

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

Injury No.: 02-026220

Employee: Bob D. Burnett  
Employer: Murphy Company  
Insurer: St. Paul Fire & Marine Insurance Company  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund  
Date of Accident: March 15, 2002  
Place and County of Accident: St. Charles 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 July 6, 2005. The award and decision of Administrative Law Judge Kevin Dinwiddie, issued July 6, 2005, 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 31<sup>st</sup> day of March 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

\_\_\_\_\_  
William F. Ringer, Chairman

\_\_\_\_\_  
Alice A. Bartlett, Member

DISSENTING OPINION FILED

\_\_\_\_\_  
John J. Hickey, Member

Attest:

\_\_\_\_\_  
Secretary

DISSENTING OPINION

I join my fellow commissioners in awarding compensation in this claim. However, I dissent from the portion of the award denying compensation for employee's disc injury. I would modify the award to award compensation for the disc injury.

The administrative law judge concluded that employee did not establish a medical causal relationship between his March 15, 2002, accident and his disc injury. I disagree.

The claimant has the burden of proving all the essential elements of the claim and must establish a causal connection between the accident and the injury. *Fischer v. Archdiocese of St. Louis-Cardinal Ritter Institute*, 793 S.W.2d 195, 198 (Mo.App. E.D.1990). The claimant does not, however, have to establish the elements of his case on the basis of absolute certainty. *Id.* It is sufficient if he shows them by reasonable probability. *Id.* "Probability means founded on reason and experience which inclines the mind to believe but leaves room for doubt." *Id.* at 198-99; *Ellis v. Western Elec. Co.*, 664 S.W.2d 639 (Mo.App.1984).

*Cook v. Sunnen Products Corp.*, 937 S.W.2d 221, 223 (Mo. App. 1996).

"[A]ll doubts should be resolved in favor of the employee and in favor of coverage, but a claim will not be validated where some essential element is lacking." *Id.* at 223.

Employee credibly testified that before the March 2002 accident he did not experience radicular symptoms on his left side. The medical records in evidence confirm that all previous reported radicular complaints related to employee's right side. Employee testified that he began experiencing left radicular symptoms as early as July 2002. Employee's testimony of left-sided symptoms is bolstered by the August 14, 2002, entry in the medical records of Dr. Murphy, chiropractor; "less lower back pain, left side looser." Employee credibly testified that his radicular symptoms progressively worsened over time until they became so unrelenting that he reported to his physician who ordered an MRI to identify the source of the symptoms.

Dr. Lichtenfeld explained how the twisting injury resulted in a disc herniation. He further explained how over time normal activities can result in inflammation of the bulging disc material, resulting in increased pressure on the nerve root and a progressive worsening of employee's radicular symptoms.

Both Dr. Taylor and Dr. Lichtenfeld are of the opinion that employee's March 15, 2002, work accident was the substantial factor in causing his work injury. Dr. Taylor, treating neurosurgeon, believes, "his pathology is clearly related to his on the job injury. I feel that his injury either completely caused the present pathology or significantly contributed to and/or aggravated his present spinal condition."

Dr. Lichtenfeld diagnosed the following:

1. Chronic lumbrosacral spine strain.
2. Herniated nucleus pulposus on the left at L4-5 and L5-S1.
3. Incitation, exacerbation and acceleration of pre-existing degenerative changes in the lumbar spine.
4. Status post left L4-5 and left L5-S1 microdiscectomy, foraminotomy, and laminotomy.
5. Recurrent disc herniation on the left at L5-S1.
6. Bulging disc at L4-5.
7. Residual left L5 and S1 radiculopathy.

He believes, "[t]he substantial cause of these diagnoses was the accident at the patient's workplace on or about March 15, 2002." Dr. Lichtenfeld assesses employee's overall lumbar disability at 45% permanent partial disability of the person as a whole, not adjusting for employee's preexisting lumbar disability.

Employee sustained no accidents between the time he sustained the March 15, 2002, work injury and the time he began experiencing left-sided radicular symptoms. Dr. Lichtenfeld's explanation of the gradual occurrence of the symptoms is consistent with employee's testimony of the development of his symptoms, the medical records in evidence, and the opinion of the treating surgeon, Dr. Taylor.

Dr. Cantrell would expect a report of radicular symptoms closer in time to the accident before he would find a causal connection. Dr. Lichtenfeld's explanation of the progressive onset of the symptoms persuades me that an immediate, acute onset of symptoms is not necessary to make the causal link.

I find Dr. Lichtenfeld's opinion regarding causation to be more credible than Dr. Cantrell's opinion. I find employee has established that his March 15, 2002, work accident caused his disc herniation and radicular pain. Employee's lumbar surgery was necessary to cure and relieve him of the effects of the work injury.

I would award to employee the following compensation: additional temporary total disability for the period of time he was off work due to his surgery and recovery; permanent partial disability of 30% of the body as a whole referable to the lumbar spine; all past medical expenses he claims; and future medical treatment as needed to cure and relieve him of the effects of his work injury.

For the foregoing reasons, I respectfully dissent from decision of the majority of the Commission affirming the administrative law judge's denial of compensation for employee's disc injury.

---

John J. Hickey, Member

## FINAL AWARD

Employee: Bob D. Burnett Injury No. 02-026220

Employer: Murphy Company

Add. Party: State Treasurer, as Custodian of the  
Second Injury Fund

Insurer: St. Paul Fire & Marine Insurance Co.

Hearing Date: 3/22/05; finally submitted 4/12/05

Checked by: KD:df

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

### 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: 3/15/02
5. State location where accident occurred or occupational disease was contracted: St. Charles County, MO
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? Yes

11. Describe work employee was doing and how accident occurred or occupational disease contracted:  
Employee suffered a low back injury while lifting stainless steel pipe.
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: Low back
14. Nature and extent of any permanent disability: 5% permanent partial disability of the body as a whole
15. Compensation paid to-date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? \$198.50
  
17. Value necessary medical aid not furnished by employer/insurer? \$240.00
18. Employee's average weekly wages: Maximum rate
19. Weekly compensation rate: \$628.90/\$329.42
20. Method wages computation: By agreement of the parties

COMPENSATION PAYABLE

21. Amount of compensation payable:

Unpaid medical expenses: \$240.00

4/7 weeks of temporary total disability (or temporary partial disability)  
at \$628.90 per week .....\$ 359.38

20 weeks of permanent partial disability from Employer, at  
\$329.42 per week .....\$6,588.40

22. Second Injury Fund liability: Open

TOTAL: \$7,187.78

23. Future requirements awarded: None. See award as to future medical.

Said payments to begin as of date of award 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:

## FINDINGS OF FACT and RULINGS OF LAW:

Employee: Bob D. Burnett

Injury No: 02-026220

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

Dependents:

Employer: Murphy Company

Add. Party: State Treasurer, as Custodian of the  
Second Injury Fund

Insurer: St. Paul Fire & Marine Insurance Co.

Checked by: KD:df

The claimant, Mr. Bob D. Burnett, and the employer and its insurer, Murphy Company and St. Paul Fire & Marine, appeared at hearing by and through their counsel and entered into certain stipulations and agreements as to the issues and evidence to be presented in this claim for compensation. The claimant requested in advance of hearing that the issue as to the liability of the Second Injury Fund remain open. The parties have agreed that the issues to be resolved at hearing are as follows:

- Medical causation;
- Liability for certain past medical expense;
- Future medical care;
- Temporary total disability;
- Permanent disability; and
- Mileage reimbursement

Mr. Burnett appeared at hearing and testified on his own behalf. Claimant further submitted the deposition testimony of Dr. Mark A. Lichtenfeld. The employer and insurer submitted the deposition testimony of Dr. Russell Cantrell.

## EXHIBITS

The following exhibits are in evidence:

### Claimant's Exhibits

- A. Deposition of Mark A. Lichtenfeld, M.D.
- B. Certified medical records of Hannibal Clinic
- C. Certified medical records of Hannibal Clinic
- D. Certified records of Murphy Chiropractic Health Center
- E. Certified records of Murphy Chiropractic Health Center
- F. Record of Firsthand Chiropractic (1 page, front and back)
- G. Certified medical records of SSM Corporate Health
- H. Certified medical records of Washington University Medical School
- I. Certified medical records of Washington Univ. Medical School
- J. Certified medical records of Barnes West County Hospital
- K. Certified records of Advance Physical Therapy
- L. Medical bill summary and compilation
- M. Letter of Dean L. Christianson dated 12/04/02
- N. Certified medical records of Hannibal Clinic

### Employer and Insurer's Exhibits

- 1. Compilation of prior reported work injuries
- 2. Report of Dr. Russell Cantrell dated 8/11/04
- 3. Deposition of Dr. Russell Cantrell taken on 12/22/04
- 4. Certified medical records and billing statements of Murphy Chiropractic Health Center

## **FINDINGS OF FACT AND RULINGS OF LAW**

The claimant is a 47 year old sheetmetal worker by trade, and since October of 1999 has worked for the most part in the employ of Murphy Company. Claimant notes that he did spend approximately three months working for St. Louis Blow Pipe in the winter of 2004 before returning as an employee of Murphy Company.

Claimant has a history of making back complaints prior to the injury by accident at issue that he suffered on or about 3/15/02 (See Employer and Insurer's Exhibit No. 1). Claimant provided testimony at hearing as to a history of prior back complaint that is consistent with the various medical and chiropractic records in evidence. More often than not, the claimant would seek treatment from Murphy Chiropractic Health Center or other chiropractic care provider that would help to resolve occasional complaint as to his back, right hip, or right leg. Claimant has also from time to time sought medical evaluation of his back complaints. For example, a note in the records of Hannibal Clinic (Claimant's Exhibit B) dated 9/7/90 suggests that claimant treated for what was believed to be an acute lumbar strain, with complaints of pain "radiating into the groin areas and down the medial aspects of both legs when he sits for an extended period of time".

On or about 3/15/02 Mr. Burnett suffered a low back injury while in the process of loading and unloading stainless steel pipe. Claimant recalls that at the time with the assistance of another worker he was loading pipes that were 8 to 10 feet long, weighing as much as 150 to 200 pounds each. Claimant experienced a "pull" in the center of his low back while lifting one of these pipes. Thereafter, as he was bending over to strap on a safety harness, his back "locked up", and he was unable to straighten up. Claimant reported his complaints to his supervisor, and due to procedural complications as to the treatment process, opted to seek treatment from Murphy Chiropractic Health Center. Claimant sought treatment from the chiropractor on 3/15, 3/16, 3/18, 3/19, and on 3/22/02 before seeing Dr. London on 3/26/02 at the request of the employer.

The 3/26/02 report of Dr. London documents little by way of complaint as to the involved work injury, other than to suggest that claimant complained of noticing "soreness in his back". Dr. London describes all of his findings on objective examination as either "good", "normal", or "negative". Dr. London supposes the claimant to have suffered "low back strain possible disk". It is not clear what Dr. London means by "possible disk", to the extent that he provides little by way of complaint history from Mr. Burnett. One can only speculate whether he is referring to his findings on examination; to the history provided by Mr. Burnett as to having a prior MRI, and being subsequently advised that he "has disks in the lower three vertebrae"; or to the combination thereof. The testimony of Mr. Burnett, in conjunction with the records in evidence from Dr. London, support the conclusion that Dr. London offered nothing by way of formal treatment, and simply recommended that the claimant return to work while finishing therapy provided by the chiropractor.

Claimant continued to perform sheetmetal work for Murphy Company through the summer months of 2002 following the release to return to work by Dr. London.

Claimant would treat with Dr. Murphy and receive chiropractic adjustments from time to time thereafter, including 8 visits in August, September, and October of 2002 with the daughter of Dr. Murphy, who was a Chiropractor at Firsthand Chiropractic (Claimant's Exhibit F, 1 page, front and back).

None of the chiropractic visits from 3/15/02 through September of document a history of complaint into the left lower extremity. In a note dated 10/9, the records of Firsthand Chiropractic indicate that claimant was making complaints of left hip and left knee pain. On 10/19/02 the records of Murphy Chiropractic Health Center document complaints of left knee and left leg pain. Claimant then sought an evaluation by Dr. Evans at Hannibal Clinic. In his report dated 10/31/02, Dr. Evans states as follows:

Bob is a 44-year old, in today, has had problems with low back pain, on and off for the last number of years, probably seven or eight, said it has been getting worse over the last number of weeks, it hurts down through the left buttock, makes his whole left leg numb, would like to get something done about it, has been going to Dr. Murphy, Chiropractor who has run out of good ideas apparently. (Claimant's Exhibit C)

Mr. Burnett provided credible testimony to suggest that his complaints progressively worsened over time. Claimant began to suffer pain down the leg to the knee, and from numbness in his left foot that began to work its way up to the heel and into the calf. Claimant further provided credible testimony to the effect that he first began to experience leg and buttock symptoms in mid to late July of 2002, and that he put off seeking treatment for his left hip complaints until mid August. Mr. Burnett testified that in August or September of 2002 he suffered from a severe burning sensation into his left heel after having been on his feet for a long period of time. Claimant continued to work through this period of time, and suffered no motor vehicle accidents or other traumatic events.

Mr. Burnett returned to Dr. Evans on 11/6/02 for a second visit with respect to his back and lower extremity complaints. MRI was interpreted as showing L5-S1 leftward herniation of disc and an L4-5 central disc herniation (See report, MRI without contrast, dated 11/04/02, within Claimant's Exhibit H). Claimant was then referred to Barnes-Jewish Hospital for further evaluation. Dr. Brett Taylor reviewed diagnostics, performed a physical examination on 11/11/02, and concluded that surgical intervention was warranted to address findings of acute and chronic radiculopathy with neurologic deficits traceable to the L5 and S1 distributions. Claimant also had nerve studies on 11/25/02 that confirmed the finding of L5 radiculopathy (Claimant's Exhibit H). The operative note is less than a model of clarity, to the extent that the description of the procedure mentions only a removal of a large disc herniation at L4-5, yet under the section entitled "NAME OF PROCEDURE" mentions an L5-S1 microdiscectomy. It is apparent from the records that after attempting to treat with epidural injections by Dr. Metzler, on 12/19/02 Dr. Taylor performed a surgery that included not only a discectomy at L4-5, but also foraminotomy and laminotomy at L4-5, and a laminotomy or laminectomy at L5-S1. Both Doctors Cantrell and Lichtenfeld conclude from the records that claimant had foraminotomy, laminotomy, and microdiscectomy at both levels L4-5 and L5-S1. An MRI taken on 1/09/03 post the surgery notes laminectomy changes at L5-S1. MRI taken on 2/10/03 refers to "evidence of a left hemi-laminectomy". In his treatment records dated 1/13/03, under the designation POST-OPERATIVE EXAMINATION, Dr. Taylor notes that claimant is post a 12/19/02 L4-5 disc herniation excision (Claimant's Exhibit H). In his notes dated 12/10/02, under the designation TREATMENT PLAN, Dr. Taylor offers an opinion as to causation, stating "It is my impression that his pathology is clearly related to his on the job injury; I feel that his injury either completely caused the present pathology or significantly contributed to and/or aggravated his present spinal condition".

Dr. Taylor prescribed physical therapy post the surgery. Medical records indicate that Mr. Burnett continued to have complaints of back pain with numbness in his leg and foot. An MRI was performed at Barnes-Jewish on 2/10/03 (See Claimant's Exhibit J). X-rays of the lumbar spine were taken at the request of Dr. Taylor on 3/13/03, the date that Dr. Taylor released Mr. Burnett to return to full duty.

Claimant returned to work in sheetmetal thereafter, and continued to work for Murphy Company. Claimant uses proper technique that allows him to perform heavy lifting. Claimant was able to sit for approximately one hour while giving testimony at hearing without exhibiting any apparent physical discomfort or distress.

Medical records indicate that claimant returned to Dr. Taylor for further evaluation in October of 2003, complaining of increased foot numbness over the prior two weeks. Claimant had lumbar x-rays taken on 10/17/03, and a repeat nerve study performed by Dr. Metzler on 11/19/03. Mr. Burnett also had a repeat MRI taken on 11/10/03. The lack of treatment records thereafter suggests that after being advised by Dr. Taylor on 11/19/03 as to the various treatment options, claimant chose to treat conservatively. Mr. Burnett testified that that he is not under the current care of any physician for his back and lower extremity complaints. He notes that he is currently taking Celebrex and Neurontin as prescribed by Dr. Evans.

Mr. Burnett has ongoing complaints of chronic numbness in his left foot and calf, with recent complaint of some burning in his heel similar to the complaint he suffered prior to his back surgery. Claimant also continues to suffer left sided low back pain and left hip pain, and complains of some loss of strength and of some loss of range of motion in the back.

#### MEDICAL CAUSATION/PERMANENT PARTIAL DISABILITY

The claimant has the burden of proving all the essential elements of the claim for compensation. It is noted that the proof as to medical causation need not be by absolute certainty, but rather by a reasonable probability. "Probable" means founded on reason and experience which inclines the mind to believe but leaves room

for doubt. Tate v. Southwestern Bell Telephone Co., 715 S.W.2d 326, 329 (Mo.App. 1986).

"Medical causation, not within the common knowledge or experience, must be established by scientific or medical evidence showing the cause and effect relationship between the complained of condition and the asserted cause". Brundige v. Boehringer Ingelheim, 812 S.W. 2d 200, 202 (Mo.App. 1991); McGrath v. Satellite Sprinkler Systems, Inc., 877 S.W.2d 704, 708 (Mo.App. E.D. 1994). The ultimate importance of expert testimony is to be determined from the testimony as a whole and less than direct statements of reasonable medical certainty will be sufficient. Choate v. Lily Tulip, Inc., 809 S.W. 2d 102, 105 (Mo.App.1991). The commission may not substitute an administrative law judge's personal opinion on the question of medical causation for the uncontradicted testimony of a qualified medical expert. Wright v Sports Associated, Inc., 887 S.W.2d 596, 600 (Mo banc 1994), citing Merriman v. Ben Gutman Truck Service, Inc., 392 S.W.2d 292, 297 (Mo. 1965).

Doctors Mark A. Lichtenfeld and Russell Cantrell offered expert medical opinions as to medical causation on behalf of the employee and employer respectively. Both had the opportunity to review the involved medical records, and in 2004 both had the opportunity to meet with Mr. Burnett, elicit an injury history, and perform a physical examination.

Doctors Lichtenfeld and Cantrell agree that the claimant suffered a lumbosacral spine strain as the result of his work injury on 3/15/02. The two doctors disagree as to a medical causal relationship between the involved work injury and the radicular complaints into the left leg that resulted in the surgery performed by Dr. Taylor. Dr. Cantrell notes that the absence of any history of acute onset of left lower extremity radicular pain leads him to conclude that the disc herniation suffered by Mr. Burnett was not as a result of the work injury on 3/15/02. Dr. Cantrell accurately summarizes the medical documentation as to left lower extremity radicular complaints. The first such complaint does not appear in any of the medical records until October of 2002.

Dr. Lichtenfeld, to the contrary, believes that the disc herniations suffered by Mr. Burnett are as a consequence of the work injury on 3/15/02. Dr. Lichtenfeld notes that the mechanics of the injury, a twisting of the low back while lifting heavy pipe followed by pain with locking up of the back, are consistent with a disc injury. (Claimant's Exhibit A, at. page 8). Further, Dr. Lichtenfeld relies upon a history of injury from Mr. Burnett that includes complaint of pain radiating into the left lower extremity within about a week of the injury.

The records, without more, support the proposition that the claimant did not make any complaints as to left lower extremity radicular pain until October of 2002. The records of Firsthand Chiropractic document that in August of 2002 Mr. Burnett was making complaints of left sided low back complaints.

At hearing Mr. Burnett did not assert that he was having any left lower extremity complaints immediately or shortly following his work injury. Specifically, Mr Burnett noted that he began having left hip pain in the middle to end of July of 02; treated for such complaint in mid-August; and suffered a worsening of symptoms, to the point that in August or September of 2002 he was having burning sensations in his left heel when on his feet for an extended period of time

Lastly, within his treatment notes Dr. Taylor offers his opinion to the effect that the radicular complaints suffered by Mr. Burnett are a consequence of the work injury. Unfortunately, it is impossible to glean from that opinion the facts assumed by Dr. Taylor that form the basis of his conclusion as to medical causation. Did he review the prior medical records available to Doctors Lichtenfeld and Cantrell? Did he receive a complaint history from Mr. Burnett similar to that given to Dr. Lichtenfeld, or similar to that given by Mr. Burnett at hearing? In his report dated 11/11/02, Dr. Taylor notes the following, under the designation "HISTORY OF PRESENT ILLNESS":

Mr. Burnett is a 44-year old gentleman with low back and left lower extremity pain. The pain (sp) reports that at the end of March or the first of April he had a work injury. He was evaluated by his chiropractor and when he had no improvement of his symptoms, a MRI was ordered by his primary care physician reveals both herniated disc and bulging disc. At present he reports increasing pain in the back and lower extremity...

The real crux of the issue is whether or not the claimant was suffering complaints and had findings fairly referable to a disc injury at the time of injury or shortly after the injury suffered on 3/15/02. Dr. Cantrell acknowledges, at page 7 of his report dated 8/11/04 (Employer and Insurer's Exhibit No. 2), as follows: "If there is documentation in the SSM medical records which would reflect an acute onset of left lower extremity radiculopathy in conjunction with neurologic deficits, then this would suggest that Mr. Burnett may have sustained an acute disc herniation at L4-5 level resulting in associated complaints."

The skepticism of Dr. Cantrell appears to be well founded. There is nothing in the report of Dr. London to suggest that claimant suffered any left lower extremity radiculopathy or neurologic deficits. The first documented complaint of leg pain did not appear in the records until October of 2002, some six months after the lifting injury at issue. Mr. Burnett missed one week of work after his injury, and was able to return to an admittedly rigorous trade despite his back complaints. Mr. Burnett testified at hearing that he began noticing left leg and buttock symptoms in the middle to end of July of 2002. The medical records, in conjunction with the testimony of Mr. Burnett at hearing, persuades that the claimant was not suffering any left lower extremity complaints until July of 2002. From all of the evidence, Mr. Burnett has simply failed to persuade, as a matter of a reasonable probability, that there is a medical causal relationship between the injury on 3/15/02 and a disc injury that is the cause of a left lower extremity radiculopathy. The issue as to medical causation is found in favor of the employer.

The testimony further persuades that the claimant suffered a low back strain as a result of his work injury, and that his back complaints are chronic. The expert medical testimony of Dr. Cantrell persuades that the claimant has suffered disability to his low back that is permanent in nature and partial in degree. Claimant is found to have suffered a permanent partial disability equivalent to 5% of the body as a whole, referable to the low back. At the stipulated rate of \$329.42, the total due is for

20 weeks, or \$6,588.40.

PAST MEDICAL EXPENSE/MILEAGE REIMBURSEMENT

The employer took control of the medical care at the point when Dr. London had the opportunity to perform an evaluation of Mr. Burnett on 3/26/02. Under the designation "PLAN", the SSM Corporate Health Services report states, "We will let him finish his therapy with the chiropractor and have him return to see us only if necessary." Mr. Burnett was otherwise released by Dr. London to return to work, and was discharged from treatment that date. The employer and insurer are found liable for the expense of the treatment provided by Murphy Chiropractic Health Center on 3/15/02; 3/16/02; 3/18/02; 3/19/02; 3/22/02; and on 3/30/02. The total amount due for the chiropractic treatment is \$240.00 (See Claimant's Exhibit L). The claimant has failed to persuade that the balance of the past medical at issue was for necessary treatment to cure and relieve from the effects of a lumbosacral strain. Claimant has further failed to persuade that any of the mileage to and from treatment is compensable per section 287.140 RSMo.

FUTURE MEDICAL CARE

The testimony of Dr. Cantrell persuades that the claimant has reached maximum medical improvement will respect to the lumbosacral spine strain suffered at work on 3/15/02. The issue as to future medical care is found in favor of the employer and insurer.

TEMPORARY TOTAL DISABILITY

The testimony of Mr. Burnett and corresponding chiropractic records persuade that the claimant was under care and unable to work the week immediately following his injury, from 3/16/02 through 3/22/02. The employer/insurer is liable for 4/7 weeks of temporary total disability, or a total of \$359.38.

ATTORNEY'S FEES

This award is subject to a lien in favor of Dean L. Christianson, Attorney at Law, in the amount of 25% thereof for necessary legal services rendered.

This award is subject to interest as provided by law.

Date: \_\_\_\_\_ Made by: \_\_\_\_\_

KEVIN DINWIDDIE  
*Administrative Law Judge*  
*Division of Workers' Compensation*

A true copy: Attest:

\_\_\_\_\_  
Patricia Secrest  
*Director*  
*Division of Workers' Compensation*

-  
\_\_\_\_\_