

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

Injury No.: 07-103873

Employee: Helena D. Deschenes  
Employer: Casey's General Store  
Insurer: EMCASCO Insurance Company

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 Law. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated May 4, 2010. The award and decision of Administrative Law Judge Rebecca S. Magruder, issued May 4, 2010, 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 28<sup>th</sup> day of October 2010.

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

## FINAL AWARD

Employee: Helena D. Deschenes Injury No. 07-103873  
Dependents: N/A  
Employer: Casey's General Store  
Insurer: EMCASCO Insurance Company  
Additional Party: N/A  
Hearing Date: April 13, 2010 Checked by: RSM/pd

### 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 24, 2007
5. State location where accident occurred or occupational disease was contracted: Jackson 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? Yes.
11. Describe work employee was doing and how accident occurred or occupational disease contracted:  
While in the course and scope of her employment, Claimant was moving items on a conveyor belt and a frosting can smashed her left hand.
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: Left hand/left ring finger.
- 14. Nature and extent of any permanent disability: 28.6 weeks for amputation at distal joint of ring finger of the left hand.
- 15. Compensation paid to-date for temporary disability: \$2,996.23
- 16. Value necessary medical aid paid to date by employer/insurer? \$33,679.93
- 17. Value necessary medical aid not furnished by employer/insurer? None
- 18. Employee's average weekly wages: \$296.79
- 19. Weekly compensation rate: \$197.86
- 20. Method wages computation: By agreement.

**COMPENSATION PAYABLE**

- 21. Amount of compensation payable:
  - For permanent partial disability – 28.6 weeks at \$197.86..... \$5,658.80
  - For disfigurement – 7 weeks at \$197.86..... \$1,385.02

**TOTAL.....\$7,043.82**

- 22. Future medical requirements awarded: Reasonable and necessary medical aid for ongoing treatment of the left hand, including the prosthesis and its upkeep and/or replacements for the left ring finger.

Said payments to begin upon receipt of Award and to be payable and be subject to modifications and review as provided by law.

The compensation awarded to the Claimant shall be subject to a lien in the amount of 25 percent of all payments hereunder in favor of Scott W. Mach, Employee's attorney, for necessary legal services rendered.

## FINDINGS OF FACT and RULINGS OF LAW:

Employee: Helena D. Deschenes Injury No. 07-103873  
Dependents: N/A  
Employer: Casey's General Store  
Insurer: EMCASCO Insurance Company  
Additional Party: N/A  
Hearing Date: April 13, 2010 Checked by: RSM/pd

On April 13, 2010, the employee and the employer appeared for a hearing. The employee, Ms. Helena D. Deschenes, appeared in person and with counsel, Mr. Scott Mach. The employer and insurer appeared by counsel, Mr. Thomas Clinkenbeard.

### STIPULATIONS

At that hearing, the parties stipulated to the following:

1. that on or about October 24, 2007, Casey's General Store was an employer operating under the provisions of the Missouri Workers' Compensation Law and that its liability under said law was fully insured by EMCASCO Insurance Company;
2. that on or about October 24, 2007, Claimant was an employee of Casey's General Store and was working under the provisions of the Missouri Workers' Compensation Law;
3. that on or about October 24, 2007, Claimant sustained an injury by accident arising out of and in the course of her employment;
4. that the Employer had notice of the injury and that a claim for compensation was filed within the time prescribed by law;
5. that Claimant's average weekly wage was \$296.79 and that the applicable compensation rate is \$197.86 per week for temporary total disability benefits and \$197.86 per week for permanent partial disability benefits;
6. that compensation has been paid by the Employer in the amount of \$2,996.23 from October 29, 2007 until January 28, 2008; plus \$60.22 from January 29, 2008 until February 11, 2008 as temporary partial disability benefits; and
7. that medical aid has been furnished by the Employer in the amount of \$33,679.93.

## ISSUES

The issues to be determined by this hearing are as follows:

1. Employer's liability, if any, for future medical aid including but not limited to a prosthetic device or devices and the upkeep, maintenance and replacement of said prosthetic device or devices;
2. the nature and extent of permanent disability resulting from the October 24, 2007 accident;
3. an amount, if any, for disfigurement resulting from the October 24, 2007 accident; and
4. Employer's liability for sanctions for costs pursuant to §287.560 RSMo.

Employee's evidence consisted of her trial testimony; Exhibit A, which is a report from Hanger Orthotics regarding a prosthetic device; Exhibit B, which is a medical report from Dr. Dana R. Towle; Exhibit C, which is a medical report from Dr. Douglas Rope dated June 2, 2009; and Exhibit D, which is the deposition testimony of Keith Andrews, licensed orthotist for Hanger Orthotics.

The Employer's evidence consisted of the report from Dr. O. Allen Guinn, III, dated August 5, 2008, Exhibit 1, and the report from Dr. Ann R. Rosenthal, signed on November 22, 2009, Exhibit 2.

The Employer does not dispute that Claimant sustained injury to her left hand which arose out of and in the course of her employment. On October 24, 2007 while Claimant was working at Casey's General Store moving materials along a conveyor belt, a heavy container of frosting fell on her left hand, injuring primarily her ring finger. She had an immediate onset of pain in her left hand and was sent by the Employer to the emergency room. Claimant later returned to the emergency room when her finger became discolored and began turning black.

Claimant came under the treatment of Dr. O. Allen Guinn, III, and was seen on October 29, 2007; November 6, 2007; and November 13, 2007. An arteriogram was performed and additional testing was conducted on November 16, 2007. She was taken to the operating room at St. Mary's Hospital on November 19, 2007 where the left ring finger was amputated at the level of the DIP joint. She was treated with pain management. She was again taken to the operating room on January 24, 2008 to have two neuromas resected. At that time, additional bone was taken from the left ring finger and the nerves were treated with low grade electrocautery and buried. Claimant returned to the operating room on March 24, 2008 for additional nerve neuroma resection. A final surgery was performed on May 14, 2008 with the end of the ulnar nerve re-embedded where a small neuroma had formed at the tip. The sutures were removed on June 3, 2008 and Claimant was released from care to full duty. Claimant has had no additional treatment since June 2008. The surgeries resulted in the amputation extending between the first and second joint of the finger.

Despite the amputation, which alone would total 28.6 weeks of compensation, Dr. Guinn gave a permanent partial disability rating of 5 percent of the hand or 8.75 weeks. Dr. Guinn in his report also states: "The patient has requested that I mention her request for a prosthesis be included in her settlement. If there are any questions about the rating, please contact me at the above number or address." He also notes at another point in his report on page 3 that Claimant was requesting a prosthesis for the end of the finger.

Claimant testified that she found out from Dr. Guinn's office about Hanger Orthotics on 39<sup>th</sup> Street in Independence, Missouri. She testified she was unfamiliar with Hanger Orthotics until Dr. Guinn's office advised her of it. She also testified that she did not bring up the topic of orthotics but that Dr. Guinn's office did.

Claimant went to Hanger Orthotics on June 26, 2008 and in the record of that visit, it is noted that Claimant wanted to be able to type and play the piano again. "...With the finger we can supply her, she will be able to do these things. This is a functional finger that she will be able to use in all daily functions and extra-curricular activities." Exhibit A. The report is signed by Dave Verhoff, certified prosthetist.

Dr. Dana R. Towle, hand surgeon, examined Claimant on July 23, 2009. His report, Exhibit B, indicates that he examined Claimant at which time she indicated that she wished to have a functioning finger so that she could play the piano and type. Dr. Towle's report under the heading titled "Plan" states, "This is one area in which a prosthetic device does help in function. The device will transmit vibrations to the amputated stump and that way the patient can learn to use this for typing, playing the piano, and other such activities. It will not add to grip strength, but it would allow this patient to return to those activities. I would recommend that if these activities are important to her, and they seem to be, that she get a prosthetic device for that."

Claimant testified that she could type 70 words per minute prior to the accident and now, because of the loss of the finger, can only type approximately 30 words per minute. I find in accordance with her testimony that she has less opportunity for employment because of her inability to type. She also testified that she is unable to play the piano and further that she drops things, particularly glass objects with her left hand. She also testified she has difficulty washing dishes. I find that due to the Claimant's amputated finger she has problems with daily living.

The deposition of Keith Andrews, a certified prosthetist, for Hanger Orthotics, was also offered into evidence as Exhibit D. He testified that he makes artificial limbs. He further testified that he could make a silicone finger that would be functional. He testified that the device would cost between \$7,000-\$12,000 and that annual maintenance would be approximately \$1,500 with a life expectancy of the device from 2-4 years depending on usage. He then testified that replacement costs range from \$7,000-\$12,000. He testified that if claimant has a 30 year life expectancy, the maintenance expense would be in excess of \$40,000 and replacement costs would be approximately the mid-place of \$10,000 per finger.

Mr. Andrews testified that the functional portion of the prosthetic device would help, "cure and relieve her ill effects of the amputation." (See deposition at page 10, lines 17-20.) He explained how it would extend the finger to its previous length. He also explained that there is some sensitivity associated with amputations and that it would add padding and enable her to apply more pressure. He further testified that it would aide her in things like typing or using a keyboard, and with playing the piano. (See page 11 of his deposition.) Mr. Andrews further

testified that he would construct the prosthetic finger for claimant if she returned to his clinic.

Dr. Douglas Rope rated claimant's permanent partial disability at 25 percent of the hand or 43.75 weeks, noting that 33 weeks alone would be for the amputation at the proximal joint with a 10 percent load factor for amputation. He increased his rating an additional 10.75 weeks above the amputation figure based on the discomfort and her inability to use the finger to the extent that it affects the entire hand.

Employer's evidence consisted of the reports from the authorized treating physician, Dr. Guinn. He notes only that "She was requesting a prosthesis for the end of the finger." See page 3 of his report. On that same page he further states, "Patient has requested that I mention her request for a prosthesis be included in her settlement." Nothing in his report or records indicates that the prosthesis is not needed or is not necessary to cure and relieve the ill effects of the on-the-job injury.

The other report offered by Employer is authored by Ann Rosenthal, MD. Regarding the need for prosthesis, Dr. Rosenthal's report states:

"You have asked me whether or not a fingertip prosthesis is reasonable and necessary. I do want to point out in the context of playing piano and typing, [a] prosthesis will restore length of the digit; however the prosthesis is not sensate and the patients typically do not use them for functional activities. Her native fingertip, while short, has sensation and will give her sensory feedback with typing and playing piano, however, a prosthetic finger has no sensation and will not give her appropriate feedback. She certainly could try a prosthesis; however, typically the patients wear the fingertip prosthesis for cosmetic reasons only and when they are using the hand, typically do not wear them.

"I will be certainly happy to review any information that the prosthesis (sic) at Hanger would have. Specifically, I would like to see the study information to which he has referred that shows the patient tends to use these fingertip prosthesis (sic) more functionally. I will be happy to be [sic] reconsider; however, typically the patients that have fingertip amputations who get a fingertip prosthesis tend not to use them."

It is clear from Dr. Rosenthal's discussion in her report that she is speaking in generalities and is not addressing the reasonableness and necessity of the treatment of giving *this particular* Claimant a prosthesis. Dr. Rosenthal does state that Claimant could try a prosthesis, but it is Dr. Rosenthal's experience that it would only be used for cosmetic reasons. Dr. Rosenthal states that she would like to review additional information regarding prosthetic studies, but no updated report showing she had reviewed any additional information or studies was offered into evidence.

The evidence from Dr. Rosenthal is contrary to the information provided in the deposition of the prosthetic's manufacturer. It is also contrary to Dr. Towle's opinion that the prosthetic finger would functionally help the Claimant type and play the piano.

The primary issue in this case is whether the Claimant is entitled to having the prosthetic device for her finger ordered under the provisions of Chapter 287.140 RSMo that governs the provision of medical treatment under Missouri's workers' compensation law. Within this chapter, Section 287.140.1 and Section 287.140.8 are the two sections with potential applicability to the case at bar. Section 287.140.8 deals primarily with the duty of the Director of the Division to establish a procedure whereby a claim for compensation can be reactivated after there has been a settlement anytime an employer furnishes an employee with prosthetic joints, body parts, eyes or braces. The first sentence of that section, though, reads as follows: "The employer may be required by the Division or the Commission to furnish an injured employee with artificial legs, arms, hands, surgical orthopedic joints, or eyes, or braces, as needed, for life whenever the Division or the Commission shall find that the injured employee may be partially or wholly relieved of the effects of a permanent injury by the use thereof." That section then goes on to describe the duties of the Director for reactivating settlements of such claims where the employer has provided these types of medical devices.

Employer argues that Section 287.800, which requires a strict construction of the workers' compensation law, rules out the ability of the Commission to order an employer to provide a prosthetic finger to an employee because "finger" is not listed in Section 287.140.8, the laundry list regarding artificial appendages, joints, eyes, and the like. The Employer relies on recent Appellate Court decisions which have cited Sutherland statutory construction as the recognized treatise on strict construction. Alcorn v. Tapp Enterprises and Traveler Commercial Casualty Company, 277 S.W.3d 823 (Mo. App. 2009), adhering to Sutherland's instruction that "a strict construction of a statute presumes nothing that is not expressed." Citing additional case authority for relying on the Sutherland's treatise, Employer argues that the prosthetic finger Claimant is seeking in this case is not a "hand, joint or brace." Employer argues that it obviously falls outside the parameters of the artificial devices listed in Section 287.140.8. Employer takes the position that the literal wording of this statute does not provide authority for the provision of an artificial fingertip.

The case of Delong v. Hampton Envelope Company, 149 S.W.3d 539 (Mo. App. 2004), involved an identical factual situation wherein the employer was ordered to provide a prosthetic fingertip. Employer argues that the result was expressly based upon the notion that prior to the 2005 legislative amendments to Chapter 287 Missouri courts were empowered to 'broadly and liberally' construe its provisions. Employer argues that the very basis, therefore, on which Delong was based, extended the meaning of hands to include a prosthetic fingertip. Employer argues that cannot be done under strict construction of the act.

The Claimant argues that the Employer's strict interpretation of the statute leads to absurd results. For example, if only the laundry listed items could be ordered under the workers' compensation law found in Section 287.140.8, then a medical doctor could prescribe an artificial hand for a person who was in a train accident but could not order an artificial foot for that same person if he lost both a hand and a foot in the accident. Claimant also suggests that a person who lost four fingers in an industrial accident would not be allowed a prosthetic device, but if his entire hand were lost, then a doctor's prescription for an artificial hand would be allowed.

Likewise, the ultimate strict constructionist, according to Employer's argument, would point out that a claimant could get an artificial leg but not the foot that would be needed at the bottom of the leg because "feet" are not listed in the statute. Perhaps the most ludicrous result of Employer's argument carried to its logical extreme would be that only "pairs" of artificial limbs could be ordered because the statute only specifies the plural terms arms, legs, hands, and the like. These results would be nothing less than totally absurd. Construing the statute as Employer suggests does not give harmonious and consistent results to the effect of the entire statute.

I find that strict construction does not disallow the Commission's finding that a prosthetic fingertip can be awarded under Section 287.140.8 when the evidence justifies such an award. I rely on another rule of statutory construction in making this determination. That rule is that an entire legislative act must be construed together and all provisions must be harmonized if it is reasonably possible to do so. The Claimant cites Missouri Highway Transportation Commission v. David Merritt, 204 S.W.3d 278, 281 (Mo. App. 2006), where the court, in interpreting the workers' compensation law, speaks to the use of the rules of statutory construction. The opinion states:

"We will not construe a statute so as to work unreasonable, oppressive or absurd results. In the absence of a statutory definition, the words contained under the statute will be given their plain and ordinary meaning. Provisions of a whole legislative act must be construed together and all provisions must be harmonized if it is reasonably possible to do so."

As evidenced by the examples Claimant listed above, section 287.140.8 cannot be construed so narrowly. Such a limited construction would often, as in the case at bar, cause an unreasonable and absurd result.

Claimant next argues that the ruling in the DeLong case may still control the result of this case because the 2005 statute did not abrogate any common law dealing with medical treatment. Ahern v. P & H, LLC, 254 S.W.3d 129 (Mo. App. 2008), provides some interpretation of the effects of the 2005 amendments. Ahern dealt specifically with a definition in the amendments for "idiopathic." That opinion discussed the specifics of the Act in Section 287.020 RSMo regarding abrogation of prior case law. Section 287.020 specifically states that "it is the intent of the legislature to reject and abrogate earlier case law interpretations on the meaning or definition of 'accident,' 'occupational disease,' 'arising out of,' and 'in the course of employment.'" The Ahern court found that the legislature did not indicate directly that it was abrogating the old case law descriptions for "idiopathic" found in the workers' compensation law. Of importance here, the opinion states at 254 S.W.3d 129, 133:

"Claimant misreads Section 287.020.10. This section is silent regarding the definition of 'idiopathic.' Such definition has been traditionally defined through case law. Unless a statute clearly abrogates common law by express statement or implication, the common law stands. Mika v. Central Bank of Kansas City, 112 S.W.3d 82, 90 (Mo.App. W.D. 2003)

The court then went on to allow the old case law definition of “idiopathic” and applied it in Ahern.

The key lesson from Ahern is as quoted above, “Unless a statute clearly abrogates common law by express statement or implication, the common law stands.” Here, in the 2005 amendments, the legislature did not state that it is abrogating the common law for use of prosthetics under the Worker’s Compensation Act.

In DeLong, the court specifically found that the list of artificial devices contained in Section 287.140.8 was not an exclusive list because the legislature could not be expected to include an exhaustive list of every possible artificial or prosthetic device available now or in the future. Citing Fru Con Const. Corp., 46 S.W.3d at 34 (medically necessary modification to home of injured wheelchair-bound employee covered by Section 287.140.1) and Mickey v. City Wide Maintenance, 996, S.W.2d at 151 (award of medically necessary modifications to vehicle of injured, wheelchair-bound employee was consistent with the purpose of the Act.) The DeLong court ordered a finger tip prosthesis just like the one requested in the instant case. Just as the opinion suggests, the new Act does not specifically abrogate the case law regarding prosthetics; the case law specifically allows for a finger prosthesis, even under Section 287.140.8.

While the DeLong case does cite the rule of liberal construction then in effect when that case was decided, I do not believe that was the sole basis for the ruling in that case. The Court also relied on other important rules of statutory construction. Applying one of those rules, the Court wrote the following:

“...when read together, Sections 287.140.1 and 287.140.8 indicate that an employer is required to provide an employee with medical care and artificial devices where they either wholly or partially relieve the effects of a work-related injury. Wildman, 941 S.W.2d at 720; Fru Con Const. Corp., 46 S.W.3d at 34; Mickey, 996 S.W.2d at 151. Moreover, we recognize that the list of artificial devices contained in Section 287.140.8 is not exclusive because the legislature could not be expected to include an exhaustive list of every possible artificial or prosthetic device available now or in the future (emphasis added). Wildman, 941 S.W.2d at 720.”

I find that a prosthetic finger may be ordered under Section 287.140.8 so long as doing so would “partially or wholly relieve” an injured worker of the effects of the injury. I find that the Claimant in this case would be “partially...relieved of the effects of [her]... permanent injury by the use [of a prosthetic fingertip]...” Section 287.40.8 RSMo. While I find that there would certainly be beneficial cosmetic results with the prosthetic finger, I also find that the evidence confirms that the Claimant is likely to be able to improve her typing speed and be able to play the piano again. For these reasons, I believe that the evidence justifies ordering the Employer to provide the prosthetic fingertip and ongoing treatment requested under Section 287.140.8.

As was stated earlier, Section 287.140.1 is the other section with potential applicability in the case at bar. That section provides the general outline under which “medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicine” can be obtained as “reasonably” required to “cure and relieve from the effects of the injury.”

excluded.

Employer argues that if prosthetic devices can be obtained merely as a form of reasonable and necessary treatment under Section 287.140.1, then Section 287.140.8 is redundant or meaningless. Employer relies on two rules of statutory construction in making this argument. One of those rules provides that we should never presume that the legislature intended to enact “redundant provisions within a law.” Employer also relies on the proposition that the legislature never intends to enact meaningless provisions within a law. Assuming for the sake of argument that prosthetic fingers could not be awarded under 287.140.8 as Employer contends, then relying on section 287.140.1 to make such an award would not be redundant. Employer argues that fingers are not listed in Section 287.140.8 and therefore that section cannot be relied to make such an award. Section 287.140.1 would then be a basis for my awarding a prosthetic device so long as I made a finding that it would cure or relieve the Claimant from the effects of her injury and that such treatment was reasonable and necessary. I do not, however, find that Subsection 8 excludes any type of prosthetic device that is not specifically enumerated in that paragraph. Instead, I find that both section 287.140.1 and section 287.140.8 are appropriate bases on which to make such an award.

I find that the evidence in this case demonstrates that Claimant will experience relief from the effects of her amputated finger if a prosthetic device is ordered and that the prescription for the prosthetic device in this case is reasonable and necessary treatment. I therefore find that the evidence justifies my awarding the prosthetic fingertip under Section 287.140.1. While I do not find, as Employer argues, that I cannot make such an award under Section 287.140.1 because that would make Subsection 8 redundant, I make alternative findings. In other words, I find that I have the evidence and authority under either statute to order the Employer to provide the prosthetic fingertip.

I therefore order the prosthesis under “reasonable medical treatment” required of the Employer under Section 287.140.1 or under the “artificial prosthetic device” language under Section 287.140.8 because I find that the prosthetic device would partially benefit the Employee.

Regarding the nature and extent of the permanent disability the Claimant sustained, Dr. Guinn estimated a disability of 5 percent to the left hand and Dr. Rope estimated a disability of 25 percent at that same level. Given the nature of this injury, I do not find either estimate to be persuasive. The Claimant clearly demonstrates a total amputation to the left finger at the distal joint or 26-week level. Due to the total amputation, she is entitled to an additional 2.6 weeks of compensation or a total of 28.6 weeks of compensation for permanent disability. Although the evidence does demonstrate that the loss of the Claimant’s ring finger has impacted the functioning of her hand, the fingers themselves are weighted. The sum of all of the fingers and the thumb is more than the entire hand; i.e., if an individual lost four fingers and the thumb, the Claimant would be entitled to 197 weeks of compensation plus an additional 19.7 weeks for the total loss of each digit. If the Claimant lost the entire hand, she would be entitled to 175 weeks of compensation plus the additional 17.5 weeks for complete loss of the hand. I find that the appropriate disability for Claimant’s loss is 28.6 weeks, which is \$5,658.80, and that her disfigurement is 7 weeks or \$1,385.02, for a total compensation package for permanent disability of \$7,043.82.

With regard to the last issue in the case, I do not believe that this case was unreasonably

defended under Section 287.560. I find that the issue of the effect of the 2005 strict construction statute on section 287.140 (dealing with the Employer's duty to provide medical care) was a reasonable defense to raise at this time since there is, to date, no applicable appellate law on this issue.

The compensation awarded to the Claimant shall be subject to a lien in the amount of 25 percent of all payments hereunder in favor of Mr. Scott Mach, Employee's attorney, for necessary legal services rendered.

Date: \_\_\_\_\_

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

**Rebecca S. Magruder**  
*Administrative Law Judge*  
*Division of Workers' Compensation*

This award is dated, attested to and transmitted to the parties this \_\_\_\_ day of \_\_\_\_\_  
2010 by:

\_\_\_\_\_  
**Naomi Pearson**  
*Division of Workers' Compensation*