

FINAL AWARD ALLOWING COMPENSATION  
(Affirming Award and Decision of Administrative Law Judge)

Injury No.: 03-091096

Employee: Teresa Boller

Employer: Citizens Memorial Healthcare Foundation

Insurer: Health Care Facilities of Missouri Trust

Date of Accident: September 3, 2003

Place and County of Accident: Bolivar, Polk County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated August 26, 2008. The award and decision of Administrative Law Judge David L. Zerrer, issued August 26, 2008, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 23rd day of January 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: Teresa Boller

Injury No. 03-091096

Before the  
**DIVISION OF WORKERS'  
COMPENSATION**  
Department of Labor and Industrial Relations of Missouri  
Jefferson City, Missouri

Dependents:

Employer: Citizens Memorial Healthcare Foundation

Additional Party:

Insurer: Health Care Facilities of Missouri Trust

Hearing Date: June 23, 2008

Checked by: DLZ

### FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: September 3, 2003
5. State location where accident occurred or occupational disease was contracted: Bolivar, Polk County, Missouri
6. Was above employee in employ of above employer at time of alleged accident or occupational disease?  
Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Self-insured
11. Describe work employee was doing and how accident occurred or occupational disease contracted:  
Claimant was lifting patient when felt pop in back
12. Did accident or occupational disease cause death? No Date of death? N/a
13. Part(s) of body injured by accident or occupational disease: Back; body as a whole

- Nature and extent of any permanent disability: permanent total disability

15. Compensation paid to-date for temporary disability: \$11,592.98
16. Value necessary medical aid paid to date by employer/insurer? \$72,571.31
17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: \$339.07
19. Weekly compensation rate: \$226.06

- Method wages computation: Stipulation

### **COMPENSATION PAYABLE**

21. Amount of compensation payable:

Unpaid medical expenses: None

-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 March 8, 2006, for Claimant's lifetime

22. Second Injury Fund liability: Yes    No  Open

Total: \$226.06 per week beginning  
March 8, 2006, for Claimant's lifetime, according to law

23. Future requirements awarded: To remain open

Said payments to begin immediately 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 25% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: John Wise

## **FINDINGS OF FACT and RULINGS OF LAW:**

Employee:                    Teresa Boller

Injury No: 03-091096

Before the  
**DIVISION OF WORKERS'  
COMPENSATION**  
Department of Labor and Industrial Relations of Missouri  
Jefferson City, Missouri

Dependents:

Employer:           Citizens Memorial Healthcare Foundation

Additional Party

Insurer:           Health Care Facilities of Missouri Trust

Checked by: DLZ

On the 23rd day of June, 2008, the parties appeared before the undersigned Administrative Law Judge for final hearing. The Claimant appeared in person and by her attorney, John Wise. The Employer appeared by its attorney, Mary Thompson. The Treasurer of the State of Missouri, as Custodian of the Second Injury Fund, is not a party to this claim.

The parties stipulated to certain facts which are not at issue in this claim as follows, to wit: That on or about September 3, 2003, Citizens Memorial Healthcare Foundation ("Citizens Memorial") was an employer operating subject to the Missouri Workers' Compensation Law; that the Employer's liability was fully insured by Healthcare Facilities of Missouri Trust; on September 3, 2003, Teresa Boller was an employee of Citizens Memorial; the Claimant was working subject to the Missouri Workers' Compensation Law; the parties agree that on or about September 3, 2003, Claimant sustained an accident which arose out of the course of and scope of employment; the employment occurred in Polk County, Missouri, and the parties agree that Greene County, Missouri, is the proper venue for this hearing; the Claimant notified the Employer of the injury as required by Section 287.420; the Claimant's claim was filed within the time prescribed by Section 287.430; at the time of the claimed accident, Claimant's average weekly wage was \$339.07, sufficient to allow a compensation rate of \$226.06 for permanent partial disability and permanent total disability; Employer has paid temporary benefits in the amount of \$11,592.98, prior to the date of this hearing; Employer has paid medical expenses in the amount of \$72,571.31, prior to the date of this hearing; Claimant's attorney seeks approval of an attorney's fee of 25% of the amount of any award entered herein.

## ISSUES

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.

The nature and extent of any permanent disabilities.

## DISCUSSION

Testifying in person on behalf of the Claimant at the hearing were the claimant, Teresa Boller; her husband, Mr. Eugene Craig Boller; Mr. Wilbur Swearingin, a vocational consultant. Testifying in person on behalf of the Employer was Michael Lala, a vocational consultant.

Claimant testified that she was born on June 22, 1962, and is presently 46 years of age. Claimant testified that she completed nine grades of formal education and ultimately obtained a G.E.D. She also attended one year of business college in Kansas City, Missouri, and a short course of truck driver training in 2001. She described her past job experience as working as a waitress, a mail sorter, driving a truck, as a CNA/CMT, and as a convenience store clerk. She testified that she did not feel capable of returning to any of her previous employments because the pain in her lower back and left leg would prevent her from doing

the standing, walking, and lifting required of her various jobs.

Claimant testified that she is not presently employed. She testified that she began her employment with Citizens Memorial on June 9, 2003. She was employed at Citizens Memorial as a CNA. Claimant described her job duties as assisting residents with activities such as eating, personal hygiene, and changing bed linens. Claimant testified that she was involved in an incident during the course of her employment with Citizens Memorial on September 3, 2003. At that time, Claimant was helping a co-employee move a very large patient when she felt a pop in her lower back. She thereafter developed increasing lower back pain with pain shooting down her left leg.

Claimant testified that following her employment with Citizens Memorial, she worked for several weeks at Premier Home Health Care. Claimant further testified that she worked for two weeks as a convenience store clerk at Fast N' Friendly, and later with Nurse Finders.

Claimant testified that she was referred by her employer to Dr. Jeffrey Woodward for medical treatment. Records of Dr. Woodward, which were admitted into evidence, reflect that he first examined Claimant on September 12, 2003. Dr. Woodward's records further reflect that Claimant was complaining of lower back and left lower extremity pain. Dr. Woodward's records also reflect that he treated Claimant from September 12 through October 31, 2003. During that time, he referred Claimant for diagnostic studies and administered an epidural steroid injection.

Claimant testified that she was referred by Dr. Woodward to Dr. Charles Mace, a neurosurgeon practicing in Springfield. Dr. Mace first examined Claimant on January 6, 2004. Following that examination, Dr. Mace recommended that Claimant undergo back surgery. That surgery was performed by Dr. Mace on January 8, 2004, at Cox Medical Center South. Claimant testified that, following the surgery performed by Dr. Mace, she obtained no relief of her lower back and left lower extremity complaints. She testified that Dr. Mace ultimately referred her to Dr. Thomas Corsolini for further treatment. Dr. Mace's office note of July 26, 2004, reflects that Dr. Mace did not think that Claimant was a surgical candidate at that time.

Records from Dr. Corsolini's office, admitted into evidence at the hearing, reflect that he provided treatment to Claimant from April 29, 2004, through August 24, 2004. Following his examination of August 24, 2004, Dr. Corsolini assessed "a permanent partial impairment of 15% of the whole person" attributable to Claimant's occupational injury. He also recommended "that her work limitation remain two eight hour shifts per week." He also indicated he thought Claimant "may continue to require Vioxx on a daily basis and Ambien on a "prn" basis to maintain normal sleep. Hydrocodone hopefully will diminish to no use at all, but she may still require it two or three times weekly. No further surgical treatment is recommended." Claimant testified that, at the time of her discharge by Dr. Corsolini, she still experienced pain in the left side of her lower back extending down into her left leg. She also testified that she continued to work, within Dr. Corsolini's restrictions, at Citizens Memorial through October 14, 2004. She testified that she left employment at Citizens Memorial at that time because of the difficulty of performing her job given her lower back and left lower extremity complaints.

Following an independent medical examination performed by Dr. Swaim, Claimant was referred by the employer/insurer to Dr. John Ciccarelli, an orthopedic surgeon practicing in Kansas City, Missouri.

Claimant testified that she was initially seen by Dr. Ciccarelli on October 5, 2005. She testified that, at the time of that examination, she continued to experience severe pain in her lower back extending down into her left leg. The pain involving the left leg extended down her left thigh and around the knee area with occasional symptoms going into the lower portion of her left leg. Claimant testified that she ultimately underwent a second surgery, performed by Dr. Ciccarelli, on October 28, 2005, at Heartland Spine and Specialty Hospital. She testified that she continued to treat with Dr. Ciccarelli through March 8, 2006.

Claimant testified that she continues to experience low back pain located on the left side of her lower back, with pain shooting down her left leg. She testified that she has had those symptoms since the time of the accident on September 3, 2003. Claimant testified that the lower back and left leg pain limits her ability to engage in activities of daily living, as follows: she is unable to sit for more than thirty to forty-five minutes at one time, stand for more than thirty minutes to an hour, walk for more than fifteen minutes, or lift and carry items weighing more than twenty pounds. Claimant testified that after sitting for longer than thirty to forty-five minutes, she will have to stand up and move around to relieve her pain. If she stands for longer than

thirty minutes to an hour she will have to lie down to relieve her pain. If she walks for more than fifteen minutes, her left leg will become extremely painful. She also testified that she uses a cane approximately 90% of the time to assist with walking.

Claimant further testified that when climbing stairs, she must take steps one at a time and must hold on to a rail for support. Claimant also explained that she lies down every day to relieve the pain in her lower back and left leg. She testified that she must lie down two to three times per day for one to one and a half hours each time.

Claimant testified that she can still dust items around the house, load her dishwasher, and do her laundry on a good day. She testified that she could no longer scrub her bathroom. Claimant further testified that, prior to the accident of 2003, she enjoyed yard work and gardening but is now limited to watering her flowers. She also testified that she enjoyed bowling, horseback riding, canoeing, fishing, and needlework prior to her accident but is no longer able to engage in those activities because of her lower back and left leg pain. She testified that she can fish to some extent but is severely limited in that activity.

Claimant also testified that she currently takes medications for her lower back and left lower extremity complaints. She takes Vicodin every six hours, Soma, and Baclofan for muscle spasm in her lower back and Ativan for anxiety. She also uses a Fentinal patch to relieve her pain. Claimant testified that those medications are prescribed by Dr. Nancy Kohlerman at Desert Pain and Rehab Specialists, in Mesa, AZ. Records from Desert Pain and Rehab Specialists were admitted into evidence. The December 13, 2007, note from that facility reflects that Dr. Dale Ratcliffe diagnosed "chronic lumbar back pain secondary to post laminectomy syndrome." That office note reflects medications prescribed to Claimant and reflects a recommendation of the implantation of a spinal cord neuromodulation and intrathecal pump placement. Claimant testified that she planned to undergo surgery for the installation of that pain pump shortly after the hearing.

Eugene Boller testified on behalf of the Claimant. Mr. Boller testified that he has been married to Claimant for ten years and had observed significant changes in her activities since the accident of September 3, 2003. He testified that she could no longer participate in hobbies such as bowling and horseback riding and required assistance with personal hygiene. He also described her difficulties with house work, yard work and gardening.

Dr. Truett Swaim testified on behalf of the Claimant by deposition. Dr. Swaim testified that he is a board certified orthopedic surgeon. He examined Claimant on December 22, 2004. He testified that Claimant was complaining of persistent lower back pain with radicular symptoms into her left leg.

Dr. Swaim further testified that one of the significant findings of his physical examination was "severe muscle spasm and guarding." (Deposition of Dr. Swaim, at 14). Dr. Swaim further testified that a spasm was an objective finding and not something that a patient could fake or manufacture.

Dr. Swaim diagnosed a "failed back syndrome with persistent lumbar pain and lumbar radiculopathy." He opined that the foregoing condition was caused by the accident of September 3, 2003. Dr. Swaim testified that, in his opinion, Claimant had not reached maximum medical improvement as of the time of his examination and recommended that Claimant undergo a lumbar fusion to treat her occupational injury. All of Dr. Swaim's opinions were offered within a reasonable degree of medical certainty. (Id., at 18-21).

Dr. Brent Koprivica testified on behalf of Claimant by deposition. Dr. Koprivica examined Claimant on October 9, 2006, at the request of her attorney. Dr. Koprivica testified that Claimant had substantial complaints involving her lower back and left leg at the time of his examination. He also testified that he found such subjective complaints to be consistent with the nature of the injury she had sustained. (Id., at 19-20).

Dr. Koprivica opined that Claimant suffered from a failed back syndrome attributable to the occupational injury of September 3, 2003. He explained that a failed back syndrome is a situation where an individual has ongoing, overwhelming back pain despite attempts at surgical intervention. (Id., at 21).

Dr. Koprivica further testified that failed back syndrome can lead to psychological stressors, such as feelings of depression. (Id., at 23). Dr. Koprivica testified that he felt Claimant had reached maximum medical improvement with respect to the injury of September 3, 2003, and concluded that she was

permanently totally disabled based on that injury. He also assessed permanent restrictions on the Claimant, as follows: Claimant would be “restricted to intervals of thirty minutes for standing, walking, or sitting, with the flexibility of moving more frequently, as dictated by her situation; that the use of a cane was appropriate and should be allowed. She should be allowed to use the cane. I restricted her entirely from squatting, crawling, or kneeling. I restricted her entirely from climbing. I felt she should only occasionally lift or carry. I advised that she not lift below waist level, and any lifting be restricted to less than twenty pounds. I also felt that the need to lay down for pain management purposes and due to sleep interruptions was medically consistent with her situation.” (Id., at 24-25). Dr. Koprivica further testified that the basis for his opinion of permanent total disability was Claimant’s limited formal education and the restrictions he felt appropriate, in particular, the need to “unpredictably lie down and the postural restrictions.” (Id., at 26).

Dr. Koprivica also opined that Claimant would require ongoing treatment for her occupational injury in the future, including “a pain-management type of approach that should include looking at the behavioral issues of her problem, along with needing medication.”

Dr. Koprivica also opined that the pain management would include pain medication and counseling, both of which would need to be overseen by a physician. (Id., at 24).

Dr. Ciccarelli testified on behalf of the employer/insurer by deposition. Dr. Ciccarelli last saw Claimant on March 8, 2006. Dr. Ciccarelli testified that he felt it would be reasonable for Claimant to return to work with “some limitations on lifting, which I felt to be an appropriate weight limit of about thirty pounds, particularly lifting below her waist with these types of weight limits, and otherwise, I allowed her to do most of her routine.” He testified that Claimant should do no excessive lifting over thirty pounds below the waist level. (Deposition of Dr. Ciccarelli, at 23-24). Dr. Ciccarelli concluded that Claimant had reached maximum medical improvement as of the time of his examination on March 8, 2006, and that he did not “anticipate or feel that she would have required ongoing treatment with respect to her work injury at that time.” He further testified that he would assess permanent partial disability of 18% to the body as a whole for the occupational injury. (Id., at 26-27).

Dr. Ciccarelli testified on cross-examination that he had not arrived at any disability rating until just before giving his deposition testimony. Dr. Ciccarelli admitted that he formed an opinion as to disability at the request of the attorney representing the Employer who asked him to assume that a rating of 15% was assessed with respect to the first surgery performed by Dr. Mace. (Id., at 34-35). Dr. Ciccarelli also admitted that he was not a vocational expert, and agreed that he would rely on a vocational expert’s assessment as to whether or not an individual was employable in the open labor market. (Id., at 35).

On further cross-examination, Dr. Ciccarelli admitted that the lifting restrictions he had imposed would prevent Claimant from performing the full range of duties required of Claimant in her job as a CAN. (Id., at 37).

Dr. Ciccarelli also admitted that Claimant had complained of lower back and left lower extremity complaints throughout the course of her treatment, including at the time of his last examination on March 8, 2006. He further admitted under cross-examination (Deposition, page 39) as follows:

“Q. Okay. But would it be your opinion that her left lower extremity complaint is a permanent condition?

- Yes. She has some residual pain.
- Okay. And it is your opinion that the left lower extremity pain she experiences was caused by the accident of September 3, 2003, and the resulting injury to her lower back.
- Yes, I believe in part, yes, it is.
- Okay. And that’s your opinion within a reasonable degree of medical certainty?
- Yes.
- Likewise, your opinion her left lower extremity pain is permanent, is, again, within a reasonable degree of medical certainty; true?
- At this point, yes.

Dr. Ciccarelli also testified during cross examination regarding appropriate functional restrictions and the need for further medical treatment. That testimony, in part, is as follows:

“Q. Okay. Now, Doctor, if Claimant has ongoing left leg complaints, complaints of walking, sitting, and standing, would it be reasonable to restrict her standing, walking, and sitting to not over thirty minutes?”

- Would it be reasonable?
- Yes.
- It could be.
- Okay. Would it be appropriate-again, if she had ongoing complaints in her left leg and finds it helpful to use a cane, would it be appropriate for her to use a cane with respect to her left lower extremity?
- If she feels it is necessary.
- Okay. So it would be reasonable for her to use that if she feels it is necessary; correct?
- Yes.
- Okay. Now, again, given her back and left lower extremity complaints, would it be appropriate to restrict her from squatting?
- I mean, I don't necessarily think I would restrict her from squatting.
- Okay. Would it be reasonable to do so?
- Well, anything is reasonable. Yes, you could say that.
- Would it be appropriate to restrict her from crawling?
- Again I wouldn't think that would-I wouldn't restrict her from that.
- But would it be reasonable to do so?
- It could be.
- Okay, likewise, would it be appropriate to restrict her from kneeling?
- Again, same answer. I wouldn't restrict her from that.
- But it would not be unreasonable to do so?
- In someone's opinion it may be.
- Okay. Now would it be appropriate to restrict her from climbing again given her left leg complaints?
- Again, I wouldn't restrict her for that.
- It would not be unreasonable to do so; correct?
- In someone's opinion, no, it would not.
- Okay. Now, again, Claimant has ongoing low back and left lower extremity complaints. If she finds it helps to lie down during the day to relieve pain, would it be appropriate to allow her to do so?
- Again, I wouldn't restrict her from that-or I would not restrict-I would not impose that.
- But it would not be unreasonable to allow her to do so; correct?
- In someone's opinion, no.
- Okay. Now, you obviously did not recommend further surgery for Claimant's condition. But would it be reasonable for her to take ongoing pain medications?
- It could be, yes.
- Okay. Would it be reasonable for her continue to take anti-inflammatories?
- Yes.
- Would it be reasonable for her to continue to take muscle relaxers?
- Yes.
- And those medications would be necessary to treat the lower back injury that you attribute to the accident of September 3, 2003 ?
- Yes, they would be a component of treatment of that.

Two vocational experts testified at the hearing: Wilbur Swearingin on behalf of the Claimant and Michael Lala on behalf of the Employer. The conclusions of the vocational experts were similar. Both Mr. Swearingin and Mr. Lala testified that if the restrictions of Dr. Koprivica were followed, Claimant would be permanently totally disabled based on the occupational injury of September 3, 2003, alone. Wilbur Swearingin and Michael Lala both testified that if only the lifting restriction of Dr. Ciccarelli were imposed, Claimant would not be permanently totally disabled. Both Wilbur Swearingin and Michael Lala testified that if Claimant were required to lie down throughout the day to relieve her pain, she would be permanently totally

disabled based on the injury of September 3, 2003 alone.

Mr. Swearingin testified that if the restrictions set out by Dr. Ciccarelli were followed and Claimant's use of narcotic medication was taken into consideration, she would be permanently totally disabled. Mr. Lala testified that, if only Dr. Ciccarelli's restrictions were considered and Claimant's use of narcotic medication was considered, it is possible Claimant would be permanently totally disabled.

## FINDINGS OF FACT AND RULINGS OF LAW

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,

Dr. Koprivica testified that Claimant would require medication from time to time for pain management, as well as the possibility of counseling. Dr. Ciccarelli testified that, in his opinion, as of his examination of March 8, 2006, he did not anticipate that Claimant would have required ongoing treatment with respect to the work injury. However, on cross-examination Dr. Ciccarelli admitted that it would be reasonable for Claimant to continue to take pain medication; it would be reasonable for Claimant to take anti-inflammatories medication; it would be reasonable for Claimant to take muscle relaxant medication, all as a component of treatment for the

September 3, 2003, lower back injury.

After a review of all the evidence adduced at the hearing, both oral and written, and based on the record as a whole, I find there is substantial and competent evidence that Claimant will require medical treatment in the future to cure and relieve the effects of her injury of

September 3, 2003. The issue of continuing medical treatment is ordered to remain open for further treatment as may be recommended from time to time by authorized treating physicians.

I find this issue in favor of Claimant.

The nature and extent of any permanent disabilities.

The testimony of Dr. Koprivica and Dr. Ciccarelli differ substantially with regard to permanent disability of the Claimant. Dr. Koprivica testified that because of Claimant's physical condition, her restrictions and her need to lie down throughout the day, the Claimant is permanently totally disabled. Dr. Ciccarelli testified that he placed restrictions on Claimant but not to the extent of Dr. Koprivica. Dr. Ciccarelli did testify that a vocational expert would be the appropriate person to render opinions as to employability.

Both vocational experts' opinions' are similar in final conclusions. If Dr. Koprivica's restrictions are followed, the Claimant is permanently totally disabled. Mr. Lala agreed that if Dr. Ciccarelli's restrictions are followed and then the Claimant's need for narcotic medications is factored in, the Claimant may be permanently totally disabled.

Dr. Koprivica testified that, in his opinion, the Claimant was permanently totally disabled. Dr. Ciccarelli opined that Claimant had a permanent partial disability of 18% of the body as a whole. Dr. Ciccarelli's opinion was expressed for the first time during his deposition testimony. Dr. Ciccarelli assumed that Claimant had already been rated at 15% of the body as a whole from the first surgery without reviewing any medical records and without the benefit of any examination of the Claimant, other than the last treatment date of March 8, 2006. The period of time from when Dr. Ciccarelli last saw Claimant to the rendering of an opinion as to disability was about two years and three months. In addition, Dr. Ciccarelli testified that he arrived at his disability rating by adding 3% to an assumed previous rating. Dr. Ciccarelli is a well-respected physician and surgeon but in this particular claim, I find that Dr. Koprivica's restrictions are reasonable and the reasons that he expressed in his testimony as to why Claimant would not be able to obtain employment on the open labor market are more persuasive of the two physicians.

The vocational experts basically agree that if Dr. Koprivica's restrictions are followed and if Claimant takes narcotic medication to cure and relieve the effects of this injury and if Claimant must lie down periodically during the day because of her inability to sleep at night and to relieve the radicular pain and the pain in her lower back, then Claimant is permanently totally disabled.

After a review of all the evidence adduced at the hearing, both oral and written, and based on the record as a whole, I find that the Claimant is permanently totally disabled from the injury of September 3,

2003, alone. I further find that Claimant reached maximum medical improvement on March 8, 2006. Employer is hereby ordered to pay to Claimant the sum of \$226.06 per week, the amount of compensation rate stipulated by the parties, beginning March 8, 2006, and continuing for the remainder of Claimant's life.

I find this issue in favor of Claimant.

Claimant's attorney has requested approval of an attorney fee of 25% of the amount of this award. Claimant's attorney's fee request is hereby approved. Claimant's attorney is awarded a fee in the amount of 25% of the amount of this award. Claimant's attorney is hereby awarded a lien against the proceeds of this award unless and until the attorney fee shall have been paid in full.

Date: August 26, 2008

Made by: /s/ David L. Zerrer  
David L. Zerrer  
*Administrative Law Judge*  
*Division of Workers' Compensation*

A true copy: Attest:

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