STATE OF VERMONT
DEPARTMENT OF LABOR

Aida Puzic

v.

Huber+Suhner

Opinion No. 05-13WC

By: Phyllis Phillips, Esq.
Hearing Officer

For: Anne M. Noonan
Commissioner

State File No. T-13448

OPINION AND ORDER

Hearing held in Montpelier on October 3, 2012
Record closed on November 29, 2012

APPEARANCES:

Christopher McVeigh, Esq., for Claimant
Jennifer Moore, Esq., for Defendant

ISSUES PRESENTED:

1. Was Claimant appropriately placed at end medical result for her November 2002 compensable work injury in April 2003?

2. Was Claimant's August 2010 right shoulder surgery necessitated by, and causally related to, her November 2002 compensable work injury?

3. Are Claimant's continued pain complaints and functional limitations causally related to her November 2002 compensable work injury?

4. If yes, to what workers' compensation benefits is Claimant entitled?

EXHIBITS:

Joint Exhibit I:	Medical records
Joint Exhibit II:	Deposition of John Macy, M.D., February 15, 2012
Claimant's Exhibit 1:	*Curriculum vitae,* Ann Goering, M.D.
Defendant's Exhibit A:	Request for Separation and Payment Information
Defendant's Exhibit B:	Disability Determination Explanation
Defendant's Exhibit C:	*Curriculum vitae,* Kuhrt Wieneke, M.D.

CLAIM:

Temporary total disability benefits pursuant to 21 V.S.A. §642
Medical benefits pursuant to 21 V.S.A. §640
Interest, costs and attorney fees pursuant to 21 V.S.A. §§664 and 678

FINDINGS OF FACT:

1. At all times relevant to these proceedings, Claimant was an employee and Defendant was her employer as those terms are defined in Vermont's Workers' Compensation Act.

2. Judicial notice is taken of all relevant forms and correspondence contained in the Department's file relating to this claim.

3. Claimant, a Bosnian immigrant, worked for Defendant as a cable assembly technician. Many of her job tasks required repetitive use of her upper extremities. Because she is right-handed, Claimant used her right arm more than her left arm for tasks involving forceful pushing and pulling.

Claimant's 2002 Work Injury, Treatment and End Medical Result Determination

4. On November 14, 2002 Claimant reported that she was suffering from pain and swelling in her right neck and shoulder area as a result of repetitive pressure while assembling cable. Defendant accepted the injury as compensable and began paying workers' compensation benefits accordingly.

5. Initially Claimant's injury was diagnosed as a trapezius muscle inflammation or strain. Other early diagnoses included cervical and thoracic strain, possible thoracic outlet syndrome and/or myofascial strain. As treatment, she underwent physical therapy and chiropractic manipulation, and also was prescribed a home exercise program. At work, she was restricted from repetitive activities and tasks involving forceful pulling. She also was required to take a five-minute stretch break every half hour.

6. In March 2003 Claimant was discharged from work hardening, having demonstrated the ability to perform the essential functions of her cable assembly job.

7. Although she was able to work, Claimant continued to complain of pain in the right side of her neck, radiating down into her arm and forearm. In April 2003 she underwent electrodiagnostic testing, which revealed mild bilateral carpal tunnel syndrome. There was no evidence of either ulnar neuropathy or cervical radiculopathy, however.

8. At Defendant's request, in April 2003 Claimant underwent an independent medical examination with Dr. Johansson, an osteopath, for the purpose of determining whether she had reached an end medical result for her work-related injury. Other than some minor tightness in her neck and shoulder, Dr. Johansson described a "fairly benign" examination. Claimant demonstrated normal range of motion and no significant spasms, trigger points or evidence of impingement. Based on these findings, he concluded that she had reached an end medical result for her work injury, which he diagnosed as a resolving cervicothoracic myofascial strain, with no ratable permanent impairment.

9. Defendant's occupational health provider, Dr. Wing, also examined Claimant in April 2003. Despite some persistent complaints of tenderness in her right shoulder and arm, Dr. Wing concluded, as Dr. Johansson had, that Claimant had reached an end medical result with no ratable permanent impairment either neurologically or in her cervical spine.

10. Although neither Dr. Johansson nor Dr. Wing considered Claimant's work injury to be permanent, both recommended ongoing work restrictions. Due to her lack of endurance, Dr. Johansson recommended that she avoid repetitive overhead work and sustained carrying and lifting. Dr. Wing recommended that she continue to take a five-minute stretch break every half hour.

Claimant's Post-End Medical Result Symptoms, Diagnosis and Treatment

11. Barely a week after Dr. Wing's end medical result determination, in late April 2003 Claimant reported to her then-primary care provider, Dr. Dougherty, that she was having difficulty at work due to ongoing pain and weakness in her hands, wrists, arms, shoulders and neck. Nevertheless, she continued working until September 2003, when she and some other employees were laid off. Thereafter, she collected unemployment benefits for a period of time. Claimant has not worked since her lay-off.

12. Since reporting her initial symptoms in November 2002 Claimant has never stopped seeking treatment. In addition to regular evaluations by her primary care providers (first Dr. Dougherty, and since 2004, Dr. Goering), in the past ten years she has treated with two physiatrists (Drs. Cody and Flimlin), a rheumatologist (Dr. Jones), an osteopath (Dr. Winslow), a hand surgeon (Dr. Mogan), four orthopedic surgeons (Drs. Nichols, Shafritz, Macy and Nutting), a psychiatrist (Dr. Erickson), an anesthesiologist (Dr. Roberts), a pain management specialist (Dr. Covington), and numerous physical therapists. Although various diagnoses have at times been proffered, by far the most prevalent conclusion among the myriad of practitioners who have evaluated and/or treated Claimant is that the etiology of her neck, shoulder and arm pain is unclear.

13. One possible diagnosis that merits special discussion is that of Dr. Jones, the rheumatologist. Dr. Jones evaluated and treated Claimant over a period of months in 2003. Her diagnosis was seronegative rheumatoid arthritis.

14. Rheumatoid arthritis is a systemic inflammatory disorder that attacks the tissues, cartilage, bones and linings of involved joints. In typical rheumatoid arthritis, the disease is indicated by a particular blood factor and corroborated by clinical signs. In seronegative rheumatoid arthritis, the diagnosis is made based on clinical signs only, notwithstanding negative blood tests.

15. In Claimant's case, Dr. Jones' diagnosis was based on hand x-rays showing erosions in the wrist consistent with the disease. As treatment, she strongly encouraged Claimant to accept a prescription for methotrexate. Fearing side effects, Claimant declined to do so. Dr. Jones prescribed other medications instead, but Claimant reported little improvement from them. She discontinued treatment with Dr. Jones in early 2004 and has never resumed any rheumatoid arthritis-directed therapies since.

16. Rheumatoid arthritis can cause swelling in the tissues of the wrist, thus leading to carpal tunnel syndrome, and also inflammation in the tendons of the shoulder. Patients who suffer from the disease are more prone to tendon tears, joint destruction and pain control issues. Thus, if the evidence clearly established that Claimant indeed suffers from rheumatoid arthritis, it might explain why her upper extremity complaints have proven so diffuse and difficult to treat over the years.

17. Notwithstanding Dr. Jones' diagnosis, Claimant consistently has maintained that her symptoms are not due to rheumatoid arthritis. There is evidence to support this position:

    - Rheumatoid arthritis being a progressive disease, one would expect worsening erosions in the joints in Claimant's hand over time, however, repeat x-rays failed to document any such change;

    - Neither diagnostic studies nor arthroscopic surgery have ever revealed any erosions of the cartilage, bone or joint lining in Claimant's right shoulder.

18. I find that there is insufficient evidence either to rule in the diagnosis of rheumatoid arthritis as the cause of Claimant's shoulder, neck and upper extremity symptoms, or to rule it out.

19. Despite having been off work since 2003 and therefore no longer exposed to repetitive stress, over time Claimant's subjective complaints have both worsened and become increasingly diffuse. They are best described as involving non-specific pain throughout her entire right shoulder and arm, radiating in a non-dermatomic distribution from her neck to her hand. Claimant has at times exhibited extreme anxiety about her pain, as well as poor postural muscle control and severe deconditioning. I find from the medical records that these latter factors have impeded her ability to accept the efficacy of such treatments as aggressive physical therapy, functional restoration or psychological pain management.

20. Prior to 2010, the objective evidence as to the nature and extent of any pathology in Claimant's shoulder or neck was scant. MRI studies in 2004, 2006 and 2009 failed to reveal any rotator cuff tear or other structural lesion of sufficient severity to account for her right shoulder symptoms. Nor did either MRI or electrodiagnostic studies document any significant cervical spine pathology.

21. Three of the four orthopedic surgeons with whom Claimant has consulted in the years since her injury concluded that her symptoms were unlikely to resolve with shoulder surgery. Neither Dr. Nichols (in both 2004 and 2012), nor Dr. Shafritz (in 2005), nor Dr. Nutting (in 2009) were able to localize the etiology of her pain complaints to any intrinsic shoulder pathology. As Dr. Shafritz aptly observed in 2005, with no impingement signs, nearly full range of motion and no relief from a steroid injection into the joint, the likelihood of surgical intervention being of benefit was "zero."

22. Prior to 2010, Dr. Macy as well expressed reservations regarding the efficacy of shoulder surgery. Given Claimant's diffuse pain pattern, the absence of any significant pathology on her MRI studies and her long-term pain management issues, in both 2006 and 2008 Dr. Macy concluded that she was not a good surgical candidate. Nevertheless, on both occasions he offered diagnostic arthroscopy as a means of determining whether there might be some undetected pathology in the joint. At the same time, he cautioned that even if he found something amenable to surgical repair, it was unlikely that all of Claimant's symptoms would be ameliorated thereby. At hearing, Claimant testified that because Dr. Macy could not guarantee significant symptom improvement with surgery, prior to 2010 she opted not to pursue it.

Claimant's Medical Treatment since 2009

23. On November 21, 2009 Claimant slipped and fell while grocery shopping. Although her testimony at hearing was somewhat contradictory, I find from the contemporaneous medical records that as she fell she likely landed on her outstretched hands. A fall of this type can cause the tendons in and around the rotator cuff to tear.

24. Claimant injured her right wrist in this fall. Although she continued to complain of right shoulder pain as well, I find from the contemporaneous medical records that the symptoms she reported in her shoulder and arm were not appreciably different from those she had reported as recently as two weeks before. Therefore, I find it unlikely that the fall caused any significant aggravation or exacerbation of her longstanding right shoulder, neck or upper extremity symptoms.

25. In May 2010 Claimant returned again to Dr. Macy for another evaluation of her right shoulder. Notably, she reported a significant increase in her pain over the prior year, and exhibited significantly reduced range of motion as compared with Dr. Macy's previous examinations in 2006 and 2008. Also in contrast to prior evaluations, this time an updated MRI study revealed a partial tear of one of the tendons in Claimant's shoulder. In his deposition, Dr. Macy credibly testified that this tear likely arose some time after his 2008 examination.

26. The 2010 MRI having revealed a structural lesion consistent with at least some of Claimant's shoulder symptoms, Dr. Macy again offered arthroscopic surgery as a treatment option. As he had in the past, even as he did so he expressed concern about Claimant's deconditioned state, her longstanding chronic pain and her difficult pain management issues.

27. This time Claimant elected to proceed with surgery. At hearing, she credibly testified that she did so because she believed this was her last opportunity to undergo possibly curative treatment for her shoulder. She also viewed surgery as a means of expressing her frustration at what she understood to be Dr. Macy's prior attempts to direct her towards psychologically oriented treatment instead.

28. In August 2010 Claimant underwent arthroscopic shoulder surgery, during which Dr. Macy repaired tendon tears in both her rotator cuff and her labrum. Notably, he did not observe any arthritis or inflammation in the joint.

29. Unfortunately, as Dr. Macy had suspected might occur, Claimant realized little if any symptom improvement after surgery. She continued to complain of persistent shoulder pain, resisted repeated suggestions that she be more aggressive with physical therapy and reported that she was unable to use her arm for any functional activities. Claimant insisted that there was still something intrinsically wrong in her shoulder, but a subsequent MRI study failed to reveal any new pathology. Nor could Dr. Macy discern a cause for her ongoing symptoms. His final diagnosis, as of June 2011, was "chronic right shoulder, arm and scapular pain of unknown etiology."

30. Most recently, in June 2012 Claimant underwent a functional capacity evaluation, which concluded that she was capable of only part-time, left-handed sedentary work. No evidence was presented from a vocational rehabilitation perspective as to whether she is employable within these parameters. Notably, following this evaluation Claimant reported increased pain not just in her right shoulder but also in her left shoulder and neck as well. X-ray findings were non-specific, and the record does not reflect whether these new complaints have yet been diagnosed.

31. At hearing, Claimant wore her right arm in a sling. She testified that she tries to keep moving her arm, but I find it unlikely that she does so to the extent her doctors have recommended. She relies on family members for assistance with both household chores and self-care activities. She was at times tearful, and has been diagnosed with reactive depression as a consequence of her chronic pain.

Expert Medical Opinions as to Causation

32. Four doctors provided expert medical testimony – Drs. Macy (by deposition) and Goering, who were treating physicians, and Drs. White and Wieneke, who were independent medical examiners.

(a) Dr. Macy

33. As reflected in his contemporaneous office notes, Dr. Macy was never able to discern with any certainty the etiology of Claimant's symptoms. In his deposition testimony, he acknowledged that the rotator cuff tear he surgically repaired in 2010 might have been caused by a fall similar to the one Claimant experienced in 2009. He also acknowledged the possibility that rheumatoid arthritis might be a causative factor in her case. Dr. Macy did not state either of these possibilities to a reasonable degree of medical certainty, however.

34. Dr. Macy was never asked, and did not render an opinion as to whether Claimant's shoulder pain had at any time been causally related to her November 2002 compensable work injury. He did state with certainty that it would be "very difficult" to localize her diffuse, chronic shoulder and arm pain to the small rotator cuff tear he repaired in 2010. I find this opinion credible.

(b) Dr. Goering

35. Dr. Goering, Claimant's primary care provider since 2004, also had difficulty identifying a specific cause for Claimant's shoulder, neck and upper extremity symptoms. She found it highly unlikely that rheumatoid arthritis was a contributing factor, and also expressed doubt that Claimant's 2009 fall while shopping appreciably worsened her condition. As noted above, Finding of Fact No. 24 *supra*, I share Dr. Goering's doubts as to the impact that Claimant's 2009 fall likely had on her ongoing symptoms. However, I remain unconvinced as to the role that rheumatoid arthritis may or may not have played in her chronic pain condition.

36. Dr. Goering's testimony regarding the causal relationship between Claimant's 2002 work injury and her chronic shoulder, neck and upper extremity pain was somewhat equivocal. She stated that to the best of her knowledge Claimant's underlying pain was causally related to her work injury, but admitted that her opinion was based solely on the fact that this was when Claimant's symptoms reportedly began. Beyond that, Dr. Goering was able to conclude only that some of the tears Dr. Macy addressed in his 2010 arthroscopic surgery could have been causally related, but not that they likely were so.

(c) Dr. Wieneke

37. At Defendant's request, in June 2011 Claimant underwent an independent medical examination with Dr. Wieneke, a board certified orthopedist. Dr. Wieneke conducted a physical examination and reviewed both medical records and deposition testimony.

38. During his physical examination, Dr. Wieneke observed several signs of symptom magnification, including dramatic shoulder pain and range of motion deficits. This was at odds with his examination of Claimant's shoulder musculature, which was symmetrical bilaterally and lacked any signs of atrophy. Dr. Wieneke credibly concluded from these observations that Claimant's complaints were largely subjective in nature.

39. To a reasonable degree of medical certainty, Dr. Wieneke concluded that Claimant's diffuse chronic pain and current complaints were not in any way causally related to her 2002 work injury. In reaching this conclusion, Dr. Wieneke noted that Claimant had reached an end medical result for her work injury in 2003, with no documented atrophy, loss of muscle strength or range of motion deficits noted and no permanent impairment rated. In his opinion, there is no medical diagnosis consistent with the "profound" ongoing pain syndrome of which she has complained since then that reasonably can be related causally back to that injury. I find this analysis persuasive.

40. As for the etiology of the rotator cuff tears that Dr. Macy surgically repaired in 2010, Dr. Wieneke concluded that Claimant's 2009 fall was the most likely culprit. However, he was unaware that Claimant already had been complaining of increased shoulder pain even before that event. For that reason, I find his opinion unconvincing. Dr. Wieneke also posited that at least some of Claimant's diffuse, chronic pain was consistent with rheumatoid arthritis. As noted above, Finding of Fact No. 17 *supra*, I concur that this is a possibility, but given the conflicting evidence I cannot find it to be more probable than not.

41. Regardless of what event or condition might have caused the rotator cuff tears that Dr. Macy surgically repaired in 2010, Dr. Wieneke was emphatic in his opinion that neither the tears nor the surgery were causally related to Claimant's 2002 compensable work injury. The tears were not apparent in 2006, either via imaging studies or on clinical exam, and according to Dr. Macy likely did not occur until some time after 2008. In Dr. Wieneke's opinion, given this chronology there is no medical process by which the work injury likely would have caused them to develop. I find this reasoning persuasive.

(d) *Dr. White*

42. At her attorney's request, in December 2011 Claimant underwent an independent medical examination with Dr. White, an occupational medicine specialist.

43. As was the case with all of the medical providers who have evaluated and/or treated Claimant, Dr. White had no definitive diagnosis for her condition. He acknowledged that there likely was a substantial psychosocial component to her symptoms. As Dr. Goering had, he dismissed both Claimant's 2009 fall and the possibility of rheumatoid arthritis as likely causes for her chronic pain. He expressed uncertainty as to whether the rotator cuff tears revealed by the 2010 MRI represented a new finding or not.

44. Dr. White concurred with Dr. Johansson's and Dr. Wing's determination that Claimant had reached an end medical result for her 2002 work injury by April 2003, stating that this period of time would have been typical for the type of strain she appeared to have suffered. He agreed that her objective findings, most notably shoulder range of motion, worsened significantly at some point after Dr. Macy's 2008 examination, and that this occurred outside the context of any repetitive work or activity.

45. As for whether Claimant's current symptoms are causally related to her November 2002 work injury, Dr. White stated the following opinion:

> Within a reasonable degree of medical certainty, there is a relationship. Ms. Puzic reports initial onset of symptoms in association with upper extremity usage in her work environment, and she had an accepted workers' compensation claim. Her symptoms have persisted since that time, and the medical records demonstrate a waxing and waning course, which is not uncommon for musculoskeletal problems of this nature. From time to time her treatment over the years has focused on other pathology (such as carpal tunnel syndrome), but she has had chronic proximal (shoulder region) symptoms as well.

46. From my own review of the medical records, I find no indication that Claimant's symptoms ever diminished, only that they worsened. Therefore, I cannot accept as credible Dr. White's assertion that the records demonstrate a "waxing and waning course." Nor can I accept his assertion that Claimant's presentation over the years "is not uncommon" for musculoskeletal strains of the type her work injury presumably caused. Indeed, the fact that no treatment provider has yet been able to determine the etiology of her symptoms with any certainty is itself proof of how atypical her course has been.

47. According to Dr. White's analysis, Dr. Macy's 2010 arthroscopic surgery was driven by the same symptoms of shoulder pain from which Claimant had suffered since her 2002 work injury. Therefore, in his opinion the surgery was causally related. Dr. White noted that Dr. Macy had offered essentially the same surgical option as a diagnostic tool in both 2006 and 2008. The goal at the time would have been to uncover a structural defect in her shoulder that was not apparent on MRI studies. In Dr. White's opinion, this was a reasonable treatment approach. Beyond that, Dr. White did not state an opinion as to whether the rotator cuff tears that Dr. Macy found and surgically repaired in 2010 were causally related in any way to Claimant's 2002 work injury.

48. Dr. White acknowledged in his testimony that the basis of his causation opinion, as to both the need for Claimant's 2010 surgery and her current condition, was the unbroken timeline from her initial report of work-related symptoms in 2002 forward. With no subsequent "smoking gun" to account for her worsening pain, according to Dr. White this temporal relationship alone was sufficient to establish a causal link.

CONCLUSIONS OF LAW:

1. In workers' compensation cases, the claimant has the burden of establishing all facts essential to the rights asserted. *King v. Snide*, 144 Vt. 395, 399 (1984). He or she must establish by sufficient credible evidence the character and extent of the injury as well as the causal connection between the injury and the employment. *Egbert v. The Book Press*, 144 Vt. 367 (1984). There must be created in the mind of the trier of fact something more than a possibility, suspicion or surmise that the incidents complained of were the cause of the injury and the resulting disability, and the inference from the facts proved must be the more probable hypothesis. *Burton v. Holden Lumber Co.*, 112 Vt. 17 (1941); *Morse v. John E. Russell Corp.*, Opinion No. 40-92WC (May 7, 1993).

2. The disputed issue here is whether Claimant's current condition, for which she underwent arthroscopic surgery in 2010, is causally related to her November 2002 compensable work injury. The parties presented conflicting expert medical opinions on this question. In such circumstances, the commissioner traditionally uses a five-part test to determine which expert's opinion is the most persuasive: (1) the nature of treatment and the length of time there has been a patient-provider relationship; (2) whether the expert examined all pertinent records; (3) the clarity, thoroughness and objective support underlying the opinion; (4) the comprehensiveness of the evaluation; and (5) the qualifications of the experts, including training and experience. *Geiger v. Hawk Mountain Inn*, Opinion No. 37-03WC (September 17, 2003).

3. Two of the four experts who testified were treating physicians – Drs. Macy and Goering. Dr. Macy did not offer an opinion as to the causal relationship, if any, between Claimant's 2002 work injury and her chronic shoulder pain. His 2010 arthroscopic surgery was undertaken in an attempt to discern the etiology of Claimant's symptoms. That question remained unanswered post-surgery, as Dr. Macy himself admitted that Claimant's diffuse, chronic pain could not easily be localized to the small rotator cuff tears he repaired. In the end, therefore, despite his status as a treating physician Dr. Macy's testimony did not further Claimant's cause in any way.

4. Dr. Goering testified that Claimant's ongoing pain was causally related to her work injury, but this opinion was based solely on the fact that that was when her symptoms reportedly began. Notably, Dr. Goering did not become Claimant's primary care provider until some two years later, and her office notes from that point forward reflect the same lack of clarity as to the etiology of Claimant's symptoms that all of the other treatment providers involved in this case have expressed. With that in mind, and with only a temporal relationship to support the opinion she stated at hearing, I conclude that Dr. Goering's analysis is unpersuasive.

5. As for the causal relationship between Claimant's work injury and the rotator cuff tears that Dr. Macy surgically repaired in 2010, Dr. Goering could not state an opinion to the required degree of medical certainty. Her testimony on this issue is unavailing, therefore.

6. As was the case with Dr. Goering, Dr. White's causation opinion also was based solely on the temporal relationship between Claimant's 2002 work injury and the progression of her symptoms thereafter. Although he characterized Claimant's course as "not uncommon" for the type of injury she suffered, I can find no objective support for that assertion. Nor did Dr. White ever state a definitive diagnosis, one that clearly identified both the nature of her injury and the pathology that drove her symptoms. A causation analysis such as this, which relies exclusively on a temporal relationship and nothing more, is rarely sufficient to establish compensability. *Norse v. Melsur Corp.*, 143 Vt. 241, 244 (1983); *Daignault v. State of Vermont, Economic Services Division*, Opinion No. 35-09WC (September 2, 2009); *cf. Brace v. Vergennes Auto*, 2009 VT 49. I conclude that it is inadequate here.

7. Because I do not accept as credible Dr. White's opinion that Claimant's ongoing symptoms were causally related to her work injury, I also must reject his opinion that Dr. Macy's 2010 arthroscopic surgery was causally related. That opinion was based solely on the fact that the surgery was driven by the same symptoms of shoulder pain from which Claimant had suffered since 2002. If, as I have concluded, those symptoms likely were not causally related after 2003, then the surgery cannot be tied back to the work injury either.

8. Dr. Wieneke was the only medical expert to express an opinion against work-related causation. I do not accept as credible his conclusion that Claimant's ongoing symptoms were most likely due either to rheumatoid arthritis or to her 2009 fall while shopping. However, I do accept as credible his conclusion that there is no medical basis whatsoever for relating Claimant's symptoms back to her 2002 work injury. That injury, which was diagnosed at the time as a myofascial strain caused by repetitive shoulder activities, resulted in no permanent impairment, no documentable structural defects, no objectively verifiable range of motion limitations and only minor functional restrictions. I conclude that there is no medical process by which Claimant's ongoing symptoms, which in the nine years since have both worsened and become more diffuse, reasonably can be attributed to her initial work-related insult.

9. In sum, I conclude the following from the most credible evidence:

    - That Claimant suffered a cervicothoracic myofascial strain as a consequence of repetitive work activities in November 2002;

    - That she reached an end medical result for that injury in April 2003;

    - That although no definitive diagnosis has yet been established for her symptoms since then, they likely are not causally related to that injury; and

    - That Dr. Macy's 2010 arthroscopic surgery likely was not necessitated by that injury.

10. I therefore conclude that Claimant is not entitled to an award of workers' compensation benefits beyond what she already has received.

11. As Claimant has failed to prevail, she is not entitled to an award of costs or attorney fees.

ORDER:

Based on the foregoing findings of fact and conclusions of law, Claimant's claim for workers' compensation benefits is hereby **DENIED**.

DATED at Montpelier, Vermont this 5th day of February 2013.

_____
Anne M. Noonan
Commissioner

Appeal:

Within 30 days after copies of this opinion have been mailed, either party may appeal questions of fact or mixed questions of law and fact to a superior court or questions of law to the Vermont Supreme Court. 21 V.S.A. §§670, 672.