In the Matter of the Compensation of
PAULETTE T. DROUIN, Claimant
WCB Case No. 01-06596
ORDER ON REVIEW
Welch Bruun & Green, Claimant Attorneys
Johnson Nyburg & Andersen, Defense Attorneys

Reviewing Panel: Members Biehl and Lowell.

The insurer requests review of Administrative Law Judge (ALJ) Otto's order that set aside its denial of claimant's combined condition claim for bilateral carpal tunnel syndrome. On review, the issue is compensability.

We adopt and affirm the ALJ's order with the following supplementation.

The insurer contends that Dr. Hoppert's opinion is unpersuasive because he did not address the "combining" question pursuant to ORS 656.005(7)(a)(B). However, Dr. Hoppert acknowledged that claimant's work injury combined with a preexisting, mild, nondisabling carpal tunnel syndrome and discussed the impact of her injury on this preexisting condition. (Exs. 46-2; 48-3).

The insurer also argues that Dr. Hoppert's opinion was essentially a "but for" analysis. *See Dietz v. Ramada*, 130 Or App 397, 401 (1994), *rev dismissed* 321 Or 416 (1995). We disagree. In reaching his conclusion, Dr. Hoppert took into account claimant's hereditary history, age, smoking, preexisting mild bilateral CTS, and other contributing non-industrial factors. (Exs. 44A, 46, 48). Based on his analysis of claimant's objective findings (as demonstrated by nerve conduction tests) and other possible contributing factors, we do not consider Dr. Hoppert's opinion to be premised on "but for" reasoning.

Consequently, we agree with the ALJ's determination that, based on Dr. Hoppert's opinion, claimant's work accident was the major contributing cause of her disability and/or need for treatment for her combined bilateral wrist condition. (Ex. 48-4). Accordingly, we affirm the ALJ's decision.

Claimant's attorney is entitled to an assessed fee for services on review. ORS 656.382(2). After considering the factors set forth in OAR 438-015-0010(4) and applying them to this case, we find that a reasonable fee for claimant's attorney's services on review is $1,900, payable by the insurer. In reaching this conclusion, we have particularly considered the time devoted to the case (as

represented by claimant's respondent's brief and her counsel's uncontested statement of services), the complexity of the issue, and the value of the interest involved.

ORDER

The ALJ's order dated March 14, 2002 is affirmed. For services on Board review, claimant's counsel is awarded $1,900, to be paid by the insurer.

Entered at Salem, Oregon on November 8, 2002