

2026 WL 413923 (N.Y.Work.Comp.Bd.)

Workers' Compensation Board

State of New York

EMPLOYER: MISS LILLYS

Case No. G355 2716

Carrier ID No. 74088030-062 W204002

February 4, 2026

*1 State Insurance Fund
PO Box 66699
Albany, NY 12206
Lois LLC
405 Lexington Ave, 26th Fl.
New York, NY 10174
Seven A Cafe Inc
109 Ave A
New Ork, NY 10009-6107
Date of Accident 5/15/2021

The Full Board, at its meeting held on January 13, 2026, considered the above captioned case for Mandatory Full Board Review of the Board Panel Memorandum of Decision filed on September 4, 2025.

ISSUE

The issue presented for Mandatory Full Board Review is whether the record supports establishment of the claim for bilateral [carpal tunnel syndrome](#) and right hand DeQuervain's syndrome.

The Workers' Compensation Law Judge (WCLJ) established the claim for bilateral [carpal tunnel syndrome](#) and right hand DeQuervain's syndrome with an accident date of May 15, 2021.

The Board Panel majority reversed the WCLJ decision and disallowed the claim, finding insufficient evidence to establish the claim for bilateral [carpal tunnel syndrome](#) and right hand DeQuervain's syndrome.

The dissenting Board Panel member would affirm the WCLJ and establish the claim, or would alternatively return the matter to the calendar for further development.

The claimant filed an application for Mandatory Full Board Review, and argues that the decision of the dissenting Board Panel member should be adopted by the Full Board.

In rebuttal, the State Insurance Fund (SIF) requests that the Board Panel majority decision be affirmed.

Upon review, the Full Board votes to adopt the following findings and conclusions.

FACTS

On April 12, 2023, the claimant filed an Employee Claim (EC-3) to report that she has bilateral DeQuervain's [tendinitis](#) due to her work as a server/bartender for the employer. The claimant alleged that while working on May 15, 2021, she was carrying extra heavy plates and pitchers, and her hand swelled up two times the size. The claimant noted that she gave notice of the injury to "A.C." at the employer on June 12, 2021, first sought medical treatment on July 12, 2021, and has had no other prior injury to the same body part.

On June 30, 2021, Dr. Lamington examined the claimant and noted her complaints of pain in both wrists with numbness. She reported that the pain was greater in the right wrist. The "problems" section of the report noted onset of pain in the right wrist on June 30, 2021. However, in the "history of present illness [[HPI]" section of the report, the doctor noted the claimant's report that she had "worsening" pain in the right wrist that had been present for 1-6 months. While the "past medical history" section of the report stated that the doctor did not review past medical history, the "assessment/plan" section stated that the claimant had no past medical history. The "assessment/plan" section further stated that the claimant reported that she works as a waitress and has "worsened pain when lifting heavy plates/pitchers etc." Dr. Lamington diagnosed, among other conditions, bilateral [carpal tunnel syndrome](#) and [tenosynovitis](#) of the right radial styloid (DeQuervain).

*2 On August 11, 2021, Dr. Lamington examined the claimant again, and in the HPI section of the report, the doctor noted the claimant's report that she had bilateral wrist pain that had been present for 1-6 months, but that the pain is greater on the right side and had been present for 6-12 months in the right wrist. Dr. Lamington diagnosed, among other conditions, [tenosynovitis](#) of the right radial styloid (DeQuervain). The diagnoses did not include [carpal tunnel syndrome](#) in either wrist.

On September 8, 2021, Dr. Lamington examined the claimant again, and in the HPI section of the report, the doctor again noted the claimant's report that she had bilateral wrist pain that had been present for 1-6 months, but that the pain is greater on the right side and had been present for 6-12 months in the right wrist. Dr. Lamington diagnosed, among other conditions, [tenosynovitis](#) of the right radial styloid (DeQuervain) and left [wrist ganglion](#) cyst, and ordered an MRI of the right wrist.

On September 23, 2021, Dr. Patel examined the claimant and in a report of initial evaluation, the doctor noted that the claimant presented with "bilateral wrist pain with an onset duration of 4 months." Dr. Patel noted that the claimant stated, "the pain and swelling developed spontaneously. She does not recall any trauma or injury." Dr. Patel noted no past medical history and diagnosed bilateral wrist DeQuervain's [tendonitis](#), right worse than the left.

On May 9, 2023, Dr. Patel performed left wrist DeQuervain's release surgery.

On January 12, 2024, the claimant filed a second Employee Claim (C-3) to report that she injured both of her hands while working on May 15, 2021. The claimant alleged that while working as a server/bartender, she was "serving cocktails with a glass pitcher [and] felt a sharp pain." The claimant again noted that she has had no other prior injury to the same body part.

At a hearing held on March 25, 2024, SIF asked the claimant about her work, and the claimant testified that she has also been a self-employed hairdresser since January 2021.

On May 23, 2024, the Board received a copy of SIF's correspondence to Dr. Alleyne, SIF's orthopedic consultant, who was scheduled to examine the claimant on June 4, 2024. In SIF's request for an opinion of causal relationship for the conditions of bilateral [carpal tunnel syndrome](#) and [tenosynovitis](#) of the right radial styloid (DeQuervain), Dr. Alleyne was asked to examine the right hand and both wrists and ask the claimant how and when the injury/illness occurred. SIF also requested that the doctor obtain a complete history of claimant's work duties and hobbies, noting the claimant's testimony that in January 2021, she began working as a hairdresser.

On June 4, 2024, Dr. Alleyne performed an Independent Medical Examination (IME) and noted that the claimant reported a history of injury at work on May 15, 2021, when she hurt her hands from "overly heavy pitcher and pla[t]es." The claimant

reported that she has “overuse injuries to [the] bilateral wrists and hands.” The claimant reported no past serious illnesses, and denied any prior accidents or surgery. She further explained that she was employed part-time as a bartender at the time of the accident, that she lost some time from work, and that she currently works part-time. The claimant stated that she engages in stretching, yoga, and bike riding, but is unable to do sports, yard work, washing clothes, washing dishes, vacuuming, sweeping, tying shoes, cooking, personal hygiene, and shopping/running errands. There is no indication that the claimant discussed her hairdresser work or that Dr. Alleyne asked about such work. Dr. Alleyne diagnosed right wrist and hand strain and status post left wrist surgery, and found that right hand DeQuervain's and bilateral [carpal tunnel](#) are causally related to the accident on May 15, 2021.

*3 At the hearing on June 24, 2024, the claimant testified that in 2018, she began working for the employer restaurant and has worked there on and off for a number of years. In May 2021, she worked as a server and bartender, which required prep work to get the restaurant ready with plates, glasses and cutlery. For the bar, she would cut fruit to get ready for service. She only worked the weekends. On May 15, 2021, the restaurant was having a soft opening for family and friends after being closed for the pandemic. She was only supposed to work brunch on Saturday and Sunday, but the restaurant was understaffed so she worked all day on Saturday and Sunday. She worked from approximately 10:00 a.m. until 11:00 p.m. or midnight. From her first shift on May 15, 2021, she began to experience pain and swelling in her wrists and hands. Her hands were so sore that she had difficulty opening and closing her hands, and she took painkillers to try to alleviate her pain. The pain got worse over the weekend because she had to carry three or four heavy glass pitchers at once. The claimant testified that she had no prior injuries or pain or issues with her hands before this. She first sought medical treatment with Dr. Lamington about one month after the onset of swelling and pain. She was hoping that her symptoms would dissipate if she used ice but after a month, she realized the injury was more severe and she needed medical treatment. She reported the problems with her hands to the general manager and the manager the first weekend. However, when management was not responsive to her report and her injury got worse, she contacted HR management to report the injury. The claimant left her job with the employer in September due to the pain. She took about a month off from work and then got a job as a bartender with another employer; her job with that employer was just bartending and did not involve serving or carrying drinks and food to tables.

On cross-examination, the claimant testified that she initially started working for the employer in October 2018, as a hostess. She left the next year, around October or November of 2019, and began working for the employer again in May 2021. She reported the [injury to her wrists](#) to the general manager and another manager during the week of May 15, 2021, on either Monday or Tuesday. She denied having any specific accident or incident; they were just extremely short-staffed, and she had to exert a lot more effort during the soft opening. When she reported the injury, she texted both managers and also told them in person. The employer did not ask her to complete an incident report. She used both hands while serving and while pouring from the pitchers. The number of plates on the trays varied because the trays would hold different sizes of plates, bowls and glassware. The claimant testified that she began operating her own hairstyling business beginning in January 2021, but later clarified that she had the business since September 2020 (Hearing Transcript, 6/24/24, p. 18). She does mostly hair braiding and uses both hands to do the braiding. She has between two and five clients per week, and braiding takes three to seven hours. She also does cornrows, which takes one to three hours. The claimant clarified that she had a full-time assistant who worked with her since September 2020. The claimant was on the schedule at the employer every weekend between May 15, 2021, and September 2021. She took some time off from braiding hair but resumed that work in October 2021.

*4 On re-direct examination, the claimant testified that prior to May 15, 2021, she did not notice any significant problems with her hands while braiding hair.

At the same hearing, A.C. testified that he was the former manager of the employer and is familiar with the claimant; she worked for the employer on or about May 2021. The claimant was hired to be a server. On May 15, 2021, the claimant told him that she was having pain in her hands and wrists. The claimant did not say that it was due to the soft opening. Rather, she said that she had already had some pain from her work as a hairdresser and already had [carpal tunnel](#) issues. The claimant mentioned the glass pitchers to A.C. and stated that they were heavy and were causing pain in her wrists, which were ““already fragile” (Hearing Transcript, 6/24/24, p. 26). A.C. stated that the employer has a procedure if an employee is injured at work.

However, the claimant was not injured at work so they just made some notes in her file. A.C. explained that if an employee is injured at work, an incident report is completed and put in the file. An incident report was not completed for the claimant because there was no injury while she was at work. A.C. did not think that the claimant worked full-time for the employer.

On cross-examination, A.C. testified that there was a re-opening of the employer restaurant in May 2021. He was unable to recall the specific date that the claimant first told him about her hands, but it was during a shift that she was working. She told him that she already had some [carpal tunnel](#) issues with her wrists from braiding hair and she was unable to lift the water pitchers because they were heavy. She said that she was having more pain while holding the water pitchers. The claimant stopped working in September 2021.

The WCLJ then heard summations from the parties, and after that, the claimant asked to clarify her testimony. The claimant testified that she did not recall telling A.C. that she injured her hands anywhere other than work and she never had an issue with her hands before. The claimant testified that she does yoga for exercise but would tell friends who worked at the employer that, “if you have these issues ... this will probably help you out” (Hearing Transcript, 6/24/24, pp. 37-38). The claimant stated that when she said this, A.C. misconstrued her words. Based on this additional testimony from the claimant, the WCLJ re-called A.C. for cross-examination.

A.C. testified that while he and the claimant were discussing her complaints of pain in her wrists, the claimant told him that she had extracurricular activities outside of work. A.C. was unaware of any outside activities other than the hair braiding and did not recall the claimant telling him that she does yoga outside of work.

The WCLJ then made a decision on the record, establishing the claim for bilateral [carpal tunnel syndrome](#) and right hand DeQuervain's. The WCLJ found that the testimony of both the claimant and A.C. was credible. The WCLJ further noted that while DeQuervain's is a condition that results from repetitive use and not from one specific date, [carpal tunnel syndrome](#) is a separate issue in terms of how it manifests and what it results from. The WCLJ found that while the claimant was clearly engaging in repetitive use in her own hair styling business, in looking at the evidence in a light most favorable to the claimant, this is a compensable claim. The WCLJ further explained that this claim is established as an accident despite the WCLJ finding that this is a repetitive injury. Finally, the WCLJ noted the IME finding of causal relationship and stated, “I cannot contradict that finding” (Hearing Transcript, 6/24/24, p. 43). The WCLJ's findings were set forth in a decision filed on August 2, 2024.

*5 SIF requested administrative review, arguing that the WCLJ erred in establishing the claim because the claimant has failed to establish by substantial evidence that her conditions are the result of occupational disease caused by strenuous repetitive movement during her employment as a server/bartender.

In rebuttal, the claimant requested that the decision be affirmed in its entirety, arguing that the WCLJ was correct to establish the claim for an accidental injury involving bilateral [carpal tunnel syndrome](#) and right hand DeQuervain's.

LEGAL ANALYSIS

When the “medical opinion of claimant's treating physician [is] neither speculative nor a general expression of possibility and it ‘signif[ies] a probability as to the underlying cause of the claimant's injury which is supported by a rational basis’ (Matter of [Mayette v Village of Massena Fire Dept.](#), 49 AD3d 920 [2008]),” and when there is no conflicting medical evidence, the Board may not reject the treating physician's uncontroverted medical opinion on causation (Matter of [Maye v Alton Mfg., Inc.](#), 90 AD3d 1177 [[2011] [additional internal citations omitted]). However, even in the absence of conflicting medical evidence, the Board may reject the treating physician's opinion based on a determination that such opinion is not credible ([Matter of Lichten v New York City Tr. Auth.](#), 132 AD3d 1219 [2015]).

To the extent that the claimant testified that she had never injured her hands or had any issues before, the employer witness refuted that testimony, stating that the claimant reported problems with lifting the heavy pitchers at work due to her pre-existing

carpal tunnel issues. This conflicting testimony “created a credibility issue for the Board to resolve” (Matter of [Gaspard v Queens Party Hall Inc.](#), 189 AD3d 1880 [2020] [citations omitted]).

“The Board ‘is the sole arbiter of witness credibility’ (Matter of [Hammes v Sunrise Psychiatric Clinic, Inc.](#), 66 AD3d 1252 [2009]; accord [Matter of Richman v NYS Unified Ct. Sys.](#), 91 AD3d 1014 [2012])” (Matter of [Wiess v Mittal](#), 96 AD3d 1175 [2012]). “The Board is entitled to make its own factual findings and is not bound by the credibility determinations of a WCLJ (see Matter of [Ortiz v Five Points Correctional Facility](#), 307 AD2d 634 [2003])” (Matter of [Jones v New York State Dept. of Correction](#), 35 AD3d 1025 [2006]).

Here, the earliest reports of treatment with Dr. Lamington on June 30, 2021, August 11, 2021, and September 8, 2021, indicate that the claimant reported “worsening” pain in her wrists, but also reported that the pain had been present for between one and 12 months. As such, the contemporaneous medical evidence suggests that the initial onset of pain was prior to the alleged accident on May 15, 2021, and had only recently “worsened.” This history of injury is supported by the testimony of A.C. who stated that when the claimant first complained to him about pain, she explained that she had already had some pain from her work as a hairdresser and already had carpal tunnel issues, and that the heavy glass pitchers she carried while working as a server were causing pain in her wrists, which were “already fragile.” Further, when Dr. Patel examined the claimant on September 23, 2021, the doctor noted that the claimant did not recall any trauma or injury. While Dr. Alleyne opined that the claimant's conditions were causally related to her work with the employer, the doctor's report does not indicate that the claimant discussed her hairdresser work or that Dr. Alleyne asked about such work, and therefore Dr. Alleyne did not obtain a complete history of claimant's work duties despite SIF's request for such history. The Full Board further notes that none of the other doctors had claimant's complete history that included the operation of her hair braiding business for months prior to the May 15, 2021, onset of bilateral wrist pain. As such, the Full Board finds that in the absence of an accurate work history, none of the medical opinions are credible.

*6 Therefore, the Full Board finds that based on the record as developed, the claim for bilateral carpal tunnel syndrome and right hand DeQuervain's is disallowed.

CONCLUSION

ACCORDINGLY, the WCLJ decision filed on August 2, 2024, is REVERSED, and the claim is disallowed. The case is closed.

Freida Foster

2026 WL 413923 (N.Y.Work.Comp.Bd.)