

On June 18, 2013, this Arbitrator granted Respondents,

and

Motion for Summary Judgment and ordered entry of Judgment in their favor as requested in said motion.

IT IS ORDERED, ADJUDGED AND DECREED THAT Claimants take nothing in their Demand for Arbitration against Respondents, and judgment be entered in favor of Respondents. Each side shall bear their own costs.

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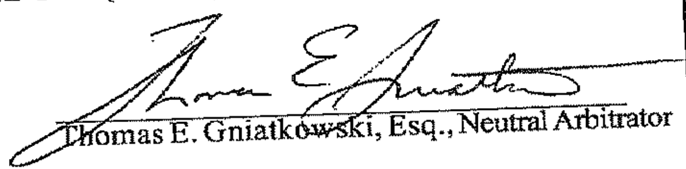
1 **Nothing in this Arbitration decision (Motion for Summary Judgment) prohibits or restricts**
2 **the enrollee from discussing or reporting the underlying facts, results, terms and conditions of this**
3 **decision to the Department of Managed Health Care (DMHC).**
4
5 DATED: 6/26/13



Thomas E. Gniatkowski, Esq., Neutral Arbitrator

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1ST AMENDED

Arbitration Award

Instructions: Use of this form is optional. Within fifteen business days of the date of the closing of most arbitration hearings, the Neutral Arbitrator must serve the Arbitration Award on the Parties and the Independent Administrator. If there were three arbitrators, this Award must be signed by at least two of them. See Arbitration Rules 37 - 39. Return to:

Office of the Independent Administrator
3580 Wilshire Boulevard, Suite 2020
Los Angeles, California 90010
Fax: 213-637-8658

Arbitration Name: **Arbitration Number:** 11867

THOMAS E. GNIATKOWSKI, the Arbitrator(s) selected to determine the dispute between the Parties in the above referenced action, find(s):

An arbitration hearing was held on ______.

It is the decision of the Arbitrator(s) that the prevailing Party in this Arbitration is **Check one:**

______ The Claimant(s) is entitled to ______.

Or:

✓ The Respondent(s) is entitled to SUMMARY JUDGEMENT (SEE ATTACHED)

The reasons for this decision are attached.
(Arbitration Rule 38 requires that the Award provide findings of fact and conclusions of law, consistent with California Code of Civil Procedure Section 437c(g) or Section 632.)

Nothing in this arbitration decision prohibits or restricts the enrollee from discussing or reporting the underlying facts, results, terms and conditions of this decision to the Department of Managed Health Care.

[signature] Thomas E. Gniatkowski — Signature of Neutral Arbitrator — Date: 6/20/13

______ Signature of Party Arbitrator — Date ______

______ Signature of Party Arbitrator — Date ______

NOTHING IN THIS ARBITRATION DECISION PROHIBITS OR RESTRICTS THE ENROLLEE FROM DISCUSSING OR REPORTING THE UNDERLYING FACTS, RESULTS, TERMS AND CONDITIONS OF THIS DECISION TO THE DEPARTMENT OF MANAGED HEALTH CARE (DMHC) [initials] 6/21/13

Law Offices
THOMAS E. GNIATKOWSKI

A Professional Corporation
Mailing address
PO Box 3115
San Clemente, CA 92674-3115

380 S. Melrose Drive #363
Vista, CA 92081
(760) 845-4783
E-Mail tomg46@yahoo.com

March 31, 2015

Re: vs.
10965

Dear Counsel:

This is my award in the matter.

The first issue I must address is whether the Respondent Dr. 's treatment of Mrs. fell below the required standard of care for a family practitioner.

As the parties are aware, Claimant was examined on two prior occasions at by practitioners both of which noted differently describe headache symptomatology.

Respondent's physician, Dr. , examined Claimant for the first time on November 5, 2008. Although Dr. formed a diagnosis of "cervicogenic" headache in his examination of Claimant, there did not appear to be any physical examination findings to support this diagnosis. Respondent also apparently utilized Claimant's husband to take the Claimant's history instead of examining Mrs. directly without replies from her husband which would certainly be possible in that the Respondent was bilingual. This deference in taking Claimant's history was "cultural" in nature and Respondent stated that Mrs. either nodded in agreement or said "yes" to his questions.

The notes in Claimant's medical chart for this examination do not show that Respondent performed a funduscopic examination although at his deposition some four years later he specifically recalled doing so. He stated that he might not have recorded it if the findings were "normal." He did not conduct a complete neurological examination nor provide a differential diagnosis. In regards to the findings of this funduscopic examination, Respondent was questioned regarding whether he noticed any papilledema and he could not adequately explain what the presence of this condition might mean in diagnosing Claimant's meningioma.

I recognize that there is a dispute between the parties' experts on whether in fact the meningioma which ultimately caused the Claimant's injuries would have been detectible even if a proper funduscopic exam was performed during the November 5, 2008 physical visit. Claimant's expert, Dr. ., indicated it would in fact have been observable. That opinion was disputed by Respondent's experts Dr. and Dr. based on their review of Mrs. 's post-Vietnam surgery findings. Whether or not papilledema would have been found during the November 5, 2008 examination is not controlling, in my opinion. Dr. , as the treater, still had responsibility to more fully address the Claimant's apparent ongoing headache symptomatology.

Dr. testified that approximately 30% of all his patients have a primary complaint of headaches during their office visits. It appears that this condition is a "nuanced" one which requires the physician to ask appropriate detailed follow-up questions even if information is not volunteered by the patient. Dr. indicated during his examination of Mr. on November 4, 2008 (the day before Claimant's exam) that he ordered an MRI Study for Mr. One of the factors stated in making this decision was that he was aware the presence of headaches "could" indicate the existence of a brain tumor. (I recognize that Mr. presented with different symptomatology, that according to Dr. , justified an imaging evaluation of his condition).

Dr. testified that his "average" patient exam visits run approximately 15 to 20 minutes. He also testified he sees about 20 patients per day, five days a week. Nevertheless, this volume of patient care does not obviate the Respondent's obligations to perform his evaluations to the appropriate standard of care.

Respondent asserts that follow-up visits by Claimant to Dr. , prior to her departure to Vietnam, lacks any notation of headache symptomatology in the medical charts. But it is unknown if any questioning about headaches was made by Dr. Dr. 's testimony was that sometimes these chart notes can be absent because they produce "normal" findings and therefore are not included. Clearly such "negative" findings should be delineated as they form a basis for ongoing patient evaluation.

It is not possible to clearly establish from the submitted records whether Mrs. either directly or through her interpreter during her follow-up visits after November, 2008 ever expressed headache complaints. Whether Mr. 's comment about Claimant's "short-term" blindness at work was ever expressed to Respondent or other personnel sometimes in early 2009 is equally uncertain due to Respondent's sometime poor chart record keeping.

Headache complaints appear to be frequently reported in 2008 and they presented a panoply of symptoms. This frequency by Claimant and apparently other patients may account for the poor documentation and charting which would result in a lack of appropriate follow-up diagnosis.

I therefore find that Respondent Dr. breached the appropriate standard of care as a Family practitioner and therefore is negligent in this matter.

Having reached this determination, I must also address Respondent's claim of "comparative" negligence of both Mr. and Mrs.

As to Mr. , he was clearly aware of the existence of his wife's tumor based on diagnostic studies performed in Vietnam on March 17, 2009. He testified at the hearing he knew that this tumor required surgery "as soon as possible." He further testified that he spoke to his wife on a daily basis while in Vietnam and that although he did not specifically tell her that she had a brain tumor because he thought it would make her "sad", he was definitely aware of her deteriorating medical condition. The record is absent as to whether Mr. made any attempts to get more information from the Vietnam doctors either directly or through family members regarding the March 17 diagnostic studies. Nor that he made any efforts to advance his wife's return date of March 25, 2009, even after he was aware of the urgency for surgery. Apparently all he chose to do was to ask his wife if she could continue to "live" with her complaints until her regularly scheduled return on March 25, 2009.

Mr. supported his inaction by testifying he was not confident in the local doctors' surgical expertise based on his prior life experiences in Vietnam. Furthermore, he had insurance coverage through in San Diego. I find that he should have taken a more "proactive" approach to his wife's deteriorating medical condition. It appears that Mr. had his daughter contact Dr. on March 17, 2009, requesting that additional diagnostic studies be performed on Mrs. when she returned to San Diego. This request was based upon the Vietnam findings that there was "something in her head." Nowhere in this request was it stated that the Vietnamese physicians recommended surgery as soon as possible nor that the Respondent was aware of Mrs. 's deteriorating medical condition.

Although I can appreciate Mr. 's lack of a medical background and his concerned as to the quality of care his wife might receive from a surgery in Vietnam he bears responsibility for her delayed care.

The expert testimony presented at our hearing indicated that if Mrs. had the tumor removal surgery prior March 23, 2009, her chances for a complete recovery with essentially no residual symptomatology, was in excess of 97%. Even the Vietnam physicians who performed the operation testified that had the surgery been done more timely her chances of a "complete" recovery would be in excess of 70%. I therefore find Mr. , based on his knowledge of the Vietnam doctor's recommendations for immediate surgery as well as his ongoing discussions with Mrs. as to her deteriorating medical condition, is 50% responsible for his damages in this matter.

Regarding Mrs. herself, although the family members and Mr. specifically expressed the fact that they did not advise her of the existence of this tumor for fear it would make her "sad", I find that she also bears some personal responsibility.

Mrs. was certainly aware of her deteriorating medical condition at the time she sought diagnostic studies in Vietnam on March 17, 2009. She knew during her family stay in Vietnam that her medical condition was worsening even though she was told by family members everything was "fine"with the March 17 scan. She had to be aware that something was wrong. Certainly the "you are fine" comment was at odds with what she was experiencing physically. Her regular communications with her husband outlined that she was continuing to sleep too much; had a poor appetite; no energy and was still experiencing ongoing headaches.

Again recognizing the cultural makeup of the family and that Mrs. was deferential to her husband's opinions, I nevertheless find that she was aware of her ongoing and worsening problems and chose to defer treatment until her scheduled return on March 25, 2009. This indifference, in my opinion, makes her 20% responsible for her own injuries.

Regarding Mrs. 's damages, I find she is entitled to reimbursement of the family medical bills paid on her behalf while she was in various facilities in Vietnam. The unreimbursed bills totaled $25,815.99.

Regarding her past and future wage loss, based on her age of 50 plus and with an existing record of earnings for several years before this incident, her losses should be calculated based on a projection of her earning history and not on industry-wide similar occupational wages. I have calculated the projected wages through age 65 and deducted offset social security disability payments through the same age. That resulted in a "net" amount of $169,163.

On the question of reimbursement for services rendered by Mrs. 's family from when she returned to San Diego to the date of our hearing, I have accepted Claimant's counsel calculation of 43,800 hours. But I view this portion of the case's damages as being "Howell" type issue in that the only established value for these services is the $10 an hour paid by IHSS. Therefore, I am awarding the above hours at $10 per hour totaling $438,000. The Respondent has produced no specific amounts paid by IHSS to Mrs. 's family for this period therefore no offsets are allowed.

Regarding future medical care, Respondent's position under "Howell" and its progeny, these charges should be based on the reasonable amounts that the providers would accept and not the usual and customary billing amounts is not legally unsupported. "Howell" only applies to charges incurred to date. It would be far too speculative to estimate what various providers would accept in the future. I am also reluctant to accept Respondent's position that the Claimant would be covered by the "Silver" plan presently offered under the "Obama" healthcare initiative. In light of the numerous attempts to repeal this law, I feel it is uncertain to assume this coverage for Claimant's future medical treatment.

On the issue of attendant care, it appears clear from the record that Mrs. will require "Wakeful" assistance in the future. Apparently attempts to address her bladder issues via medication to avoid

this assistance was unsuccessful because of potentially adverse side effects. My calculation of the future medical care coupled with the required attendant care totals $ 3,032,390.

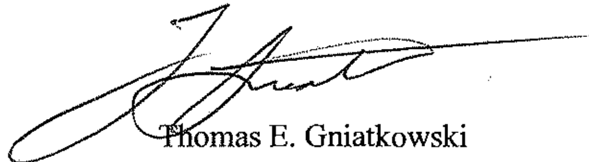
Lastly, she is entitled to noneconomic damages under the MICRA statutory limit of $250,000 dollars.

The above items total $ 3,915,368.90. Reducing this amount by Mrs. 's comparative negligence of 20% results in a "net" finding of $ 3,132,295.10.

As to Mr. 's damages, his only claim is for non-economic damages under the MICRA. Based on a maximum recovery of $250,000, offset by his 50% "comparative" negligence, his recovery would be $125,000.

"Nothing in this arbitration decision prohibits or restricts the enrollee from discussing or reporting the underlying facts, results, terms and conditions of this decision to the Department of Managed Health Care."

Very truly yours,



Thomas E. Gniatkowski

cc:

Instructions: Use of this form is optional. Within fifteen business days of the date of the closing of most arbitration hearings, the Neutral Arbitrator must serve the Arbitration Award on the Parties and the Independent Administrator. If there were three arbitrators, this Award must be signed by at least two of them. See Arbitration Rules 37 - 39. Return to:

Fax:

Arbitration Name: **Arbitration Number: 10965**

THOMAS E. GAJIATROWSKY, the Arbitrator(s) selected to determine the dispute between the Parties in the above referenced action, find(s):

An arbitration hearing was held on Feb 9 - 18, 2015.

It is the decision of the Arbitrator(s) that the prevailing Party in this Arbitration is **Check one:**

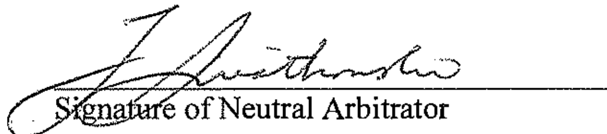
✓ The Claimant(s) is entitled to MS. $3,132,295.10
MR. $125,000

Or:

______ The Respondent(s) is entitled to ______________________.

The reasons for this decision are attached.
(Arbitration Rule 38 requires that the Award provide findings of fact and conclusions of law, consistent with California Code of Civil Procedure Section 437c(g) or Section 632.)

Nothing in this arbitration decision prohibits or restricts the enrollee from discussing or reporting the underlying facts, results, terms and conditions of this decision to the Department of Managed Health Care.



Signature of Neutral Arbitrator — Date: 3/31/15

______________________ Signature of Party Arbitrator — Date

______________________ Signature of Party Arbitrator — Date

Arbitration Award

Instructions: Use of this form is optional. Within fifteen business days of the date of the closing of most arbitration hearings, the Neutral Arbitrator must serve the Arbitration Award on the Parties and . If there were three arbitrators, this Award must be signed by at least two of them. See Rules 37 - 39. Return to:

Fax:

Arbitration Name: **Arbitration Number: 13162**

Thomas E. Gwiatkowski, the Arbitrator(s) selected to determine the dispute between the Parties in the above referenced action, find(s):

An arbitration hearing was held on 1/26 - 1/29/16 + 2/1/16.

It is the decision of the Arbitrator(s) that the prevailing Party in this Arbitration is **Check one:**

✓ The Claimant(s) is entitled to 1,489,568.00.

Or:

______ The Respondent(s) is entitled to ______.

The reasons for this decision are attached.
(Rule 38 requires that the Award provide findings of fact and conclusions of law, consistent with California Code of Civil Procedure Section 437c(g) or Section 632.)

Nothing in this arbitration decision prohibits or restricts the enrollee from discussing or reporting the underlying facts, results, terms and conditions of this decision to the Department of Managed Health Care.

[signature] Signature of Neutral Arbitrator — Date: 2/22/16

Signature of Party Arbitrator — Date

Signature of Party Arbitrator — Date

Thomas E. Gniatkowski
PO Box 3115
San Clemente, CA 92674-3115
February 19, 2016

, Esq. , Esq

ATTORNEYS FOR CLAIMANT

, Esq.
, Esq.

ATTORNEYS FOR RESPONDENTS
AND

Re: vs. , Arbitration No. 13162

Dear Counsel:

The only issue is whether Dr. used inappropriate (i.e., excessive) refraction while attempting to perform Claimant's tenodesis resulting in injury to her bracial plexus.

Dr. is board certified in orthopedics with a subspecialty in sports medicine. He has performed numerous similar procedures on other patients in the past. He certainly presents as a careful and thorough physician. He appears to have adequately advised Ms. of the attendant risks with the surgeries he intended to perform. Appropriate pre-surgical testing was conducted and no anatomical abnormalities are noted in Ms. past medical history even though she sustained substantial prior orthopedic injuries in an automobile accident some 20 years ago.

The initial shoulder arthroscopy was performed as intended but while Dr. was performing the tenodesis portion of the surgery on Ms. dominant left arm he described "abnormal bleeding" which initially he believed originated in the lateral portion of Ms. arm. He subsequently determined it was in the medial portion. It indicates in his postoperative report (Exhibit 13) that he did not complete the tenodesis as he thought FURTHER (emphasis added) retraction could subject the patient to potential for injury. Nowhere does Dr. state any findings of anatomical aberrations involving Claimant.

Exhibit 6, Respondents operative report on page 3 indicates that Dr. (who states that he personally places all retractors used during surgery) initially retracted in the region laterally and superiorly. He then states that another retractor is placed medially for skin retraction GENTLY (emphasis added). Thus a total of three retractors were employed as the Respondent was attempting to address the unexpected bleed of the Cephalic vein which he states was torn with retraction.

Unfortunately no videotaping of the procedure was performed nor does any real time audio record of the operation exist, so one must rely upon Dr. operative notes and the attendant records to glean what transpired. Although it is clear from the timeline established in other records that Respondent's post operation notes were dictated before Dr. was aware of any complications with Ms. left shoulder, inconsistencies appear.

Dr. was assisted in surgery by others including Mr. who is a registered nurse first assistant. According to Dr. description of the surgery, Mr. was holding at least two retractors during the process one medially and one laterally (the medial one presenting the most possible risk to Ms. brachial plexus). That account is different from Mr. who recalls only holding one retractor laterally as he was using his other arm to hold Ms. arm.

Assuming Respondent's memory of the surgery is more complete that Mr. , it is difficult to assess what forces where employed and by whom. If Mr. was in fact holding two retractors who controlled the other one? Also, Dr. would have no way to know accurately how much retraction force was employed by Mr. or others as he was not holding them once he passed them off. His attention was properly directed to the unexpected bleeding which he testified took some ten minutes of his time.

In arriving at my conclusion as to whether Dr. surgical performance falls below the appropriate standard of care I do not use hindsight and assume that since there is a substantial brachial plexus injury therefore negligence must be assumed. I find no Res Ipsa applicably under our facts.

Dr. himself describes Ms. injury as iatrogenic in nature. His immediate post surgery attention to Ms. signals to me that he was instantly aware that something went wrong. Although I understand Respondent's argument that Exhibit 13's postoperative note that the term "further retraction" could be meant to apply only to the tenodesis procedure itself which was not performed, I believe the weight of the evidence supports that the Claimant has met their burden of proof and that Ms. injury resulted from Dr. or others of his surgical team's negligence.

Having addressed the issue of liability, I next calculated Ms. loss of earnings from the date of the incident for the balance of her work life expectancy estimated at slightly over 19 years.

Using a baseline for her wages over the last three years of Real Estates sales income from her tax return Schedule C, the average was $44,000 per year. Additionally, she employed a part time assistant at what was described as a salary of $13,000 per year.

Using Mr. calculation of earnings from May 13, 2014 (the estimated date that Ms. should have reached normal recovery from her surgeries) through January 1, 2016, Claimant's projected earnings came to $72,160 without a part time assistant. I calculated the offsets for the period May 2014 through January 2016 differently. Ms. had an assistant pre surgeries working with her in her two business ventures approximately 15 hours per week. My offset for her services was $13,412 as well as the other offsets of $26,902. I then used Claimant's replacement labor costs through January 2016 at $49,200 accepting that she would need this level of assistance immediately post surgery to allow her maximum recovery.

Ms. projected real estate earnings for the balance of her work life time was $767,924 again without part time assistant costs. We must also address this offset over this time period as she will need help with office duties. I calculate the amount of $123,500 to cover her halftime pay and attendant costs and the other offset of $130,896.

The issue that I have most concern with is Claimant's future construction Labor costs over the balance of her projected work life.

At the time of her injury, Ms. indicated she was working at the equivalent of two full time jobs totaling some 60 to 80 hours per week. Half of that time was directed towards real estates sales and the balance towards fixing up and "flipping" properties which she personally performed numerous hands-on construction activities.

The testimony clearly shows that the Claimant had substantial degenerative arthritic issues with her dominant left arm pre surgery. Testimony stated that she would ultimately need a complete shoulder replacement surgery at some time in the future even without our present incident.

I do not believe that she would continue to do active physical construction labors such as window replacements, drywalling, etc. which she said she did prior for an additional 19 years. I believe over time it is more realistic to believe she would go into Real Estate sales full-time and when she found a potential "flipper" house she would hire labor assistance on a per job basis. I therefore accepted the Respondent's time estimate for

these services at approximately 12 weeks per year resulting in a future labor cost of $104,735.

I therefore total Ms. past and future wage loss at $699,309.

Addressing the issue of past medical care for the Claimant, I accepted the past medical specials of $13,759.

As to future medical care, there is a marked discrepancy between the parties over not only the duration but the type of appropriate care Ms. needs.

Claimant's position is that he has reached maximum medical improvement some one year post injury while Respondent's believe her nerve regeneration is continuing and will do so for another year or so.

I was impressed with Ms. pro active and in some cases self directed attempts to maximize her recovery. In reviewing Claimant's photographs and videos it does appear that she has shown ongoing functional improvement in her dominant left hand over one year post surgery. It also seems that Ms. orthopedic restrictions continue to diminish consistent with Respondent's expert testimony.

There is also a marked difference in a major portion of Ms. future medical needs specifically the Stellate Ganglion Blocks and the Brachial Plexus Blocks which she is receiving through Dr. at the present time. Claimant's projected costs for that ongoing treatment for the balance of her life comprises some 44 percent of her total projected medical treatment.

Respondent's testimony that the Brachial Plexus blocks are more "palliative" in nature and thus inappropriate as opposed to prescription medications seems credible. I therefore have denied that portion of Claimant's future medicals. It is also difficult for me to accept that Ms. will need the projected Stellate Ganglion Block care four times a year for the next 40 years plus in light of apparent ongoing improvement.

In my calculation of future medical costs I arrive at the sum of $576,500.

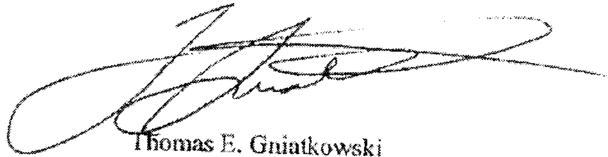
On the question of whether Ms. and her family procure medical coverage either through or some other provider, such coverage should not impact her projected medical care. The medical allotment will be treated as a "set-aside" and will have to be exhausted for her injuries before any third party insurance coverage payments will be involved.

Lastly, on the issue of noneconomic damages, I award Ms. the sum of $200,000.

I total Ms. award at $1,489,568.

"NOTHING IN THIS ARBITRATION AWARD PROHIBITS OR RESTRICTS THE ENROLLEE FROM DISCUSSING OR REPORTING THE UNDERLYING FACTS, RESULTS, TERMS AND CONDITIONS OF HIS DECISION TO THE DEPARTMENT OF MANAGED HEALTHCARE."

Very truly yours,



Thomas E. Gniatkowski