

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

Injury No.: 03-115765

Employee: Aaron Carter

Employer: GKN Aerospace Services

Insurer: Zurich North America Insurance Company

This cause has been submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. We have reviewed the evidence and briefs and we have considered the whole record. Pursuant to § 286.090 RSMo, the Commission reverses the December 2, 2008 award and decision of the administrative law judge, as it relates to causation and injury to employee's right foot. In all other respects, we affirm the award.

Preliminaries

The administrative law judge heard this matter to consider: 1) the nature and extent of permanent partial disability of employee's left heel/ankle; and 2) the medical causation and nature and extent of any permanent partial disability of employee's right foot.

The administrative law judge found employer liable for employee's injuries to both his left and right lower extremities. He found employee sustained 12½% permanent partial disability of his left ankle as a result of the primary injury. In addition, he also found that as a result of employee's left ankle injury, he altered his gait causing a micro fracture at the sesamoid bone in his right foot which required surgery. Due to this injury and subsequent surgery, the administrative law judge found that employee has sustained 20% permanent partial disability of his right foot. Lastly, the administrative law judge found that the two injuries combined to result in a synergistic effect and, therefore, a multiplicity factor of 15% was also awarded.

Employer appealed to the Commission alleging the administrative law judge erred in finding that, as a result of employee's injury to his left Achilles tendon on November 14, 2003, employee's gait became substantially altered to cause a micro fracture at the sesamoid bone of his right foot. Specifically, employer alleges the administrative law judge erred in that he failed to properly address the issue regarding medical causation and, therefore, employee should not be awarded any permanent partial disability for the right foot, nor should a load factor be added.

Therefore, the only issue currently before the Commission concerns the causation of employee's micro fracture at the sesamoid bone of his right foot.

Findings of Fact

The findings of fact and stipulations of the parties were recounted in the award of the administrative law judge; therefore, the pertinent facts will merely be summarized below.

On November 14, 2003, as part of his normal job duties, employee was preparing freight to go across the street when he grabbed an empty basket to put parts into. As he started to pull the basket, the wheel fell off the basket and the cart lunged forward on the back of his left heel. The cart weighed approximately 100 lbs. and employee felt immediate pain at the back of his ankle. He had to yank his foot from underneath the cart.

Employee reported his injury and received medical treatment at Concentra. He later went back to work, but continued to have problems with his left foot during the next year. Employee testified that he continued to experience pain and that he would limp 3 to 4 days a week at certain times when he had to be on his feet for long periods. He treated his pain with over-the-counter medications.

Employee did not make any attempt to see a doctor regarding left or right foot pain between November 2003 and January 2005, nor did he ask his employer to send him to a doctor during this period.

In January 2005, employee's left heel pain intensified to the point that it felt like the cart incident happened all over again. Employee testified that in January 2005 he also had extreme pain in his right foot, which he attributed to limping. Employee received treatment at Concentra on his left foot, but was denied treatment for his right foot. He received therapy on his left foot for approximately four months at HealthSouth.

Employee sought treatment on his own for his right foot symptoms with a podiatrist, Dr. Broadhead. Dr. Broadhead found a problem with employee's sesamoid bone and later performed surgery on his right foot in April 2005.

Employee testified that he still has pain in the back of his left ankle and gets tension and pain around his left Achilles tendon. Employee testified that he also still has pain around the ball of his right foot when he is on his feet for long periods of time.

Employee's expert, Dr. A.G. Lipede, opined that both employee's left and right foot injuries were work-related. Dr. Lipede testified that the left foot injury was caused by the November 14, 2003 work-related injury and that the right foot injury was caused by employee's resulting altered gait. He testified that employee was putting more weight, force and distribution on the weight of the right foot, which created extra force on the big toe or forefoot. Dr. Lipede believes this ultimately resulted in employee's sesamoid bone fracture.

Dr. Lipede is board certified in forensic medicine and disability analysis, but his practice does not include performing surgeries on feet due to orthopedic injuries. Dr. Lipede previously surrendered his medical license in the state of Iowa.

On October 23, 2007, Dr. Cantrell examined employee on behalf of employer. Dr. Cantrell diagnosed employee with a contusion and secondary Achilles tendonitis with regard to the left foot injury the employee sustained in November 2003. With regard to the right foot, Dr. Cantrell diagnosed employee with a sesamoid stress fracture, but did not feel it was related either directly or indirectly to the November 2003 left foot injury. Dr. Cantrell testified that he did not think the November 14, 2003 work incident was a substantial factor in causing the right foot condition because employee had no symptoms in his right foot during the course of treatment for his initial left heel injury when he would have expected the gait deviation to be maximal. Dr. Cantrell also noted that employee had been asymptomatic for any left foot or heel complaints in the 6-8 months after conclusion of treatment for the left foot, so there would have been no reason for him to have any gait deviations or limps during this period of time if he was asymptomatic.

Dr. Cantrell further testified that a sesamoid stress fracture would be more likely to be seen in someone who is a runner or dancer and spends a lot of time on the balls of their feet, and it would be less likely to be seen in someone who was limping because they would be spending less time on their forefoot than they would in

a normal walking pattern.

Dr. Cantrell is board certified in physical medicine and rehabilitation and treats individuals who have foot or ankle complaints.

Conclusions of Law

Under Missouri Workers' Compensation law, the claimant bears the burden of proving all the essential elements of his claim, including medical causation. *Roberts v. Missouri Highway and Transportation Commission*, 222 S.W.3d 322, 331 (Mo. App. 2007). For an injury to be compensable, the evidence must establish a causal connection between the accident and the injury. *Id.*

In *McGruff v. Satellite Sprinkler Systems*, 877 S.W.2d 704 (Mo. App. 1994), overruled on other grounds, *Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003), the court stated that "[m]edical 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." *Id.* at 708. Even if supported by scientific medical evidence, "[a] medical expert's opinion must [also] be supported by facts and reasons proven by competent evidence that will give the opinion sufficient probative force to be substantial evidence." *Silman v. Williams Montgomery & Assoc.*, 891 S.W.2d 173, 176 (Mo. App. 1995), overruled on other grounds, *Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). Further, "[a]ny weakness otherwise present in the underpinnings of the opinion given by the [expert] witness goes not to the admissibility of the testimony but to its weight and value." *Hall v. W.L. Brady Investments, Inc.*, 684 S.W.2d 379, 388 (Mo. App. 1984).

In this case, employee alleged that the November 2003 injury to his left heel caused him to alter his gait, which ultimately led to a sesamoid stress fracture in his right foot. Employee provided medical evidence and testimony from Dr. Lipede that supported this theory.

Dr. Lipede's medical evidence and testimony lacks probative value. First of all, Dr. Lipede may be board certified in forensic medicine and disability analysis, but his practice does not include performing surgeries on feet due to orthopedic injuries. Secondly, Dr. Lipede failed to acknowledge that employee had a normal gait when he was discharged from care at Concentra on November 26, 2003. Dr. Lipede's understanding was that employee was walking with a significantly altered gait during that time period. Dr. Lipede assumed a fact that is not corroborated by the medical evidence. Lastly, Dr. Lipede surrendered his medical license in the state of Iowa, and faced multiple charges in other states. All of these factors affect the credibility of Dr. Lipede's findings and testimony.

On the other hand, Dr. Cantrell's medical evidence and testimony provides a much more logical rationale to support his opinion that employee's sesamoid stress fracture was not related either directly or indirectly to the November 2003 injury.

First of all, Dr. Cantrell is board certified in physical medicine and rehabilitation and treats individuals who have foot or ankle complaints. Secondly, Dr. Cantrell noted that employee did not have any symptoms in his right foot during the course of treatment following the initial left heel injury in 2003 when he would have expected employee's gait deviation to be maximal. Thirdly, Dr. Cantrell noted employee had been asymptomatic for any left foot or heel complaints in the 6 to 8 months after the conclusion of treatment following the initial injury in 2003. Dr. Cantrell reasoned that during this time period that there would not have been a reason for him to have any gait deviations or limping if he was asymptomatic in the left foot. Additionally, Dr. Cantrell noted that employee had not presented with any right foot complaints until January 2005, at which time there was not any documented history of ongoing limping as a result of left heel pain and no reason to believe that employee would have had a gait deviation sufficient to cause a sesamoid stress

fracture. Lastly, Dr. Cantrell testified, as a physician that treats individuals with foot or ankle complaints on a regular basis, that a sesamoid stress fracture would be more likely to be seen in someone who is a runner or dancer and spends a lot of time on the balls of their feet, and it would be less likely to be seen in someone who was limping because they would be spending less time on their forefoot than they would in a normal walking pattern.

The administrative law judge did not make a credibility finding as to Drs. Lipede and Cantrell, nor did he provide a thorough legal analysis to support his determination that employee's right foot injury was work-related. The administrative law judge's award merely finds in a conclusory manner that employee's right foot injury was caused by his altered gait.

The Commission, based on the totality of the medical opinions and supporting facts in the record, finds Dr. Cantrell's opinion to be more credible than Dr. Lipede's. Dr. Cantrell considered all of the evidence in the record in arriving at his conclusion; whereas Dr. Lipede's opinion was based on a factually uncorroborated assumption that employee walked with a limp the entire time following the November 2003 injury. This, coupled with the fact that Dr. Lipede surrendered his medical license in the state of Iowa and has faced other charges, further supports the Commission's finding that Dr. Cantrell is more credible.

For the foregoing reasons, the administrative law judge incorrectly concluded that employee's sesamoid stress fracture in his right foot was caused by his altered gait resulting from his November 2003 work-related injury. Therefore, the Commission disagrees with the administrative law judge and finds employee did not meet his burden of proving by a reasonable probability that the injury to his right foot was caused by the injury to his left foot sustained at employer's place of business on November 14, 2003. Consequently, the Commission also disagrees with the administrative law judge as to his award of permanent partial disability benefits to employee for his right foot and the added 15% load factor for the combined effect of the injuries to both employee's left and right feet.

Therefore, employer is not liable for employee's injuries to his right foot or for any load factor that may result due to the combination of employee's injuries to both his left and right feet.

The award and decision of Administrative Law Judge Matthew D. Vacca, issued December 2, 2008, is attached hereto for reference. Its findings and conclusions are incorporated to the extent they are not inconsistent with our findings and conclusions herein.

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

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

SEPERATE OPINION FILED
John J. Hickey, Member

Attest:

SEPARATE OPINION

CONCURRING IN PART AND DISSENTING IN PART

I have reviewed and considered all of the competent and substantial evidence on the whole record. Based on my review of the evidence as well as my consideration of the relevant provisions of the Missouri Workers' Compensation Law, I believe the decision of the administrative law judge should be affirmed without modification. I dissent from the majority's decision to deny benefits for employee's right foot injury.

In this case there is conflicting medical evidence with regard to the causation of employee's right foot injury. However, in workers' compensation cases, "[a]ny doubt as to the right of an employee to compensation should be resolved in favor of the injured employee." *Wolfgeher v. Wagner Cartage Service, Inc.*, 646 S.W.2d 781, 783 (Mo. 1983).

The administrative law judge made his determination after hearing live testimony, and reviewing the testimony of both medical experts. After considering the entire record, the administrative law judge found employee's evidence to be substantial, credible and persuasive.

Although the majority gives weight to Dr. Lipede's surrendered medical license in the state of Iowa, Dr. Lipede is and was, at all times relevant to this case, a licensed and practicing doctor in the state of Missouri.

Dr. Cantrell opined that employee's limp would not cause an injury to the ball of one's foot. However, Dr. Cantrell never even saw employee's limp. For this reason, Dr. Cantrell was not in a position to make that determination.

Further, employer points to the fact that employee was released from treatment following the November 14, 2003 injury with a normal gait and draws from that the conclusion that employee did not limp for a period of 6 to 8 months before seeking medical treatment for his right foot. This argument fails to consider the fact that while employee was treating for his left foot injury he was placed on substantial restrictions, which included no prolonged walking or standing longer than 45 minutes per hour and he was placed in a splint. Upon being released from treatment on November 29, 2003, these restrictions were lifted and he returned to his normal duties. This increase in activity caused employee's pain to flare up and resulted in him limping approximately 3 to 4 days per week.

Lastly, employer failed to provide any evidence that the pain in employee's right foot was caused by anything other than his altered gait.

Based on the above, I believe that employee has carried his burden in proving that the injury to his right foot was caused by the injury to his left foot sustained at employer's place of business on November 14, 2003. Further, I find that the 15% load factor the administrative law judge awarded for the combined effect of the injuries to both employee's left and right feet should also be affirmed.

I would affirm the award of the administrative law judge allowing compensation for employee's right foot injury.

For the foregoing reasons, I respectfully dissent from the portion of the award denying compensation to the employee for injury to his right foot.

John J. Hickey, Member

AWARD

Employee: Aaron Carter

Injury No.: 03-115765

Dependents: N/A

Before the
Division of Workers'
Compensation

Employer: GKN Aerospace

Department of Labor and Industrial
Relations of Missouri
N/A
Jefferson City, Missouri

Additional Party:

Insurer: Zurich North America Insurance Company

Hearing Date: October 29, 2008

Checked by: MDV:cw

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
 - 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
 - Date of accident or onset of occupational disease: November 14, 2003
 - State location where accident occurred or occupational disease was contracted: St. Louis, County
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
 - 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: Parts cart ran up on Achilles tendon injuring left ankle and altered gait of right ankle.

12. Did accident or occupational disease cause death? No Date of death?

13. Part(s) of body injured by accident or occupational disease: Left and right lower tendons

- Nature and extent of any permanent disability:

15. Compensation paid to-date for temporary disability: \$0

16. Value necessary medical aid paid to date by employer/insurer? \$4,464.44

Employee: Aaron Carter

Injury No.: 03-115765

17. Value necessary medical aid not furnished by employer/insurer? \$0

- Employee's average weekly wages: \$924.13

19. Weekly compensation rate: \$616.04/\$347.05

20. Method wages computation: Agreed

COMPENSATION PAYABLE

21. Amount of compensation payable:

47.58 weeks of permanent partial disability from Employer	\$16,512.63
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22. Second Injury Fund liability: No

Total:	\$16,512.725
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23. Future requirements awarded: None

Said payments to begin 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 of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Andrew Mandel

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Aaron Carter

Injury No.: 03-115765

Dependents: N/A

Before the
Division of Workers'
Compensation
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Employer: GKN Aerospace

Additional Party: N/A

Insurer: Zurich North America Insurance Company

Checked by: MDV:cw

ISSUES PRESENTED

Two claims, Injury No. 03-115765 and Injury No. 05-007716, were tried together. At hearing, the claim in the earlier injury number was amended by interlineation to include the later right heel injury. The later claim was then dismissed and the cases were treated as one. Two separate awards are issued, this one allowing compensation, the other denying it. The issues presented for resolution by way of this hearing are: The nature and extent of permanent partial disability on the left heel and medical causation and the nature extent of any permanent partial disability on the right ankle.

FINDINGS OF FACT

1. Claimant has worked for the last 24 years as a materials handler. Claimant worked the immediate past six years for GKN Aerospace Services and 18 years for its prior incarnation as Boeing. Claimant works currently as a clerk in the shipping department.
2. Claimant pulls crafts parts from bins and delivers them along with work orders to carts which are then used to deliver to the assembly line. Claimant takes these parts and puts them in a crib. Claimant is on his feet seven hours out of the work day. Claimant walks a lot on the warehouse floor. Claimant's shift is 6:30 to 3:00 and has been such for the last six years. Claimant's usual trips involve 50-yard bursts of activity where he moves a part to the crib, goes back to his desk for the manifest and processes the parts order and takes the crib across the street and downstairs to the drivers.
3. On the date of the accident, November 14, 2003, Claimant injured his left Achilles tendon. Claimant was engaged in preparing some freight. Claimant went to the dock to get a bin/basket. The wheel fell off the cart, which launched forward onto Claimant's left heel. This was an all metal cart weighing approximately 100 pounds. Claimant immediately felt pain in his ankle. Claimant yanked his foot out from under the cart and took his shoe off, which was very painful.
4. Claimant reported the accident the same day to his supervisor, this day was Friday. Claimant thought the pain would go away, but on Monday the pain was considerably elevated. Claimant was sent to Concentra. At that time Claimant could not walk, could not move the ankle at all, and engaged in no activity over the weekend, taking Tylenol and kept the heel tightly wrapped. At Concentra, Claimant was prescribed muscle relaxers, and pain relievers and sent to HealthSouth for physical therapy for about three weeks and was seen at Concentra on two more occasions. Claimant was returned to work full duty with some minor

restrictions that he does not recall.

5. From January 2004 to January 2005, Claimant continued to experience pain with the left ankle, but nothing that he thought warranted further medical care or follow-up. Claimant would have a slight limp when he had pain which would flare up from time to time. Sometimes the flare-ups were long, lasting for several days; sometimes they would be short and frequent as much as four times a week.

6. Claimant began walking favoring the left foot and walking more heavily on his right when the left began to flare.

7. Claimant returned to Concentra when the left began flaring more frequently and his right foot began hurting under the big toe. Both Claimant's feet hurt but the Employer refused to treat the right ankle, treating only the left. Claimant went to get right foot treatment on his own.

8. In January 2005, Claimant went to Dr. Broadhead, a podiatrist, who believed that Claimant had been putting excess weight on the right foot and injured his sesamoid bone. Claimant was given a cortisone injection. Claimant finally underwent surgery at HealthSouth on the right foot in April 2005, where some bone chips were removed as a result of a stress fracture that was pressing on a nerve under the right toe.

9. Employer sent Claimant to physical therapy for his left ankle where Claimant underwent physical therapy, electro stimulation, heat stretching and riding a bike for rehabilitation.

10. Claimant's left ankle has good days and bad days. The pain is in the back at the Achilles tendon. Claimant takes Aleve and Tylenol or other over the counter remedies for pain. Claimant has bad days three to four times a week involving tension, throbbing and sharp pain. Favoring the left foot increases pain in the right foot. The pain is under the ball of his right big toe. The scar from the surgery hurts and rubs against the inside of Claimant's right shoe causing an aggravation of symptoms.

11. Claimant now tries to restrict his walking. Also, Claimant's golf game has decreased severely. Claimant can only play the game if he utilizes a golf cart. Claimant can no longer play basketball. Claimant buys bigger shoes with inserts to protect the right foot from jarring or further trauma.

12. Claimant is 6'2" tall and weighs 240 pounds. Claimant walks a little for recreation at home with his wife.

13. Claimant began limping immediately after he injured his Achilles tendon. Claimant told Employer's physicians about his limping but the doctors were focusing on the left foot.

14. Although Claimant was never totally symptom free, the right foot did not hurt bad enough early on for Claimant to see a doctor. Claimant sought further medical treatment only when the flare-ups became more progressive on the left and caused the right to become severe and the pain spreading.

RULINGS OF LAW

1. Claimant sustained injury on November 14, 2003, where a cart ran over Claimant's left foot damaging his Achilles tendon. As a result of that injury and following the rendition of medical treatment, Claimant nevertheless sustained permanent partial disability in the amount of 12 ½% permanent partial disability measured at the level of the left heel or at the 155 week level.

2. As a result of an altered gait in favoring his right foot as a result of the left Achilles tendon injury, Claimant created a micro fracture at the sesamoid bone which pressed on nerve and which was surgically divided as a result Claimant has sustained a 20% permanent partial disability measured at the 110 week level.

3. These injuries are working in a synergistic fashion that caused a multiplicity of additional permanent partial disability best represented by a loading factor of .15.

DISCUSSION

The Commission recently discussed the contours of the compensable consequences of an injury in *Vernon Cypher v. Independent Plumbing and Electric*; Injury No. 01-143256, (Mo.L&IRC March 21, 2006);

In Larson's treatise on workers' compensation law, the author explores the range of compensable consequences that can result after the primary injury occurs.

"A distinction must be observed between causation rules affecting the primary injury . . . and causation rules that determine how far the range of compensable consequences is carried, once the primary injury is causally connected with the employment. . . . [W]hen the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of "direct and natural results," and of claimant's own conduct as an independent intervening cause. The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury. The simplest application of this principle is the rule that all the medical consequences and sequelae that flow from the primary injury are compensable."

1. A. Larson, *Larson's Workers' Compensation Law*, section 10.01.

In other subsections of this same chapter, the author looks more specifically at various circumstances that are compensable.

1. Compensability of Aggravation by Treatment

It is now uniformly held that aggravation of the primary injury by medical or surgical treatment is compensable. Examples include exacerbation of the claimant's condition, or death, resulting from . . . pain killers, and other medications

When the injury sustained during treatment or examination is not an aggravation of the work-related injury, but injury to another part of the body, courts have also found the injury to be compensable.

2. Irrelevance of Fault or Malpractice of Doctor

Fault on the part of physicians . . . , even if it might amount to actionable tortiousness, does not break the chain of causation. . . .

3. Irrelevance of Fault of Others Involved in Treatment

Similarly, injuries due to the negligence of persons other than physicians, connected with the process of treatment . . . , are within the compensable range of consequences.

1. A. Larson, *Larson's Workers' Compensation Law*, section 10.09.

In the case at hand, we find no negligence on employee's part that acted as an independent intervening cause for the ibuprofen reaction. Furthermore, as noted in Larson's treatise, the potential negligence of the medical personnel connected with employee's treatment does not break the causation chain. Properly analyzed, employee sought medical care at the Medical Center at employer's instruction and as the direct result of the undisputed primary injury to his back the day before. The medication reaction and the physical and emotional problems that occurred were, thus, the direct and natural result of the compensable primary injury. Therefore, employee's panoply of medical and emotional problems and the total disability they create, together with the primary disabilities, arose out of and in the course of employee's employment.

Missouri courts support our conclusion. In *Lahue v. Missouri State Treasurer*, 820 S.W.2d 561, 562 (Mo. App. W.D. 1991)(citations omitted), the employee fell off a chair and injured her right hip and low back while she was undergoing whirlpool therapy for an ankle injury that occurred during the course of her employment. The court stated as follows:

"The law is well settled, that where a claimant sustains injury arising out of and in the course of her employment, every natural consequence that flows from the injury, including a distinct disability in another area of the body is compensable as a direct and natural result of the primary or original injury." The same rule is recognized in Missouri. Injuries sustained during authorized medical treatment of a prior compensable injury are the natural and probable consequence of the compensable injury and the employer is liable for all resulting disability.

Other jurisdictions faced with similar facts have reached the same conclusion. In *Moretto v. Samaritan Health System*, 198 Ariz. 192, 8 P.3d 380 (Ct. App. 2000), the employee had surgery to his knee for a

compensable injury. He then underwent physical therapy. During a therapy session and as a result of the alleged negligence of the physical therapist, the employee fell to the floor and injured his back. Citing Larson's treatise, the court held that an injury is compensable "when it is caused by the negligent treatment of a compensable primary injury." 198 Ariz. at 195, 8 P.3d at 383. It made no difference that the therapist's negligence did not aggravate the primary injury; rather, it caused a new and separate injury. Based on similar facts, the Nebraska court reached the same conclusion. *Smith v. Goodyear Tire & Rubber Co.*, 10 Neb. App. 666, 636 N.W.2d 884 (2001)(physical therapy that injured his knee). Consequently, employee's conditions resultant from the medication reaction are compensable.

Vernon Cypher v. Independent Plumbing and Interior Electric, Injury No. 1-143256, (Mo.L&IRC March 21, 2006)

The instant case follows this same logical framework of an accident within an accident. While this injury did not arise from the medical treatment as in the cited cases, it did arise directly from Claimant's hobbling about as a result of the opposite Achilles tendon injury.

Date: _____

Made by: _____

Matthew D. Vacca
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Jeffrey W. Buker
Director
Division of Workers' Compensation