

FINAL AWARD DENYING COMPENSATION  
(Affirming Award and Decision of Administrative Law Judge  
with Supplemental Opinion)

Injury No.: 02-110116

Employee: Paul Frost  
Employer: Supervalu, Inc. (Settled)  
Insurer: American Protection Insurance Company (Settled)  
Additional Party: Treasurer of Missouri as Custodian  
of Second Injury Fund  
Date of Accident: April 14, 2002  
Place and County of Accident: St. Louis County, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by section 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Act. Pursuant to section 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated August 23, 2005, as supplemented herein, and awards no compensation in the above-captioned case.

In the instant case, the administrative law judge clearly determined that the injured employee was not entitled to any benefits from the Second Injury Fund; in fact the administrative law judge concluded "...no Second Injury Fund benefits are awarded".

The Second Injury Fund filed its application for review averring that certain evidence should have been excluded and not considered when the administrative law judge rendered his opinion, and in so doing, the administrative law judge "erred when awarding permanent total disability benefits from the Second Injury Fund".

On its face, the averments of the Second Injury Fund contained in its application for review are erroneous. The principal point raised in the application for review filed by the Second Injury Fund is that the administrative law judge erred when awarding permanent total disability benefits from the Second Injury Fund. As stated above, the award issued by the administrative law judge clearly determined that the Second Injury Fund is absolved of any liability concerning this alleged accident and clearly found that no Second Injury Fund benefits were to be awarded the injured employee.

The injured employee did not file an application for review of this award in which no benefits were awarded the injured employee. Consequently there are no justiciable issues before the Commission. The averments forming the basis of the appeal are clearly erroneous.

The Second Injury Fund has no liability to pay workers' compensation benefits to the employee concerning this accident, and, consequently, there is no relief to be granted the Second Injury Fund.

The award and decision of Administrative Law Judge Edwin J. Kohner, issued August 23, 2005, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 13<sup>th</sup> day of October 2005.

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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Attest: John J. Hickey, Member

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Secretary

**AWARD**

Employee:	Paul Frost	Injury No.:	02-110116
Dependents:	N/A	Before the	
Employer:	Supervalu, Inc. (Settled)	<b>Division of Workers'</b>	
Additional Party:	Second Injury Fund	<b>Compensation</b>	
Insurer:	American Protection Insurance Company (Settled)	Department of Labor and Industrial	
Hearing Date:	May 24 and 25, 2005	Relations of Missouri	
		Jefferson City, Missouri	
		Checked by:	EJK

**FINDINGS OF FACT AND RULINGS OF LAW**

1. Are any benefits awarded herein? No
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: April 15, 2002 (Alleged)
5. State location where accident occurred or occupational disease was contracted: St. Louis 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:  
The employee alleged that he suffered injuries to his back and neck from the strenuous nature of his employment.
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: Neck, low back (alleged)
  - 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
- Employee: Paul Frost Injury No.: 02-110116
- 17. Value necessary medical aid not furnished by employer/insurer? None
  - 18. Employee's average weekly wages: \$720.00
  - 19. Weekly compensation rate: \$480.00/\$329.42
  - 20. Method wages computation: Employee testified he received \$14.40 per hour for fifty hours per week

**COMPENSATION PAYABLE**

- 21. Amount of compensation payable:  
Settlement with employer and insurer approve prior to hearing
- 22. Second Injury Fund liability: No

TOTAL: None

- 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 25% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: Cynthia M. Hennessey

**FINDINGS OF FACT and RULINGS OF LAW:**

Employee:	Paul Frost	Injury No.: 02-110116
Dependents:	N/A	Before the
		<b>Division of Workers'</b>
Employer:	Supervalu, Inc. (Settled)	<b>Compensation</b>
Additional Party:	Second Injury Fund	Department of Labor and Industrial
		Relations of Missouri
		Jefferson City, Missouri
Insurer:	American Protection Insurance Company (Settled)	

This workers' compensation case raises several issues arising out of an alleged work related injury in which the claimant, a warehouseman, alleged that he suffered injuries to his back and neck from the strenuous nature of his employment. The issues for determination are (1) rate and (2) Liability of the Second Injury Fund. The evidence compels an award for the defense, because the claimant failed to prove that he suffered any permanent partial disability from the alleged accident.

At the hearing, the claimant testified in person and offered depositions of David G. Kennedy, M.D., David T. Volarich, D.O., Richard M. Anderson, M.D., and James M. England, voluminous medical records, a police report, and records of five prior workers' compensation settlements. The defense offered testimony of June M. Blaine, a vocational rehabilitation counselor and disability management specialist.

All objections not previously sustained are overruled as waived. Jurisdiction in the forum is authorized under Sections 287.110, 287.450, and 287.460, RSMo 2000, because the accident occurred in Missouri.

### **SUMMARY OF FACTS**

This forty-two year old warehouseman, a high school graduate with less than a full semester of courses at a community college worked for this employer for eight and one half years as a warehouseman until January 14, 2003. At the time of his injuries in 2002, the claimant earned \$14.40 an hour and worked an average of 50 hours for the several months before April 2002.

#### **April 2002 Neck and Back Injuries**

In 2002, the claimant developed neck and low back pain. At that time, his employer was relocating warehouses requiring an increase in the physical demands of the claimant's job for several weeks leading up to the move. He worked longer hours and lifted heavier items with increased frequency. On April 15, 2002, Dr. Nessing examined the claimant and took a medical history of a one month history of neck and low back pain and right arm pain and hand tingling and numbness. Dr. Nessing reported that the claimant does a lot of lifting and stocking of warehouse and that this aggravates his pain. Dr. Nessing sent him for x-rays, which revealed degenerative changes of the cervical spine with narrowing of the disc space at C5-6 as well as L4/5 and L5/S1. He diagnosed nerve compression at the right C5-6 level and lumbar facet syndrome. Dr. Nessing recommended twelve chiropractic treatments over four weeks. The claimant returned for treatment on April 19, April 22, and April 26. See Exhibit K.

On April 26, 2002, the claimant lifted a heavy box of copy paper and felt a pop in his low back and a crinkle up his spine into his neck resulting in immediate severe neck and low back pain. He saw Dr. Nessing on that date and worked a portion of the following day. Due to the significant pain, he mainly drove the forklift to avoid lifting. He remained in significant pain throughout the weekend. On Monday, April 29, 2002, while lifting a very light object, the claimant felt another pop in his spine, causing him to fall to his knees. He went to St. John's Emergency Room on that date and was diagnosed with acute myofascial lumbar and cervical strain. See Exhibit M. On April 30, 2002, the claimant underwent physical therapy. On May 30, 2002, an MRI revealed C5-6 osteophyte with significant right-sided foraminal narrowing with nerve root compression. See Exhibit N. BJC then recommended treatment be transferred to Dr. Kennedy, a neurosurgeon. See Exhibit O.

Dr. Kennedy examined the claimant on June 13, 2002, and ordered both lumbar and cervical myelograms revealing a disc herniation at C5-6 to the right and a lumbar protrusion at L5- S1 to the left. See Exhibit R. Dr. Kennedy recommended cervical surgery. On July 9, 2002, the claimant went to Missouri Baptist E.R. due to worsening of symptoms after again lifting a heavy object at work. He was diagnosed with exacerbation of the cervical disk. See Exhibit S. He returned to BJC on July 15, 2002, with tingling in both of his arms. The claimant continued to work his regular duties with extreme difficulty. On September 19, 2002, the claimant again saw Dr. Kennedy who ordered a repeat MRI. Dr. Kennedy discussed surgical intervention again with the claimant who agreed to proceed. The claimant continued to work his regular duties with difficulty until January 13, 2003, the last date worked. On January 14, 2003, Dr. Kennedy and Dr. Raskas performed a C5-6 partial vertebrectomy and microdiscectomy, allograft fusion with plating. Post operatively, the claimant continued to have pain and discomfort in his neck, arm and low back. Dr. Kennedy referred the claimant to Dr. Feinberg for pain management. See Exhibits P and T.

Dr. Feinberg diagnosed post cervical laminectomy syndrome with residual right arm pain associated with a myofascial pain syndrome and spondylosis without myelopathy and lumbar radiculopathy, degenerative disc disease of the lumbar spine. He treated him from May 20, 2003, through April 21, 2004, with narcotic pain medications, numerous steroid

injections, and physical therapy. Dr. Feinberg discharged him on April 21, 2004, noting that the claimant had not made any progress with the treatment modalities. He opined that the claimant was significantly depressed. See Exhibit V.

On May 5, 2004, Dr. Kennedy opined that the claimant was at maximum medical improvement from his work related injuries to his neck and low back. He testified that the restrictions outlined by Dr. Volarich were reasonable. See Dr. Kennedy, page 16.

The claimant settled his April 15, 2002, workers' compensation claim with the employer on the basis of twenty percent permanent partial disability of the neck and ten percent permanent partial disability of the of the low back. See Exhibit C. The claimant settled his April 26, 2002, workers' compensation case with the employer for forty percent permanent partial disability of the neck, fifteen percent permanent partial disability of the of the low back, a twenty percent permanent partial disability from depression, seven and one half percent permanent partial disability of the left hip, and six weeks for disfigurement. See Exhibit L.

### Wrist Injury

The claimant worked as a warehouseman for this employer for 8 ½ years frequently lifting heavy boxes and merchandise in excess of 100 pounds all day long. He began having numbness and tingling in his hands around April 2002. He testified that in Spring 2002 his employer was moving its warehouse requiring even more lifting than usual to prepare for the move. He attributed his symptoms to the increase in the amount of lifting. At the same time, he also experienced increasing pain in his neck and low back. He reported his symptoms and began treatment with Dr. Nessing on April 15, 2002.

In March 2003, the claimant went to Dr. Phillips for EMG and Nerve Conduction Studies regarding pain, numbness, and tingling in his hands. These studies confirmed bilateral Carpal Tunnel Syndrome. On June 27, 2003, Dr. Tadjolli, a hand surgeon, took a medical history weakness, numbness and tingling in the radial three digits and waking up at night at least twice per night. Dr. Tadjolli recommended surgery. She performed open bilateral carpal tunnel release surgeries on July 2, 2003, (right) and July 30, 2003, (left). See Exhibit Z. At his last visit to Dr. Tadjolli on September 4, 2003, he continued to complain of tenderness to the surgical sites, yet the numbness and pain had "improved". See Exhibit Y. He testified that his hand condition has not changed significantly since Dr. Volarich's examination.

The claimant settled this case with the Employer/Insurer for 25% of the Right Hand, 25% of the Left Hand, 15% Loading Factor and 5% of the Body as Whole for Depression related to these injuries. See Exhibit W. The claimant was under the treatment of Dr. Anderson throughout this time period for major depressive disorder and generalized anxiety disorder, which he attributed to significant life stresses as well as the physical injuries. Dr. Anderson hospitalized the claimant in May 2004 as well as June 2004 for major depression. See Exhibit E. The claimant never returned to work after January 13, 2003, and now receives Social Security Disability Benefits.

### Preexisting Conditions

#### Psychiatric

The claimant also had a long history of depression and psychiatric conditions that began in high school and continued throughout his life. He testified that his depression increased and that the neck, low back, and wrist injuries in 2002 and 2003 and resulting surgical treatment aggravated his preexisting depression and psychiatric conditions. Before the 2002 and 2003 work-related injuries, the claimant had a significant long-standing psychiatric condition. He suffered from anxiety and major depression dating back to high school, resulting in continuous, psychiatric treatment throughout most of his life including hospitalizations, psychotherapy and pharmacologic therapy and more recently Electroconvulsive Therapy (ECT).

He was first treated and hospitalized for depression in high school. This treatment continued through the 1980's and into the 1990's. Dr. Tilzer the claimant hospitalized on April 14, 1994, for severe depression. See Exhibit D. Dr. Faron treated the claimant for depression from March 29, 1996 through November 11, 1997. See Exhibit F. On January 15, 1998, Dr. Anderson, a psychiatrist, diagnosed major depression with anxiety and obsessive features. Dr. Anderson continued to treat the claimant from 1998 through the present. The claimant was admitted to St. Joseph's hospital for psychiatric treatment including Electroconvulsive Therapy on May 19, 2004, May 25, 2004, June 23, 2004, June 27, 2004 and July 2, 2004. Dr. Anderson opined that the claimant suffered from a long-standing psychiatric disability that was worsened by his work injuries. He opined that the work injuries of April 2002 and January 2003 each increased his overall psychiatric disability and as a result of the combination of preexisting psychiatric disability with the injury related psychiatric disability the claimant is permanently and totally disabled from a psychiatric standpoint. Dr. Anderson opined that the claimant was at

maximum medical improvement as a result of his work related psychiatric injury.

#### Right Ankle (Lateral Alveolus Fracture)

The claimant testified that he injured his right ankle at work on March 12, 1998, when he stepped on a skid, which suddenly broke, causing him to twist his right ankle. He experienced swelling and severe pain. He was diagnosed with a possible lateral malleolus fracture and was air casted. He testified that he continues to have occasional pain in the ankle particularly with weather changes. Dr. Volarich examined the ankle and opined that the claimant suffered from a twenty percent permanent partial disability of the ankle and opined that the disability combined with his primary injuries to create a substantially greater disability than the simple sum of each injury and that the injury to his ankle is a hindrance to his employment or re-employment. See Exhibit CC. The claimant settled his workers' compensation case on the basis of a ten percent permanent partial disability of the right ankle. See Employee's Exhibit A.

#### Neck/Back

The claimant testified that he sustained a neck injury in a rear-end motor vehicle accident on October 16, 1998. See Exhibit G. He received medical treatment from Dr. Faron, Dr. Eyerman, and West County Sports & Fitness for neck pain and headaches and was diagnosed with a severe cervical sprain injury. After undergoing several months of physical therapy and traction treatments, the claimant reported relief from his symptoms. See Exhibit H. He reported no ongoing problems in his neck after this treatment.

#### Right Hand

On March 2, 2001, the claimant sustained a work related fracture injury to his right little finger. He continues to experience occasional pain and stiffness in the effected area. He settled his case against the employer based on a 38.75% permanent partial disability of the right little finger.

#### Dr. Volarich

Dr. Volarich examined the claimant in April 2002 for his neck and back and took a medical history of neck pain radiating into both arms, decreased range of motion in his cervical spine. The claimant described increased neck pain with sitting, bending and twisting. He complained of constant headaches and constant low back pain that radiates into both legs. Sitting and standing for extended time periods aggravates his pain. Sudden movements such as coughing and sneezing and driving aggravate his symptoms. He described difficulty with falling asleep and staying asleep every night due to neck and back pain. He again examined the claimant on September 15, 2004, and reported that the claimant's complaints were still accurate and were more frequent and at times more severe.

Dr. Volarich noted significant loss of motion in all ranges with both the cervical spine and lumbar spine. He rated the claimant's permanent partial disabilities at thirty-five of the cervical spine and twenty-five percent of the lumbar spine. Dr. Volarich opined that the claimant's work activities through April 15, 2002, were the substantial factors causing his injuries, because they existed on that date. See Dr. Volarich deposition, page 46. He opined that the claimant should have the following restrictions:

1. Limit repetitive bending, twisting, lifting, pushing, pulling, carrying, climbing and other similar tasks to an as needed basis.
2. Not handle any weight greater than 15-20 pounds.
3. Not handle weight over his head or away from his body nor should he carry weight over long distances or uneven terrain.
4. Avoid remaining in a fixed position for any more than about 30-45 minutes at a time including both sitting and standing.
5. Change positions frequently to maximize comfort and rest when needed.

On April 9, 2004, Dr. Volarich took a medical history that the claimant's right hand was worse than his left. The claimant had ongoing pain, numbness and tingling with decreased grip strength and reported that opening jars and bottles was problematic. He reported that his hand cramps with writing. He denied problems with zippers but did report problems fastening buttons. He had a weakly positive Phalen's test bilaterally. Dr. Volarich opined that the work related activities performed by the claimant leading up to January 1, 2003, were the substantial contributing factors causing the bilateral carpal tunnel syndromes requiring surgeries. He rated the claimant's disability at thirty-five percent permanent partial disability of

each wrist. Dr. Volarich recommended the following restriction relating to the claimant's wrists:

- 1) Avoid using his hands in an awkward fashion
- 2) Minimize repetitive gripping, pinching, squeezing, pulling, pushing, twisting, rotatory motions, and similar tasks and limit use to as needed.
- 3) Avoid impact and vibratory trauma to the hands, and use appropriate braces, anti-vibration gloves, support straps and other protective devices as needed.
- 4) Not handle any weights greater than 3-5 pounds with either upper extremity alone, particularly with the arms extended away from the body.
- 5) May handle weights to tolerance with the arms close to the body, but in general no more than 10-15 pounds.
- 6) Continue strengthening, stretching, and range of motion exercises. See Exhibit CC.

Dr. Volarich opined that the claimant had preexisting permanent partial disabilities of seven and one half percent to the claimant's cervical spine, seven and one half percent to the claimant's thoracolumbar spine, fifteen percent to the claimant's right hand, and twenty percent to the claimant's right ankle. See Dr. Volarich deposition, pages 12, 13.

### Dr. Anderson

Dr. Anderson, the claimant's psychiatrist, testified that the claimant had a long history severe mental depression and anxiety. He testified that before 2002 the claimant had depression and anxiety, and had symptoms consistent with both. He testified that the symptoms intended (sic) to wax and wane over time as a result of life factors and as a result of the effect of his medication. See Dr. Anderson deposition, page 11. He testified that the claimant's preexisting psychiatric disability was "unquestionably exacerbated" after his accident in April 2002, and his work injury to the neck and low back and the resulting surgeries and chronic pain were a substantial factor in the worsening of his psychiatric disability. See Dr. Anderson deposition, page 14. Dr. Anderson testified that the claimant's work-related carpal tunnel syndrome and resulting surgeries worsened his psychiatric condition. See Dr. Anderson deposition, page 15. He opined further that the work injury to his hands was a significant factor in the further exacerbation in the preexisting psychiatric disability. See Dr. Anderson deposition, page 16.

Dr. Anderson opined that the claimant is totally disabled from a psychiatric standpoint and that his preexisting psychiatric disability combined with the psychiatric disability stemming from his work injuries of April 26, 2002, and January 2003, increasing his overall level of disability to cause him to be totally disabled and that he is likely to remain totally disabled from a psychiatric standpoint. See Dr. Anderson deposition, page 17.

### **SECOND INJURY FUND**

To recover against the Second Injury Fund based upon two permanent partial disabilities, the claimant must prove the following:

1. The existence of a permanent partial disability preexisting the present injury of such seriousness as to constitute a hindrance or obstacle to employment or to obtaining reemployment if the employee becomes unemployed. Section 287.220.1, RSMo 1994; Leutzinger v. Treasurer, 895 S.W.2d 591, 593 (Mo.App. E.D. 1995).

2. The extent of the permanent partial disability existing before the compensable injury. Kizior v. Trans World Airlines, 5 S.W.3d 195, 200 (Mo.App. W.D. 1999).

3. The extent of permanent partial disability resulting from the compensable injury. Id.

4. The extent of the overall permanent disability resulting from a combination of the two permanent partial disabilities. Id.

5. The disability caused by the combination of the two permanent partial disabilities is greater than that which would have resulted from the pre-existing disability plus the disability from the last injury, considered alone. Searcy v. McDonnell Douglas Aircraft, 894 S.W.2d 173, 177 (Mo.App. E.D. 1995).

6. In cases arising after August 27, 1993, the extent of both the preexisting permanent partial disability and the subsequent compensable injury must equal a minimum of fifty weeks of disability to "a body as a whole" or fifteen percent of a major extremity unless they combine to result in total and permanent disability. Section 287.220.1, RSMo 1994; Leutzinger, supra.

To analyze the impact of the 1993 amendment to the law, the courts have focused on the purposes and policies furthered by

the statute:

The proper focus of the inquiry as to the nature of the prior disability is not on the extent to which the condition has caused difficulty in the past; it is on the potential that the condition may combine with a work related injury in the future so as to cause a greater degree of disability than would have resulted in the absence of the condition. That potential is what gives rise to prospective employers' incentive to discriminate. Thus, if the Second Injury Fund is to serve its acknowledged purpose, "previous disability" should be interpreted to mean a previously existing condition that a cautious employer could reasonably perceive as having the potential to combine with a work related injury so as to produce a greater degree of disability than would occur in the absence of such condition. A condition satisfying this standard would, in the absence of a Second Injury Fund, constitute a hindrance or obstacle to employment or reemployment if the employee became unemployed. Wuebbeling v. West County Drywall, 898 S.W.2d 615, 620 (Mo.App. E.D. 1995).

Section 287.220.1 contains four distinct steps in calculating the compensation due an employee, and from what source, in cases involving permanent disability: (1) The employer's liability is considered in isolation - "the employer at the time of the last injury shall be liable only for the degree or percentage of disability which would have resulted from the last injury had there been no preexisting disability;" (2) Next, the degree or percentage of the employee's disability attributable to all injuries existing at the time of the accident is considered; (3) The degree or percentage of disability existing prior to the last injury, combined with the disability resulting from the last injury, considered alone, is deducted from the combined disability; and (4) The balance becomes the responsibility of the Second Injury Fund. Nance v. Treasurer of Missouri, 85 S.W.3d 767, 772 (Mo.App. W.D. 2002).

Missouri courts have routinely required that the permanent nature of an injury be shown to a reasonable certainty, and that such proof may not rest on surmise and speculation. Sanders v. St. Clair Corp., 943 S.W.2d 12, 16 (Mo.App. S.D. 1997). A disability is "permanent" if "shown to be of indefinite duration in recovery or substantial improvement is not expected." Tiller v. 166 Auto Auction, 941 S.W.2d 863, 865 (Mo.App. S.D. 1997). The standard for determining whether Claimant was permanently and totally disabled is whether the person is able to compete on the open job market, and the key test to be answered is whether an employer, in the usual course of business, would reasonably be expected to employ the person in his present physical condition. Joulzhouser v. Central Carrier Corp., 936 S.W.2d 908, 912 (Mo.App. S.D. 1997). Generally, where two events, one compensable and the other non-compensable, contribute to the claimant's alleged disabilities, the claimant has the burden to prove the nature and extent of disability attributed to the job related injury.

The claimant filed a claim for compensation with an injury date of April 15, 2002, alleging that his repetitive activities cause disability to his neck and back. Dr. Volarich opined that the claimant's work-related activities were a substantial factor causing his neck and back injuries, but did not opine that the claimant suffered any specific amount of disability as a result of repetitive activities. The claimant settled his April 15, 2002, workers' compensation claim with the employer on the basis of twenty percent permanent partial disability of the neck and ten percent permanent partial disability of the of the low back. See Exhibit C. Generally, where two events, one compensable and the other non-compensable, contribute to the claimant's alleged disabilities, the claimant has the burden to prove the nature and extent of disability attributed to the job related injury. Strate v. Al Baker's Restaurant, 864 S.W.2d 417, 420 (Mo.App. E.D. 1993); Bersett v. National Super Markets, Inc., 808 S.W.2d 34, 36 (Mo.App. E.D. 1991). The claimant failed to prove the amount of disability from the April 15, 2003, occurrence and is not entitled to recover based on that claim. Therefore, no Second Injury Fund benefits are awarded.

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

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

EDWIN J. KOHNER  
Administrative Law Judge  
Division of Workers' Compensation

A true copy: Attest:

\_\_\_\_\_  
Patricia "Pat" Secrest

*Director*  
*Division of Workers' Compensation*