

TEMPORARY AWARD ALLOWING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge
by Supplemental Opinion)

Injury No.: 10-082553

Employee: John Cutsinger
Employer: Area 151 Nightclub
Insurer: Advantage Workers' Compensation
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

This workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having reviewed the evidence, read the briefs, 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 Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge as supplemented herein.

Discussion

Employee vs. independent contractor

The parties dispute whether employee was an employee of employer or instead working as an independent contractor at the time he sustained his injuries on October 1, 2010. We agree with the administrative law judge's analysis and ultimate determination that employee proved the existence of an employment relationship, but we wish to render some additional findings of fact that we deem pertinent to the issue.

The administrative law judge found that "the [employer] did not exercise control over the manner of customizing the lighting to the fighters' songs, but only controlled the ultimate result." *Award*, page 7. We disagree, because the un rebutted evidence is to the contrary. Specifically, employee testified that, if his supervisors at employer's nightclub were unhappy with the way in which he was managing the light and sound for special events, they could tell him what music to play, how loud or quiet to play it, and how they wanted the lights to work. Employee testified that not only did his supervisors reserve the right to exert such direct control over his work, but that they actually did so, and that this was a regular occurrence. Employer did not present any witnesses to contradict employee's description of the work relationship. We credit employee's un rebutted testimony.

We find that employee's supervisors at employer's nightclub reserved the right to tell him how to do his job, and that they regularly did so. We find that such instruction included whether to play a particular song, how loud or quiet to play the music, and how to program the lights. As the administrative law judge recognized, "[t]he pivotal question in determining the existence of an employer-employee relationship is whether the employer had the right to control the means and manner of the service, as distinguished from controlling the ultimate results of the service." *Chouteau v. Netco Constr.*, 132 S.W.3d 328, 332 (Mo. App. 2004). Because employer retained and regularly exercised the right

TEMPORARY OR PARTIAL AWARD

Employee: John Cutsinger

Injury No. 10-082553

Dependents: N/A

Employer: Area 151 Nightclub¹

Additional Party: Treasurer of Missouri as Custodian
of the Second Injury Fund (Open)

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

Insurer: Advantage Workers' Compensation/
Patriot Risk Services

Hearing Date: August 3, 2012; Record closed on August 6, 2012.

Checked by: VRM/db

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: October 1, 2010.
5. State location where accident occurred or occupational disease was contracted: St. Robert, 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? Yes.
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Portable stairs at the nightclub collapsed as Claimant was walking on them.

¹ Although the Division's records indicate that the alleged Employer is "Area 151 Nightclub and Shenanigans Pub," the parties indicate that Shenanigans Pub is a separate entity. The alleged employer in this case is simply "Area 151 Nightclub."

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: Right foot.
14. Nature and extent of any permanent disability: None.
15. Compensation paid to-date for temporary disability: None.
16. Value necessary medical aid paid to date by employer/insurer? None.
17. Value necessary medical aid not furnished by employer/insurer? None.
18. Employee's average weekly wages: Not in issue.
19. Weekly compensation rate: Not in issue.
20. Method wages computation: By stipulation.

COMPENSATION PAYABLE

21. Amount of compensation payable: \$27,884.90.
22. Second Injury Fund liability: Open.

TOTAL: \$27,884.90.

23. Future requirements awarded:

Employer/Insurer shall provide Claimant with future medical care necessary to cure and relieve the effects of the work related injury.

The compensation awarded to Claimant shall be subject to a lien in the amount of 25 percent of all payments to Claimant in favor of the following attorney for necessary legal services rendered to Claimant: B. Michael Korte.

FINDINGS OF FACT AND RULINGS OF LAW:

Employee: John Cutsinger

Injury No. 10-082553

Dependents: N/A

Employer: Area 151 Nightclub

Additional Party: Treasurer of Missouri as Custodian
of the Second Injury Fund (Open)

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

Insurer: Advantage Workers' Compensation/
Patriot Risk Services

Hearing Date: August 3, 2012; Record closed on August 6, 2012

Checked by: VRM/db

INTRODUCTION

The undersigned Administrative Law Judge conducted a hardship hearing on August 3, 2012 in Lebanon, Missouri. John Cutsinger (Claimant) appeared in person and with his legal counsel, B. Michael Korte. Loretta Simon represented Area 151 Nightclub (Employer) and Advantage Workers' Compensation and Patriot Risk Services (Insurer). Claimant has requested a Temporary/Partial Award to direct Employer/Insurer to provide past and future medical treatment and future temporary disability benefits. Employer requests a Final Award, contending that Claimant was an independent contractor and not an employee. Upon request of Claimant, and without objection from the opposing party, the record remained open for the receipt of additional evidence consisting of one medical bill in the amount of \$104.00. That evidence was received timely. The medical bill was marked as Claimant's Exhibit N, received into evidence, and the record closed on August 6, 2012. Now, having reviewed all of the evidence and considered the parties' briefs, I issue this Temporary/Partial Award. The Second Injury Fund did not participate in this hearing and the Fund's liability remains open.

STIPULATIONS

The parties stipulate to the following facts:

1. Area 151 Nightclub is a Missouri employer, fully insured with Advantage Workers' Compensation and Patriot Risk Services. Employer is subject to the Missouri Workers' Compensation Law.
2. On October 1, 2010, Claimant sustained an injury while at Area 151 Nightclub.
3. The injury occurred in Pulaski County. The parties stipulate that jurisdiction and venue is appropriate in Lebanon, Missouri. There is no dispute as to notice or timeliness of the Claim.

4. Claimant's wage rate and compensation rate are not at issue. Employer/Insurer paid no temporary benefits and no medical benefits to date.
5. If it is determined that the Claim is compensable, the parties agree that Employer would be liable for at least \$27,884.90 in medical expenses and for the provision of future medical aid.

ISSUES

The parties stipulate that the following issues are the sole issues for this hearing:

1. Was Claimant an employee of Area 151 Nightclub at the time of his injury on October 1, 2010?
2. If yes, did Claimant's injury arise out of and in the course of his employment?

EXHIBITS

The following exhibits were offered by Claimant and admitted:

- A. Pulaski County Ambulance – records
- B. Pulaski County Ambulance - bill
- C. Frederick Knee Center – office note of August 24, 2011
- D. Frederick Knee Center – records
- E. Frederick Knee Center – bill
- F. Columbia Orthopedic Group, Dr. B. Kleiber – office note of October 6, 2011
- G. Columbia Orthopedic Group, Dr. B Kleiber – letter of June 14, 2012
- H. Columbia Orthopedic Group, Dr. B Kleiber – bill
- I. Phelps County Regional medical Center – records
- J. Phelps County Regional medical Center – bill
- K. Prescriptions – bills
- L. Report, Dr. Aubuchon – dated December 29, 2011
- M. Report, Dr. Aubuchon – dated June 28, 2012
- N. Palmaris Imaging – bill of \$104.00

The following exhibit were offered by Employer/Insurer and admitted:

1. 1099 Detail Report

FINDINGS OF FACT

Claimant filed a Claim for Compensation with the Missouri Division of Workers' Compensation alleging injuries to the right foot, right ankle and right lower extremity as the result of an October 1, 2010 accident that occurred on the premises of Area 151 Nightclub, where Claimant was working. The nightclub admitted that Claimant sustained an injury, but denied that Claimant was an employee and that his injury arose out of and in the course of the employment.

Area 151 Nightclub is open Thursday through Saturday from 8:00 p.m. to 1:30 a.m. On Friday and Saturday nights, a live disc jockey plays music and operates lighting for dancing. Area 151 Nightclub owns the lighting equipment and the computers that are used to sequence the lights to music. The light sequences for the disc jockey are pre-set, and take no particular skill to operate.

Multiple times throughout the year, the nightclub sponsors special events such as car shows, live music performances, and mixed martial arts (MMA) contests or fights at its entertainment complex. At the MMA fights, the nightclub used "special lighting." The nightclub called upon Claimant to be its light and sound technician. Claimant agreed to coordinate the lights for the MMA fights several times throughout the year at the rate of \$10.00 per hour. Claimant did not bill or send an invoice for his hours of work.

In addition to stationary lights and the two computers used to sequence music, the nightclub's equipment included an amplifier and microphones for the master of ceremonies. Claimant brought no equipment with him. Claimant had designed custom light sequences for MMA fights on the computer that were different from the standard sequences used by the disc jockey. Claimant testified credibly that it would take only about one night to learn how to operate all of this equipment. The nightclub owner, Greg Chmura, and Allen Gililand, the fight promoter, contacted Claimant to perform these duties because he already knew how to make the light and sound equipment run correctly as he had worked for the former owners of the nightclub. Claimant did not operate lights for any other entity. He did not own his own equipment. He does not own a lighting or disc jockey business. He does not advertise as a lighting/sound technician.

October 1, 2010, was a MMA fight night. Terry Pettyjohn, the supervisor, called Claimant and advised him when to arrive at the nightclub. When Claimant arrived, he did not have to "check in," but he normally did so. On this occasion, the nightclub supervisor knew Claimant was present. Claimant arrived early to allow enough time to coordinate the lighting sequences with the music the fighters had brought to play when they entered the ring. No one told him what lighting sequences to choose to go with each of the fighters' songs. Claimant's job duty was to choose the proper lighting scheme that corresponded with the fighters' songs. This depended on the beat of the particular song, for instance, if it was fast or slow. Area 151 Nightclub did not select or control the songs the fighters chose, nor controlled the lighting sequence Claimant used to accompany those songs.

Although occasionally Claimant would run an errand, change a light bulb, or work as security, these tasks were infrequent and inconsequential to the issue at hand. The only time Claimant worked for the nightclub in 2010 was when he was recruited to customize the lighting and sound for the five MMA fighting events. In 2010, Claimant worked on five occasions: January 30,

April 30, May 29, July 31, and October 1. There was only once in 2010 that Claimant did not work when requested. Although he found another worker with similar skills to take his place, this was done only with the consent of the nightclub. On that occasion, Terry Pettyjohn supervised the workers' duties. Claimant could have been fired at anytime.

A cover charge was paid by those attending the MMA fights, and food and beverage were sold at the event. Claimant's pay was not dependent upon the number of attendees or the amount of food or beverage sold. Greg, the nightclub owner, gave Claimant the option of receiving payment in cash and having his wage reported on a Form 1099 rather than a W-2. Claimant elected the Form 1099. In 2010, Claimant earned \$380.00 from the nightclub (Exhibit 1). Claimant admitted he understood the significance of a Form 1099 because he owned Absolute Lawn Care, and would provide a Form 1099 to any of his part-time workers. In the weeks leading up to the accident, Claimant was working 30 to 40 hours a week in his lawn business, earning \$2,000.00 to \$2,500.00 per month, performing fall clean up.

The Injury

The fight promoter provided the elevated ring and cage for the fights, as well as the steps. Claimant broke his right foot when these portable steps collapsed underneath him. The steps collapsed as Claimant was carrying a microphone to the promoter. Because this was an MMA event, a physician and ambulance were present. Claimant was transported to Phelps County Medical Center after the on-site physician set his foot. The nightclub immediately had notice of the injury and need for immediate treatment. Claimant eventually had surgery with placement of a metal pin and physical therapy. Area 151 Nightclub has not disputed its liability for payment of \$27,884.90 of medical expenses and the provision of additional treatment in the event Claimant is determined to be an employee and the injury is found to have arisen out of and in the course of employment.

RULINGS OF LAW

Claimant has the burden of proving he is entitled to workers' compensation. §287.808, RSMo Cum. Supp. 2009. The evidence must be weighed impartially without giving the benefit of the doubt to any party when weighing evidence and resolving factual conflicts. §287.800, RSMo Cum. Supp. 2009. Having reviewed the evidence in light of these statutory directives, I conclude that Claimant is an employee and that his injury occurred within the course and scope of his employment.

I. Claimant is an Employee

Whether a Workers' Compensation claimant is an employee is a question of law, not a finding of fact. *DiMaggio v. Johnston Audio/D & M Sound*, 19 S.W.3d 185, 188 (Mo. App. W.D. 2000), *overruled on other grounds by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). Section 287.020.1, RSMo Cum Supp. 2005, defines an employee as "every person in service of any employer...under any contract of hire, expressed or implied, oral or written, or under any appointment or elections, including executive officers of corporations." The pivotal question in determining the existence of an employer-employee relationship is whether the

employer had the right to control the means and manner of the service, as distinguished from controlling the end result. *DiMaggio*, 19 S.W.3d at 188. By contrast, an independent contractor agrees to complete a piece of work using his own methods, without being subject to the control of an employer, except as to the final result of his work. *Cole v. Town & Country Exteriors*, 837 S.W.2d 580, 584 (Mo.App. E.D.1992), *overruled on other grounds by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003).

If the actual or right to control the work performance is not readily apparent, the Court of Appeals has considered the following factors: (1) is the work part of the regular business of the employer; (2) is the job a distinct occupation requiring special skills; (3) could the alleged employee hire assistants or must the work be performed by the individual personally; (4) is there supervision; (5) whose tools were used; (6) the existence of a contract for a specific piece of work at a fixed price; (7) the length of time the person is employed; (8) the method of payment, whether by time or by the job; and (9) who controls the details of the work, *Chouteau v. Netco Const.*, 132 S.W.3d 328, 332 -333 (Mo. App. W. D. 2004). Whether a claimant is an employee or an independent contractor is determined on a case-by-case basis. *Wilmot v. Bulman*, 908 S.W.2d 139, 142 (Mo.App. S.D.1995), *overruled on other grounds by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003).

In this instance, the nightclub exercised control only to the extent that Claimant was told what days and hours to work. He was not given specific instruction as to what lighting to sequence with each song. As Employer/Insurer argues, the nightclub did not exercise control over the manner of customizing the lighting to the fighters' songs, but only controlled the ultimate result. The problem is that an employer's control needs only be commensurate with the supervision appropriate to the kind of work to be done and the required skill. *Ceradsky v. Mid-America Dairymen, Inc.*, 583 S.W.2d 193, 203 (Mo. App. W.D. 1979). Moreover, the control of the worker by the employer need not be actually exercised. It long has been held in Missouri that it is the employer's reserved right to do so that is determinative. *Coy v. Sears, Roebuck and Co.*, 253 S.W.2d 816 (Mo. 1953). Thus, the right to control test does not answer the question in this case as to whether Claimant was an employee or independent contractor.

Citing *State v. Turner*, 952 S.W.2d 354 (Mo. App. W.D. 1997), Claimant states that the "right to control" is the key factor in determining whether an employment relationship exists, and suggests that this case is like *Turner* in which lounge disc jockeys were determined to be employees. While at first blush, the underlying facts in *Turner*, appear strikingly similar, the Court of Appeals specifically stated that the "extent of control and the "actual exercise of control" did not aide in determining the employment relationship in that case. 952 S.W.2d 357. Rather, the Court of Appeals found it necessary to focus on the multiple other factors, delineated above. Likewise, further analysis is appropriate in this case.

Part of the Regular Business

Employer/Insurer argues that the MMA fights were not a part of the regular business of the nightclub, noting that they occurred only a few times each year. But the evidence indicates that Area 151 Nightclub regularly conducted special events, which included MMA fights. Area 151 Nightclub appears to be an entertainment venue and not just a local bar. Moreover, it is apparent

that the music and lighting was coordinated for the MMA fights to add to the atmosphere or excitement as the fighters entered. Even though these special events may not have occurred every week, they were a regular feature provided by the Area 151 Nightclub, and thus, part of the regular entertainment business of the Area 151 Nightclub. Certainly, it was not the regular business of Claimant. He owned a lawn care business and not professional lighting and/or sound business. This suggests that Claimant was an employee.

Distinct Occupation Requiring Special Skills

While Claimant was called to work because he possessed the knowledge necessary to operate the computers to sequence the lighting for the fighters' entrance songs, such skill was something that one could learn within an evening. While Claimant did possess some specialized knowledge, it could hardly be described as an "occupation" that required "special skills." This supports a determination of employment.

Performing Work Personally

There is no credible evidence that the nightclub's management would have allowed Claimant to hire assistants or substitutes. On the sole occasion when Claimant could not work at the Area 151 Nightclub when requested, Claimant found a replacement worker to operate the computerized lighting system, but this person worked only after the nightclub's management approved the substitution. These facts support an employment relationship.

Supervision

Area 151 Nightclub had the right to hire, discharge, and to determine the pay and hours of Claimant. Claimant believed he was subject to the supervision of the manager. This is indicative of an employment relationship. The right of an employer to terminate a relationship without incurring breach of contract liability is generally an indication of an employer-employee relationship and weighs against independent contractor status. *Cope v. House of Maret*, 729 S.W.2d 641, 643 (Mo. App. E.D. 1987).

Provision of Tools and Materials

Area 151 Nightclub owned all of the equipment, including stationary lights, microphones, and computers. Claimant brought nothing to the workplace. This supports the conclusion that Claimant was an employee.

Specific Piece of Work and Method of Payment

Claimant was paid by the hour which is indicative of an employment relationship. He was not paid a lump sum for his night's work, which would be typical of independent contractors. Area 151 Nightclub argues, however, that independent contractors also can be paid by the hour, citing *Seaton v. Cabool Lease, Inc.*, 7 S.W.3d 501, 506 (Mo. App. S.D. 1999), *overruled on other grounds by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). The difference between *Seaton* and the instant case, however, is that *Seaton* had his own electrical company and billed Cabool Lease, Inc., for labor and the materials used for the type of work he

was contracted to perform. By contrast, Mr. Cutsinger in the instant case, had no lighting or disc jockey company. He did not bill or invoice Area 151 Nightclub for his work during the MMA fights. He did not bill or invoice for any materials.

Length of Employment

As Area 151 Nightclub argues, one could say that Claimant was hired to perform a single skilled task on five separate occasions. Conversely, the nightclub regularly called Claimant to perform these services, personally. Thus, while there was intermittent employment, there was a continuing relationship. This factor is neutral as it could support either party's position.

Who Controls Details of the Work

The details of the work were controlled by Claimant, suggesting an independent contractor status. But, this factor begs the question of how much control was required.

Form 1099

Area 151 Nightclub additionally emphasizes Claimant's testimony that he preferred being paid in cash and would like a Form 1099 rather than a W-2 at the end of the year. The latter IRS Form typically is given to employees. Because Claimant operated his own lawn care business, he understood the significance between the two tax forms. Such fact certainly supports the nightclub's position that Claimant is an independent contractor rather than an employee. The Division, however, is not bound by the method used in reporting earnings in ascertaining if an individual was an employee rather than an independent contractor. *Watkins v. Bi-State Development Agency*, 924 S.W.2d 18, 20 - 22 (Mo. App. E.D. 1996), *overruled on other grounds by Hampton v. Big boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003); *Wilmeth v. TMI, Inc.*, 26 S.W.3d 476, 481 (Mo. App. S.D. 2000), *overruled on other grounds by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003); and *Nunn v. C.C. Midwest*, 151 S.W.3d 388, 401 (Mo. App. W.D. 2004), *overruled by Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. 2003).

Having reviewed all of the evidence in the record and considered the various factors cited above, I conclude that the weight of the evidence supports a finding that Claimant was an employee rather than an independent contractor.

Statutory Employment

Even if Claimant failed to qualify as an employee, claims arising as a result of services rendered by independent contractors may nevertheless be subject to The Workers' Compensation Law if the independent contractor qualifies as a statutory employee of the alleged employer. *Cross v. Crabtree*, 364 S.W.2d 61 (Mo. App. W.D. 1962). To categorize an individual as a statutory employee, § 287.040.1 RSMo Cum Supp. 2009, requires that each of the following elements coexist in regard to the work being performed by the independent contractor at the time the claim arises:

- (1) the work must be performed pursuant to a contract;
- (2) the claim must arise on or about the premises of the statutory employer; and
- (3) the work must be the type of work which is in the usual course of business of the statutory employer.

McCracken v. Wal-Mart Stores East, LP, 298 S.W. 3d 473 (Mo. banc 2009). The statute is designed to prevent employers from evading the Workers' Compensation Law's requirements by hiring independent contractors to perform work the employer otherwise would hire ordinary employees to perform. *McCracken*, 298 S.W.3d at 480.

The term "contract" encompasses agreements that are both expressed and implied, oral or written. *State ex rel. J.E. Jones Const. Co. v. Sanders*, 875 S.W.2d 154 (Mo. App. E.D. 1994). Claimant had a mutual verbal agreement or contact to perform specific work for Area 151 Nightclub on particular nights at a set hourly wage. The first element is met. Claimant's services to Area 151 Nightclub were provided to it on its premises. The second element is met.

As to the third element, there is no "litmus" test as to what is the usual course of business; however, the statutory employee need not be engaged in work which is identical to the usual business of the employer. *Miller v. McDonnell Douglas Corp.*, 896 S.W.2d 734 (Mo. App. E.D. 1995). Here, Claimant's work as a lighting and sound technician was an "important adjunct" of the defendant's nightclub business which regularly hosted special events, such as the MMA fights, as a part of the nightclub's entertainment. *See Wilson v. Altruk Freight Sys., Inc.*, 820 S.W.2d 717, 723 (Mo. App. 1991) (holding that lumpers who unloaded and loaded trailers near a grocery warehouse performed "work that was an important adjunct" of that of the defendant trucking company). Proof of prior similar arrangements between parties as to certain work may be sufficient to prove that the work was part of a statutory employer's usual business. *Wilson*, 820 S.W.2d at 721. In the present case, Claimant performed similar lighting and sound operations for Area 151 Nightclub on four previous occasions in 2010. Thus, the services of the Claimant were routinely provided to the nightclub.

The nightclub is an entertainment business and serves food and beverages for profit. It profited by entertaining its patrons on the night that the Claimant was injured by serving food and beverages to them during an event on its premises. Claimant's services added atmosphere to the event at the nightclub. The Claimant's services were in the usual course of business of Area 151.

II. Arose Out of and the Course of Employment

The terms "out of" and "in the course of" employment are separate tests for compensability. *Page v. Green*, 686 S.W.2d 528, 532 (Mo. App. S.D.1985). An injury arises "out of" employment if it is a natural and reasonable incident of the employment and is the rational consequence of some hazard connected with the employment. *Id.* An injury is "in the course of" the employment when it occurs within the period of employment, at a place where the employee may reasonably be and while he is reasonably fulfilling the duties of his employment. *Id.* Here, Claimant's credible testimony is that he was at the Area 151 Nightclub performing duties at a time and place expected of him by Employer. There is no contrary testimony.

SUMMARY

Claimant was an employee of Area 151 Nightclub. Even if the Claimant could be construed to be an independent contractor, he is the statutory employee of the nightclub. Claimant's injuries arose out of and within the course of his employment. Employer/Insurer owes Claimant past medical benefits in the amount of \$27,884.90. Employer/Insurer shall provide to Claimant future medical treatment to cure and relieve the effects of the work related injury of October 1, 2010.

Attorney B. Michael Korte shall have a lien of 25 percent of any amount awarded herein as a reasonable fee for necessary legal services provided to Claimant.

Made by: _____

Victorine R. Mahon
Administrative Law Judge
Division of Workers' Compensation