TEMPORARY AWARD ALLOWING COMPENSATION
(Pursuant to the Mandate of the Missouri Court of Appeals, Southern District)

Injury No.: 06-110840

Employee: Allen Allcorn

Employer: Tap Enterprises, Inc.

Insurer: Travelers Commercial Casualty Co.

On February 26, 2009, the Missouri Court of Appeals, Southern District, issued an opinion that reversed the July 25, 2008, Final Award of the Labor and Industrial Relations Commission (Commission) in the above-referenced case. *Allcorn v. Tap Enterprises, Inc*., 277 S.W.3d 823 (Mo. App. S.D. 2009). The Court determined that employee satisfied the 30-day notice timing requirement under § 287.420 RSMo by giving employer notice of his occupational disease not later than 30 days after "a diagnostician ma[de] a causal connection between the underlying medical condition and some work-related activity or exposure." *Allcorn*, 277 S.W.3d at 829.

On the other hand, the Court held that employee's notice to employer was deficient under the statute because it did not provide the correct "time of injury" -- it was one day off. Accordingly, the Court remanded this matter to the Commission "to reconsider its prejudice analysis." *Id*. at 831.

By Mandate issued March 16, 2009, the Court reversed and remanded this matter to the Commission for further proceedings consistent with its February 26, 2009, opinion.

After having reviewed the whole record, we reverse the decision of the administrative law judge dated September 12, 2007. The award and decision of Administrative Law Judge Margaret Ellis Holden is attached and incorporated by this reference to the extent it is not inconsistent with the findings, conclusions, award, and decision herein.

PREJUDICE TO EMPLOYER FROM DEFICIENT NOTICE

Pursuant to the Court's opinion and Mandate, we have reconsidered our prejudice analysis under § 287.420, which reads in relevant part as follows:

No proceedings for compensation for any occupational disease or repetitive trauma under this chapter shall be maintained unless written notice of the time, place, and nature of the injury, and the name and address of the person injured, has been given to the employer no later than thirty days after the diagnosis of the condition *unless the employee can prove the employer was not prejudiced by failure to receive the notice*. (Emphasis added.)

Employee's initial claim for compensation set forth January 31, 2004, as his date of accident or occupational

disease. But his actual first day of work for employer was February 1, 2004. We have no evidence that this notice, which otherwise properly included the place; nature of injury; and name and address of employee, caused any prejudice to employer because of the one-day error with respect to the beginning date of his occupational disease (the beginning dates of which, due to their insidious nature, are usually difficult to pinpoint). Therefore, we conclude that § 287.420 does not bar employee's claim for compensation.

OCCUPATIONAL DISEASE

Section 287.067 RSMo. states as follows:
1. In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.
2. An injury by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive degeneration of the body caused by aging or by the normal activities of day-to-day living shall not be compensable.
3. An injury due to repetitive motion is recognized as an occupational disease for purposes of this chapter. An occupational disease due to repetitive motion is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive degeneration of the body caused by aging or by the normal activities of day-to-day living shall not be compensable.

Employee contended that his repetitive lifting and moving of heavy tools in connection with his duties for employer caused him to develop an occupational disease -- herniated disks in his low back. Concerning a claim of occupational disease, *Townser v. First Data Corp*., 215 S.W.3d 237, 241-242 (Mo. App. E.D. 2007), states as follows:

In order to support a finding of occupational disease, the employee must provide substantial and competent evidence that he has contracted an occupationally induced disease rather than an ordinary disease of life. The inquiry involves two considerations: (1) whether there was an exposure to the disease which was greater than or different from that which affects the public generally, and (2) whether there was a recognizable link between the disease and some distinctive feature of the employee's job which is common to all jobs of that sort.

It was employee's burden to prove his claim by substantial and competent evidence. *Id.* at 241. As indicated above in § 287.420.1, the "disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence."

In order to meet his burden, "[t]he claimant must establish, generally through expert testimony, the probability that the occupational disease was caused by conditions in the work place. . . . A single medical opinion will support a finding of compensability even where the causes of the disease are indeterminate. . . . The opinion may be based on a written report alone." *Townser*, 215 S.W.3d at 242.

After careful review, the Commission is persuaded that employee has met his burden of proof. Dr. David

Paff reported and testified that employee suffered the gradual onset of back pain without a specific triggering event; that employee's exposure to heavy lifting in his work environment through his last day of work for employer in April 2006 was the prevailing factor in causing his two-level disk herniation; that his initial work exposure from February 1, 2004, through February 17, 2004, was a sufficient amount of time to cause a repetitive trauma to his back; and that it would have been highly unusual for his multi-level herniations to have been the result of vomiting (since he experienced no immediate pain in connection with his illness and vomiting on January 26, 2004). We found Dr. Paff's testimony more compelling than that of Dr. Jeffery Woodward, who believed that vomiting could have caused employee's herniations but that, in any event, employee did not work sufficient time in February 2004 to cause repetitive motion injury.

Furthermore, the testimony of employee and Dr. Paff was sufficient to persuade this Commission that employee's long hours and successive days of extremely heavy lifting at work caused a link to the contraction of and an exposure to low back injury that was greater than that which affects the public generally.

FUTURE MEDICAL EXPENSES

In cases involving the award of future medical benefits, the medical care must flow from the accident in order for the employer to be held responsible. *Landers v. Chrysler Corp.*, 963 S.W.2d 275, 283 (Mo. App. E.D. 1997). For an award of temporary disability and future medical aid, proof of cause of injury is sufficiently made on reasonable probability, while proof of a permanent injury requires reasonable certainty. *Downing v. Willamette Industries, Inc.,* 895 S.W.2d 650, 655 (Mo. App. W.D. 1995) (overruled in part on other grounds in *Hampton v. Big Boy Steel Erection,* 121 S.W.3d 220 (Mo. banc 2003)).

The reports and testimony of Drs. Paff and Green verified that claimant needed and needs on-going medical treatment for his two-level disk herniations. Accordingly, the Commission finds that employee is entitled to, and employer/insurer shall provide, such future medical benefits as may be determined to be necessary to cure and relieve such herniations.

temporary Total Disability

Employee is also entitled to temporary total disability benefits to cover healing periods to be paid prior to the time when the employee can return to work, his condition stabilizes, or his condition has reached a point of maximum medical progress. *Schuster v. Division of Employment Security*, 972 S.W.2d 377, 381 (Mo. App. E.D. 1998).

Employee testified that in April 2006, he "got to where [he] was hurting enough that [he] called the office and told them [he] needed to take a medical leave" in connection with his back. He "wasn't able to stand up for any length of time, sit down for any length of time at all. [He] almost could not bend over." He had pain and weakness in his legs. His last day of work was approximately April 14, 2006. Shortly thereafter, employer discharged him.

On September 26, 2006, Dr. Paff examined employee. In addition to recommending certain future treatments for employee, Dr. Paff restricted employee from lifting over 20 pounds and indicated that employee was not yet at maximum medical improvement. Employee's back surgery took place on April 3, 2007. After surgery, Dr. Green took employee off work for six weeks and then placed light duty restrictions on him. Employee testified that as of his appointment with Dr. Green on May 30, 2007, the doctor told employee he could work. Employee testified that he, too, felt (as of the time of the hearing) that he had improved to a point where he might be able to again do certain kinds of work.

Based on this evidence, we conclude that employer and insurer are liable for temporary total disability

benefits from April 14, 2006, through May 30, 2007, a total of 58 5/7th weeks.

Section 287.250.1(4) RSMo. requires the Commission to use the 13 weeks immediately preceding the date of injury to calculate his rate of compensation. Employee's undisputed testimony indicated that he had earned $13,000.00 from employer from January 1, 2006, through his last day of work on April 14, 2006. Thus, his average weekly wage during the 13 weeks prior to April 14, 2006, was $866.67. His corresponding compensation rate for temporary total benefits under § 287.170.1(4) RSMo was $577.81. Accordingly, after multiplying this rate times 58 5/7th, employer and insurer shall pay to employee temporary total disability benefits in the amount of $33,925.70.

DECISION

Based on the foregoing, the Commission concludes and determines that employee's notice to employer under § 287.420, while technically deficient, did not prejudice employer and did not bar employee's right to claim compensation. Accordingly, we hereby reverse the award of the administrative law judge denying employee's claim for compensation.

Furthermore, employee sustained an occupational disease arising out of and in the course of his employment for employer. We find that employee is entitled to future medical benefits as may be determined necessary to cure and relieve his work-related condition, as well as temporary total disability benefits in the amount of $33,925.70.

This case is remanded to the Division of Workers' Compensation with the employer being responsible to provide workers' compensation benefits as appropriate pursuant to the provisions of the Workers' Compensation Act due to this compensable accident.

Because this award is only temporary or partial, we need not presently discuss the issue of past medical expenses. Our award is subject to further order and the proceedings are hereby continued and kept open until a final award can be made. All parties should be aware of the provisions of § 287.510 RSMo.

This award is subject to a lien in favor of Randy Charles Alberhasky, Attorney at Law, in the amount of 25% for necessary legal services rendered.

Given at Jefferson City, State of Missouri, this 16th day of June 2009.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

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William F. Ringer, Chairman

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Alice A. Bartlett, Member

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John J. Hickey, Member

Attest:

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Secretary

AWARD

Employee: Allen Alcorn Injury No. 06-110840

Dependents: N/A

Employer: Tap Enterprises, Inc.

Additional Party: N/A

Insurer: Travelers Insurance

Hearing Date: 6/18/07 Checked by: MEH

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? NO

2. Was the injury or occupational disease compensable under Chapter 287? NO

3. Was there an accident or incident of occupational disease under the Law? NO

4. Date of accident or onset of occupational disease: N/A

5. State location where accident occurred or occupational disease was contracted: N/A

6. Was above employee in employ of above employer at time of alleged accident or occupational disease? N/A

- Did employer receive proper notice? NO

- Did accident or occupational disease arise out of and in the course of the employment? N/A

9. Was claim for compensation filed within time required by Law? N/A

10. Was employer insured by above insurer? YES

11. Describe work employee was doing and how accident occurred or occupational disease contracted: N/A

12. Did accident or occupational disease cause death? NO Date of death? N/A

- Part(s) of body injured by accident or occupational disease: N/A

14. Nature and extent of any permanent disability: N/A

- Compensation paid to-date for temporary disability: 0

16. Value necessary medical aid paid to date by employer/insurer? O

- Value necessary medical aid not furnished by employer/insurer? N/A

- Employee's average weekly wages: N/A

- Weekly compensation rate: N/A

20. Method wages computation: N/A

COMPENSATION PAYABLE

21. Amount of compensation payable:

Unpaid medical expenses: 0

0 weeks of temporary total disability (or temporary partial disability)

0 weeks of permanent partial disability from Employer

0 weeks of disfigurement from Employer

Permanent total disability benefits from Employer beginning N/A, for Claimant's lifetime

22. Second Injury Fund liability: Yes No X Open

0 weeks of permanent partial disability from Second Injury Fund

Uninsured medical/death benefits: NONE

Permanent total disability benefits from Second Injury Fund:
weekly differential (0) payable by SIF for 0 weeks, beginning N/A

and, thereafter, for Claimant's lifetime

Total: SEE AWARD

23. Future requirements awarded: NONE

Said payments to begin N/A and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of N/A of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

RANDY ALBERHASKY

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Allen Alcorn Injury No. 06-110840

Dependents: N/A

Employer: Tap Enterprises, Inc.

Additional Party: N/A

Insurer: Travelers Insurance

Hearing Date: 6/18/07 Checked by: MEH

The parties appeared before the undersigned administrative law judge on June 18, 2007, for a temporary hardship hearing. The claimant appeared in person represented by Randy Alberhasky. The employer and insurer appeared represented by Steven Prosperi. Memorandums of law were filed by July 20, 2007.

The parties stipulated to the following facts. On or about April 14, 2006, Tap Enterprises, Inc. was an employer operating subject to the Missouri Workers' Compensation Law. The employer's liability was fully insured by Travelers Insurance. On the alleged injury date of April 14, 2006, Allen Alcorn was an employee of the employer. The claimant was working subject to the Missouri Workers' Compensation Law. The parties agree that the employee's contract of employment was made in Missouri and the parties agree to venue in Howell County, Missouri. No temporary disability benefits have been paid to the claimant. The

employer and insurer have paid no medical benefits. The attorney fee being sought is 25%.

ISSUES:

1. Whether the claimant sustained an occupational disease which arose out of the course and scope of employment.
2. Whether the claimant gave the employer proper notice.
3. Whether the claimant's Claim for Compensation was filed within the statute of limitations.
4. Whether the occupational disease caused the injuries and disabilities for which benefits are being claimed.
5. Whether the employer is obligated to pay past medical expenses.
6. Whether the claimant has sustained injuries that will require future medical care in order to cure and relieve the claimant of the effects of the injuries.
7. What is the proper rate.
8. Any temporary total benefits owed to the claimant.

FINDINGS OF FACT:

The main issue in this case is whether the claimant sustained an injury to his back as an occupational disease due to repetitive trauma as the result of heavy lifting at work. Also at an issue is how the new law addressing occupational disease, which went into effect on August 28, 2005, applies to this injury.

The employer does business as Cummings Tools. They are in the business of selling tools by traveling around the United States and setting up daily sales events at different locations. They load the tools into semi-trucks and travel to various locations such as trade shows. They set up displays for one to two days and sell tools. When they arrive at a location, the tools are manually unloaded from the trucks and set up for display. Inventory is carried on the trucks and items are delivered as they are sold. After the sale, the trucks are manually reloaded.

The claimant worked for employer as part of one of these traveling groups. As a truck driver, he would drive the truck from location to location as well as be responsible for loading and reloading the items. This took approximately 2 – 4 hours a day. The tools and boxes weighed between 40 to 300 pounds. The claimant typically worked 17 days on the road and 17 off. Of the time he worked he would work 12 – 15 hours consecutively.

The claimant went to work for the employer on February 1, 2004. Prior to this there is no evidence that claimant had any back problems, nor had he sought medical treatment for his back. Shortly before going to work for the employer, the claimant went to Burton Creek Medical Clinic on January 24, 2004, complaining of vomiting for 14 hours. He did not report back pain.

During the first three weeks he worked he noticed back pain. There was no identifiable event associated with this; rather he felt it was due to the general heavy nature of his job. The claimant did not report an injury to the employer. Upon returning home, he sought medical treatment on his own and went to the Burton Creek Medical Clinic on February 17, 2004, complaining of back pain. The history given in the medical records as "the onset of pain has been sudden and has been occurring in a persistent pattern for two weeks. The course has been increasing and occurs more in the early morning. The pain I characterized as a dull ache. The pain is described as being located in the lower back. The symptoms are aggravated by lying down." The records also state that the claimant had "no knowledge of injury to back but has been doing a lot of heavy lifting with his new job as a truck driver." Claimant was prescribed medications.

On February 24, 2004, claimant went to Ozark Medical Center emergency room with complaints of back pain "onset 3 weeks worse today." The claimant specifically denied any injury. He was again prescribed medication and told to avoid strenuous injury. The next day the claimant returned to the Burton Creek Medical Clinic complaining of back pain that was precipitated by nothing. He had stiffness but no radiculopathy. He was given Darvocet and instructed to follow-up.

On April 19, 2004, he returned with complaints of persistent low back pain, increasing for 3 months. He had a positive straight leg test. An MRI of the lumbar spine was performed in May 2004 which showed degenerative disc disease form L3 to S1 with a large disc herniation at L3-4 on the right with an annular tear and mass effect on the nerve root and a smaller left sided disc herniation at L4-5, which might be affecting the nerve root. The claimant was referred to Dr. Green for evaluation.

The claimant did not see Dr. Green until 2006. Claimant testified that this was because he did not have insurance or means to pay for treatment. The claimant did not report this injury to the employer.

He continued to work, and testified that he had general discussions with his superior, including his immediate supervisor, Allen Hatch, regarding his back complaints. He testified that he did not know what was causing his back complaints and had not been told that they were work-related.

Allen Hatch testified that the claimant worked under his supervision for approximately one year. He said that when claimant worked under him he had no problems with doing his job and made no complaints about his back. Claimant was still able to do all the lifting when he last worked with Mr. Hatch. Claimant continued to work there under other supervisors. Mr. Hatch said that after he was no longer claimant's supervisor, claimant did complain of his back hurting but he could not remember when. He said that after claimant became a manger he still worked hard. Claimant testified that he told a subsequent supervisor, Mr. Halligan, of his back pain and that he was on medications for it.

Claimant continued to lift at work. He testified that he had persistent back pain. In the fall of 2005 claimant was promoted to manager. At this time his lifting and unloading increased as he felt he needed to compensate for some other employees.

The claimant testified that he last worked on April 14, 2006. He had a phone conversation with Gina Pratt, who was in the Human Resources department, on April 14, 2006, where he requested medical leave for surgery to his back. He testified that he told her it was from work. In his deposition he testified that he never told her it was work-related. He said they discussed insurance paying for the surgery. He also said she told him they would continue to pay him base pay. Claimant did not return to work for the employer. He was terminated approximately 1 – 1 ½ weeks later for shortages.

Following the MRI of May 2004, claimant did not receive any medical treatment for his back until he returned to Burton Creek Medical Clinic on April 19, 2006, with low back pain. At that time he also complained of radiculopathy. The records state, "present – back pain (has been working for Cummins tools lifting a lot of machinery and doing fine) and radiculopathy (down left leg at times (not hurting today) just wants referral.) Pt wants to know if he can go see Dr. Green again – he went about a year ago and didn't have insurance and they told him to come back when he did have it." He had a negative straight leg test.

Claimant went to Dr. Green on May 4, 2006. This appears to be his initial visit. He reported back pain, "chronic, intermittent problem with an acute exacerbation. The event that precipitated this pain was job-related repetitive lifting of stock. He states the current episode started 2 years ago with progressive worsening of symptoms." An MRI dated May 30, 2006, showed a mild disc bulge at L2-3; a right posterior disc protrusion at L4-5, similar to the 5/19/04 MRI; left paracentral annular tear unassociated with disc protrusion at L4-5, which was new; and grade I spondylolisthesis at L5-S1most likely due to L5 spondylolysis and associated with posterior disc bulge or pseudo bulge.

Claimant filed a claim on June 15, 2006, in which he requested medical treatment. In his original claim he states a date of injury of January 31, 2004, claiming injury to the back, spine, both shoulders, both feet and both legs by exposure to repetitive lifting, bending, and squatting. The employer filed a report of injury, and a timely answer was filed. An amended claim was filed on November 9, 2006, alleging a date of injury of April 14, 2006. It named the parts of the body injured as back, spine, both shoulders, both feet, and both legs, in that the employee was exposed to repetitive lifting, bending and squatting. Claimant again requested additional medical treatment. A timely answer was again filed.

Dr. David Paff examined the claimant on September 25, 2006. The claimant told Dr. Paff that "he never reported it to his employer and was not sent to a physician by the employer." The first physician to find the claimant's condition work-related was Dr. Paff. In his report he stated that the work exposure at employer through April 2006 was the prevailing factor causing the problem. He recommended additional treatment including physical therapy, injections and possible surgery. He put the claimant on a 20 pound lifting restriction and said he had not reached maximum medical improvement.

EMG studies were conducted on the lower extremities in September 2006, showing normal findings but possible involvement of the S1 level. On October 2, 2006, claimant went to the emergency room at Ozark Medical Center complaining of back pain. A CT myelogram of the cervical and lumbar spine performed in December 2006 showed unremarkable findings for cervical but a small anterior extradural

defect at the L4-5 level with a disc protrusion at L5-S1 and a protrusion at L3-4.

Dr. Paff issued several subsequent additions to his report correcting a typographical error and explaining that review of subsequent records did not change his opinion. In his deposition he said that the work exposure he attributed to the injury is the heavy lifting claimant did. He felt that the repetitive trauma exposure was during the early part of his job in 2004.

On January 31, 2007, Dr. Jeffery Woodward evaluated the claimant. He found that the claimant's duties were not the prevailing factor in causing the employee's condition. He stated, "The medical records document lumbar pain onset anywhere from late January to mid-February 2004 which is not sufficient time at work to constitute repetitive strain causation. The initial lumbar pain could have resulted from the 14 hour persistent vomiting illness noted in medical records. Based on review of all information available today, in my opinion within a reasonable degree of medical certainty, a work related injury was NOT the prevailing cause of the patient's lumbar condition."

In February 2007 the claimant underwent 3 weeks of physical therapy which did not improve his condition. On April 3, 2007, a right sided L3-4, left sided L4-5, and bilateral L5-S1 hemilaminotomy/discectomy was performed. He was taken off work for six weeks then placed on light duty restrictions.

Claimant testified that before the surgery he could not sit for long trips, he could not pick up his 4 year old daughter, or yard work. He had problems bending, standing, sitting for long periods and could not drive long distances.

Claimant testified that the surgery stopped his pain and weakness in his legs. He still has back pain. He could not stand for long before the surgery but can stand for a few hours now. At present, he has problems with heavy lifting, bending, stooping, and squatting.

Since leaving the employer, he has worked odd jobs for a tree service. He raked leaves and cleaned up after trees were cut. He has worked approximately 50 hours total. He has not sought any other employment. He does not think he could do the work required by his old job for employer; he does think he could do fast food. He was released from treatment two weeks before the hearing and said he is ready to start looking for work. He has not found work yet.

The claimant testified that he was hired at the rate of $100 per day with a commission of 5.25% of profit over $15,000, to be split between crew members. He testified that in 2005 he made just under $40,000. He said he made just under $13,000 in 2006.

CONCLUSIONS OF LAW:

This claim was tried based on an amended claim for occupational disease changing the date of injury to the last date he worked for the employer, April 14, 2006. This changed the claim from an alleged injury date in 2004, under the old law, to an injury date after August 2005, and therefore clearly within the new statute governing occupational disease and the notice requirements would apply.

Section 287.420 RSMo, effective August 28, 2005, states:

No proceedings for compensation for any accident under this chapter shall be maintained unless written notice of the time, place and nature of the injury, and the name and address of the person injured, has been given to the employer no later that thirty days after the accident, unless the employer was not prejudiced by failure to receive the notice. No proceedings for compensation for any occupational disease or repetitive trauma under this chapter shall be maintained unless written notice of the time, place, and nature of the injury, and the name and address of the person injured, has been given to the employer no later than thirty days after the diagnosis of the condition unless the employee can prove the employer was not prejudiced by failure to receive the notice.

The amended statute also provides that the law is to be strictly construed.

In this case, the claimant was diagnosed with the herniated disc in February 2004. The claimant alleges to have told Mr. Hatch that he hurt his back, but cannot pinpoint when. He also said that he was no longer his supervisor when he told him. He did not give notice in writing. He claims to have told Gina Pratt on the

phone on April 14, 2006, but contradicted this testimony in his deposition when he said he did not tell her. He did not give any written notice at this time. The first evidence of written notice is his claim which was filed June 15, 2006, more than thirty days after his last exposure and approximately 28 months after he was diagnosed. He told Dr. Paff when he saw him that he never told the employer that his back injuries were workirelated.

The claimant did not give notice at the time of his diagnosis, at the time the new law went into effect, or within thirty days of his last exposure. The claimant has presented no evidence that the employer was not prejudiced by the lack of written notice.

Strictly construing the statute, I find that the claimant failed to give timely notice and failed in his burden of showing a lack of prejudice to the employer from the lack of notice. Therefore, claimant's claim is denied. As a result of this ruling all other issues are moot.

Date: 9-12-07 Made by: /s/ Margaret Ellis Holden
Margaret Ellis Holden
Administrative *Law Judge*
Division of Workers' Compensation

A true copy: Attest:

/s/ Jeffrey W. Buker
Jeffrey W. Buker
Director
Division of Workers' Compensation