

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

Injury No.: 04-119237

Employee: Michael Deveraux

Employer: OMNI Cart Services, Inc.

Insurer: Uninsured

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

This workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo.<sup>1</sup> We have reviewed the evidence and considered the whole record and we find 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, except as modified herein. Pursuant to § 286.090 RSMo, we issue this final award and decision modifying the January 14, 2011, award and decision of the administrative law judge solely as to permanent partial disability. We adopt the findings, conclusions, decision, and award of the administrative law judge to the extent that they are not inconsistent with the findings, conclusions, decision, and modifications set forth below.

The administrative law judge recites page 2, item 19 of his Award that employee's weekly compensation rate is "\$408.00/\$408.00." The administrative law judge used \$408.00 as employee's weekly permanent total disability rate when he calculated employee's disfigurement and permanent partial disability benefits.

The parties agree that the weekly rate at which employee's disfigurement and permanent partial disability benefits should be calculated is \$354.05, the maximum weekly permanent partial disability rate payable for the period July 1, 2004 to June 30, 2005. See § 287.190 RSMo and Form WC-110-2 (06-10).

We modify the administrative law judge's award of permanent partial disability benefits. We agree that employer/insurer shall pay to employee 20 weeks of permanent partial disability benefits for disfigurement but we reduce the compensation awarded for disfigurement to \$7,081.00.<sup>2</sup> We agree that employer/insurer shall pay to employee 138.77 weeks of permanent partial disability benefits but we reduce the compensation awarded for permanent partial disability benefits to \$49,124.44.<sup>3</sup> Employer's total liability for permanent partial disability benefits is \$56,205.44.

In all other respects, we affirm and adopt the award of the administrative law judge.

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<sup>1</sup> Statutory references are to the Revised Statutes of Missouri 2000, unless otherwise indicated.

<sup>2</sup> \$354.05 X 20 weeks = \$7,081.00.

<sup>3</sup> \$354.05 X 138.75 weeks = \$49,124.44.

Employee: Michael Deveraux

- 2 -

We further approve and affirm 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 7<sup>TH</sup> day of April 2011.

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