

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

Injury No.: 97-449870

Employee: Desiree King

Employer: J. Bathe Electric Company

Insurer: Federated Mutual Insurance Company

Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

Date of Accident: October 14, 1997

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. Pursuant to section 286.090 RSMo, subsequent to reviewing the evidence and considering the entire record, the Commission modifies the award and decision of the administrative law judge dated August 31, 2005. The award and decision of Administrative Law Judge Matthew D. Vacca, issued August 31, 2005, is attached and incorporated by this reference.

The administrative law judge found the Second Injury Fund had no liability pertaining to this injury. As to the liability of the employer, the administrative law judge awarded the following amounts of compensation payable: underpaid temporary total disability in the amount of \$201.57; permanent total disability benefits in the weekly amount of \$257.45 for life beginning December 2, 2003; future medical care and treatment deemed necessary to cure and relieve employee from the effects of the injury; and the administrative law judge recognized a permanent disability advance of \$4,490.00 made by the employer.

Although disfigurement was stipulated as an issue, the award issued by the administrative law judge did not resolve this issue. Subsequently, all parties have stipulated to disfigurement of twenty weeks, which the Commission accepts and awards by this instant decision.

The employer/insurer timely filed an Application for Review with the Commission raising one point on appeal: the competent and substantial evidence supports a finding of permanent total disability against the Second Injury Fund, due to a combination of the disability attributable to the last injury alone, and employee's preexisting disabilities.

Upon review of the entire record, the Commission agrees with the contention propounded by the employer/insurer on appeal, and modifies the award and decision of the administrative law judge. The Commission concludes that the primary injury occurring October 14, 1997, resulted in permanent partial disability. The Commission further concludes the combination of the disability attributable to the primary injury and the employee's preexisting disabilities, results in the employee being permanently totally disabled.

The findings of fact and stipulations of the parties were accurately recounted in the award issued by the administrative law judge and additional facts will only be discussed or emphasized as pertinent to the instant modification.

I. Findings of Fact and Conclusions of Law

A. Permanent Partial Disability Attributable to the Accident Occurring October 14, 1997

The administrative law judge concluded that employee became permanently totally disabled attributable solely to the injury occurring October 14, 1997. As stated above, the Commission, after reviewing the entire record, reverses this finding, and concludes that the substantial and competent evidence only supports a finding that the last injury alone resulted in permanent partial disability in lieu of permanent total disability.

At the outset, the Commission notes two facts: (1) there is no medical expert opinion in this record that the primary injury alone caused or resulted in the employee being permanently totally disabled; and (2) there is no vocational expert opinion supporting a finding that employee's permanent total disability is attributable solely to the primary injury.

On the other hand, there are both a medical expert opinion as well as a vocational expert opinion that employee's permanent total disability and unemployability in the open labor market are the results of the disability attributable to her primary injury in combination with employee's preexisting disabilities.

The medical opinions of Dr. Shuter, a board certified neurologist, in summary fashion, were as follows: (1) permanent disability solely attributable to the accident occurring October 14, 1997: 50% permanent partial disability referable to the right elbow; and 20% permanent partial disability of the body as a whole referable to employee's post accident depression; (2) preexisting permanent disability: 15% permanent partial disability of the body as a whole referable to depression and 20% permanent partial disability of the body as a whole referable to employee's lumbar spine; and (3) employee is presently permanently totally disabled due to a combination of the disability attributable to the accident occurring October 14, 1997, and employee's preexisting disabilities.

Dr. Shuter further testified that employee's preexisting depression and preexisting disability attributable to the lumbar spine were both obstacles and hindrances to her employment. The testimony of Dr. Shuter definitively established a measurable preexisting disability that indeed was a hindrance and obstacle to employment.

In summary fashion, Mr. James England, a board certified rehabilitation counselor, rendered the following opinion: employee is not employable due to a combination or global effect of all of her medical conditions and problems. The Commission finds the medical opinion rendered by Dr. Shuter to be credible, trustworthy and believable. The Commission further finds the opinion of Mr. England to be credible, trustworthy and believable.

Accordingly, as to the issue of permanent disability, the Commission finds that the accident occurring October 14, 1997, resulted in the employee being permanently partially disabled as follows: 50% permanent partial disability referable to the right elbow; and 20% permanent partial disability of the body as whole referable to employee's post accident depression as described by Dr. Shuter. This results in 185 weeks of permanent partial disability.

B. Issue of Permanent Total Disability and Liability of Second Injury Fund

Based on the testimony rendered by Dr. Shuter, the Commission finds the employee had the following measurable preexisting disabilities that were both handicaps and obstacles to employment: 15% permanent partial disability of the body as a whole referable to employee's depression; and 20% permanent partial disability of the body as whole referable to the lumbar spine.

The Commission further finds that when the disability attributable to the accident occurring October 14, 1997, i.e., 185 weeks of permanent partial disability as found above, is combined with the preexisting disabilities of depression and the disability to the lumbar spine as found above, the employee is rendered permanently totally disabled. The Second Injury Fund is liable for permanent total disability benefits.

The liability of the Second Injury Fund commences 185 weeks subsequent to December 2, 2003, the stipulated date of maximum medical recovery.

Dr. Shuter specifically opined that employee was permanently totally disabled due to a combination effect of the disability attributable to the accident occurring October 14, 1997, and employee's preexisting disabilities; and Mr. England, further buttressed the opinion of Dr. Shuter by opining that employee was not employable due to a combination or global effect of all employee's medical conditions and problems.

There is no evidence contra to the opinions rendered by Dr. Shuter and Mr. England. The Commission accepts these two opinions as being credible which results in a conclusion that the Second Injury Fund is liable for permanent total disability benefits, in lieu of the employer.

II. Conclusion

Based on the above modifications, employee is awarded the following amounts of compensation payable from the employer due to the accident occurring October 14, 1997: 50% permanent partial disability referable to the right elbow or 105 weeks of permanent partial disability; 20% permanent partial disability of the body as a whole referable to employee's post accident depression, or 80 weeks of permanent partial disability; 20 weeks for disfigurement as stipulated by the parties; an underpayment of temporary total disability in the amount of \$201.57; future medical care and treatment reasonable and necessary to cure employee from the effects of this injury; and the Commission acknowledges that there has been an advancement of permanent partial disability benefits tendered employee by employer in the amount of \$4,490.00 which is a credit for the compensation now payable.

The liability pertaining to the Second Injury Fund is as follows: permanent total disability benefits from the Second Injury Fund are payable beginning 185 weeks subsequent to December 2, 2003, at the weekly rate of \$257.45 for employee's lifetime.

All remaining findings of fact and conclusions of law are affirmed. The award and decision of Administrative Law Judge Matthew D. Vacca issued August 31, 2005, as modified, is attached and incorporated by 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 27th day of June 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

Attest: _____
John J. Hickey, Member

Secretary

AWARD

Employee: Desiree King Injury No.: 97-449870

Dependents: N/A Before the
Division of Workers'

Employer: J. Bathe Electric Co. **Compensation**
Department of Labor and Industrial
Additional Party: Second Injury Fund Relations of Missouri
Jefferson City, Missouri
Insurer: Federate Mutual Insurance Co.
Hearing Date: July 15, 2005 Checked by: MDV:tr

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 14, 1997
5. State location where accident occurred or occupational disease was contracted: St. Louis County
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? yes
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:
Using power drill when twisted violently injuring right wrist.
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 wrist
14. Nature and extent of any permanent disability: Right upper extremity
15. Compensation paid to-date for temporary disability: \$66,338.07
16. Value necessary medical aid paid to date by employer/insurer? \$119,199.06

Employee: Desiree King Injury No.: 97-449870

17. Value necessary medical aid not furnished by employer/insurer? -0-
18. Employee's average weekly wages: \$386.17
19. Weekly compensation rate: \$257.45/\$257.45
20. Method wages computation: Agreed

COMPENSATION PAYABLE

21. Amount of compensation payable:

Underpaid temporary total disability \$201.57

Permanent and total disability benefits of \$257.45 per week for life
beginning December 2, 2003 and thereafter for life *

Future medical care **

22. Second Injury Fund liability: No

(less advance of \$4,490.00) TOTAL: \$201.57 * **

23. Future requirements awarded: None

Said payments to begin immediately 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:

David Hughes

FINDINGS OF FACT and RULINGS OF LAW:

Employee:	Desiree King	Injury No.: 97-449870
Dependents:	N/A	Before the
Employer:	J. Bathe Electric Co.	Division of Workers'
Additional Party:	Second Injury Fund	Compensation
Insurer:	Federated Mutual Insurance Co.	Department of Labor and Industrial
		Relations of Missouri
		Jefferson City, Missouri
		Checked by: MDV:tr

ISSUES PRESENTED

The issues presented for resolution by way of this hearing were the nature and extent of any permanent disability to include disfigurement and the liability of the Second Injury Fund. The parties agreed that Claimant had been underpaid \$0.78 per week for her temporary total disability benefits and requests that I make an award of that underpayment in this award.

The parties also agreed that Claimant has been paid an advance of permanent partial disability of 10% of the right wrist, a cash amount, which has been stipulated to by the parties to be \$4,490.00, which again the parties request that I award as a credit to the Employer if in fact any permanent partial disability is found to be owing against the Employer in this case.

SYNOPSIS

This claim involves a devastating injury to the right wrist. Claimant, Desiree King, underwent eight surgical procedures which have left her with a useless right hand and her life in disarray. All parties have done a tremendous job presenting the positions of their clients. Nevertheless, the outstanding advocacy of the attorneys can't change the fact that Claimant is unable to compete in the open labor market as a result of this accident and the injuries sustained and that it was this accident considered in and of itself which has led to this condition. Therefore, I find for the Claimant, Desiree King,

and award permanent and total disability benefits against the Employer/Insurer herein and dismiss the claim against the Second Injury Fund as being moot.

FINDINGS OF FACT

1. Claimant was born October 27, 1960. She was 44 years old on the date of the hearing. She was raised in Creve Coeur, Missouri and adopted as an infant child. Her adopted parents, according to medical records, may have both physically and verbally abused her.
2. Claimant was married in 1989 for one and a half years and later divorced. She has a son, age 20, and a daughter, age 28, both who live at home with her. She has lived 13 years at her current address which is a one and a half story dwelling with no basement. Claimant lives primarily on the first floor.
3. Claimant went to Parkway North Junior High School and then Lafayette High School. She went to South County Tech for vocational training following high school to learn the trade of an electrician and worked for the IBEW Local 1.
4. Claimant's working career began in 1973 in approximately February when she went to work weekends as a "bus girl" and then full time as a waitress. A "bus girl" clears away dishes in restaurants.
5. Claimant went to work in 1981 at the Chip Room full time as a barmaid and worked also 18 to 20 years there as a waitress and as a "bus girl". It closed in 1992 and she went to work for Aries Services, which handled various cafeteria food programs, and then in 1993 she went to school at South County Tech for the one-year vocational program to learn the skills of an electrician. She was thereafter an apprentice for the IBEW for two years and began working in her trade.
6. The duties of an electrician performed by Claimant were to lift parts, put in lights, wire commercial and residential structures, to use drills, and to lift 20 to over 100 pounds. She went to work for J. Bathe Electric in 1995 to 1996 performing residential work as an apprentice electrician. She worked there one year working approximately 40 plus hours a week when she sustained the accident which forms the subject of this workers' compensation claim.
7. On the date of the accident Claimant was working in a subdivision in Winter Valley roughing in a house with a co-worker. She was using a Whole Hog commercial drill, which is a 30 to 40 pound drill with 1 ½ to 2 horsepower, and utilizing a 12-inch long, ½ inch bit drilling into a wood floor. The floor consisted of half-inch plywood over 2 by 4 joists. While performing this task the drill, which did not have a clutch, hung up and hit Claimant on the right hand when the drill bit hit a 2 by 4. The co-employee working with Claimant at the time of the injury was "Corey".
8. Claimant had no prior injuries to this part of her body.
9. It was approximately one-half hour before the end of the shift that day so Claimant went home and called the shop and reported the injury. She was sent to the St. Joseph's Hospital emergency room and then referred to Healthline and Concentra. Dr. Sudekum performed surgery and Dr. Tucker performed surgeries. Physical therapy was then prescribed and Claimant failed to improve. Dr. Schlafly and Dr. Coin performed two surgeries together and then Dr. Coin performed another surgery solo.
10. Following Dr. Coin's surgery Claimant's ulna was shortened and a plate with eight screws was inserted into the upper extremity along the ulnar aspect of the hand.
11. There was no improvement following this surgery and therefore Dr. Brown took out the plate and screws and cut the top of the ulna off, placed a new plate in the middle from the finger to the forearm, and again fixed it with eight screws to the bone.
12. In 2003 Dr. Sudekum performed yet another surgery, took the plate out, tried to stabilize the arm and sawed some more bone performing a sympathectomy and an ulnar and radial release. A sympathectomy severs the nerve.
13. On May 8, 1998 Dr. Tucker performed an arthroscopic surgery described as a repair for a torn lunotriquetral ligament.
14. On September 1, 1998 he performed a fusion surgery, lunotriquetral ligament arthrodesis with a distal radial bone graft and internal fixation. On January 28, 1999 Dr. Coin and Dr. Bruce Schlafly centralized the extensor tendon of the right middle finger, removed screw hardware in the right wrist, performed an intercarpal arthrodesis of the right wrist with iliac crest bone graft and an ulnar shortening osteotomy. On March 15, 1999 Dr. Schlafly removed pins. On March 31, 1999 Dr. Coin explored and removed four deeply

placed orthopedic stabilization pins. On June 24, 1999 Dr. Coin excised a massed tenosynovium of the fifth digit with tenolysis and a carpal tunnel release.

15. Dr. Coin rated Claimant at 25% permanent partial disability of the forearm.
16. On January 25, 2001 Dr. David Brown performed a right wrist arthrodesis using a left iliac bone graft and performed a right Darrach's procedure, removed the hardware from the right ulna and placed a pain pump at the right iliac bone graft donor site. He rated Claimant at 40% permanent partial disability of the right wrist at that time.
17. Claimant thereafter saw Dr. Sudekum who performed surgery on May 17, 2002 removing hardware and performing a dorsal wrist capsulotomy and extensor tenolysis and rated her at 50% permanent partial disability of the level of the elbow.
18. Claimant has experienced no improvement from the any of the surgeries and believes that the doctors have made her condition worse. She has extreme pain from the center of the palm and wrists to the right side outside of the right arm into the shoulder, neck and head. Claimant describes the pain as having a life of its own and it is growing. She is on pain prescription medications including a Duragesic patch and other opiates. She describes the pain as sharp, intense and very acute. Rain causes the pain to increase. She takes Prozac, Trazadone, Temazepam, Oxycontin, Percocet, Vicodin, Neurontin and muscle relaxers. She has been on these heavy severe pain medications for two years. She has difficulty sleeping. She cannot lift a gallon of milk and is only able to lift a half can of soda occasionally. She has very little range of motion with the hand. The ulna moves by itself and is not attached to any other bone in the extremity. She has approximately 43 and ¼ inches of total scarring on the extremity and it has the appearance of having been run repeatedly and violently through a barb wired fence.
19. Claimant feels worthless about being unable to work and to compete and feels rejected.
20. Claimant describes her feelings of inadequacy. She feels horrible physically. She wants to work but she cannot do such simple tasks as weed-eat her lawn or plant flowers. She has to have help for that type of work from her children.
21. In the past Claimant has undergone or suffered from psychological stressors on the job. There was an individual at work who sexually harassed Claimant at work and when the other male co-workers reported this individual's harassment of Claimant, Claimant was knocked off of a prevailing wage job and the aggressor got promoted. This made Claimant angry and she feels it was an injustice.
22. Claimant's adoptive mother had a stroke when she was 8 to 9 years old and did not take care of Claimant and her father worked nights. Claimant became the mother for her brothers and sisters. She had a syndrome when she was about 13 where she would pull her hair out, but that syndrome was eliminated following counseling and treatment with a prescription drug Mellaril and her hair all grew back by age of 13 years old.
23. In 1993 Claimant fell into a hole while working and medical treatment consisted of some epidural steroid injections into the lumbar spine. An MRI disclosed bulging discs. She was treated by a doctor of chiropractic and was treated by that chiropractor off and on over the years. It would bother her but it was tolerable and she would be stiff and sore when the back would go out.
24. Claimant describes her life as listless and that she is always tired. She has suicidal ideations and these get more pronounced in the winter. She has looked for a job since the accident but has been unable to find one. She went to the Department of Vocational Rehabilitation on her own at Highway 61/67 and Richardson Road in 2003 but was unable to get any work. She tried to get a job as an electrical inspector but while she had the aptitude and the education to perform the tasks she was unable to meet the physical requirements of climbing scaffolding and crawling in tight spaces and down on all fours.
25. Claimant applied for employment to a bug spray company but was unable to qualify physically for the job. She went for two to three semesters of school at Jefferson College but found that she was unable to write. She had poor concentration and was forgetful because of the narcotics that she was on. She can drive, she can perform her own personal hygiene and wash her hair, but she is unable to cut the grass, needs help performing laundry tasks and cooking tasks.
26. Claimant does not particularly care to watch television or to read and ends up mostly sitting around the house. She can no longer go canoeing, rapelling, competitive swimming, caving, or any of the activities that she used to like to do.
27. When Claimant's boyfriend found out about the sexual harassment that took place at work, he beat the Claimant and took out his frustrations on her. Claimant however "got rid of both of them".

28. Claimant does admit to feeling rejected due to her inability to perform physical requirements and her rejection for jobs based on physical restrictions.
29. Claimant testified at trial with a flat affect and a matter of fact demeanor.
30. Dr. Wolfgram wanted to hospitalize Claimant to reduce an alleged addiction to pain medication but Claimant declined that treatment because the doctor did not offer any solution other than to decrease the pain medication which would mean that the pain level would increase. Claimant did not think that this was a good solution to the problem.
31. Claimant received a social security disability determination in 1998 or 1999. Claimant believes that the duties of an electrician were more or less of the same physical caliber of performing the duties of a waitress. Claimant suffers from depression. She has been diagnosed with reflex sympathetic dystrophy.
32. Dr. Matthews diagnosed Claimant with a major recurrent depressive disorder on November 10, 1999. At that time he noted the stressors as being Claimant's daughter living with the Claimant's mother in California and the previous sexual harassment by a supervisor and problems with her boyfriend following that incident. He also noted financial problems and social network problems and he started therapy and medication. Dr. Matthews reports that Claimant was again pulling her hair out and hearing voices in January of 2000.
33. James England believes that Claimant is unable to compete in the open labor market as a result of her physical problems and her psychiatric limitations. She believes she can perform sedentary work if he only considered the physical problems.
34. Dr. Shuter, a neurologist, examined Claimant and he believes that Claimant is permanently and totally disabled.
35. Dr. Coin evaluated the Claimant back in 1993 regarding the prior parking lot incident or falling into a hole incident where Claimant sustained a mild disc bulge at L4-5 and underwent epidural steroid injections with Dr. Feinberg. Dr. Coin believed that Claimant was unable to return to her catering job due to the severity of her low back pain and placed her on restrictions. Nevertheless, Claimant continued to work in her capacity as an electrician following this injury and up until the date of the instant injury.
36. Dr. Shuter believes Claimant sustained injuries to her right upper extremity and depression as a result of the injury while working for J. Bathe Electric. He believes Claimant sustained a 50% permanent partial disability at the elbow, 10% of the body as a whole for depression, and a 15% body as a whole due to preexisting depression. He re-evaluated her in 2001 and became aware of additional treatment for the right hand and thereafter believed that Claimant had a 35% permanent partial disability relating to the body as a whole regarding depression which he apportions 20% to the work injury and 15% preexisting. Claimant was re-evaluated once again by Dr. Shuter on April 27, 2004. He reviewed additional records from Drs. Sudekum, Yadava, Eickmeyer, Howard and Matthews. He was informed of the 1992 low back injury and the MRI disclosing a bulging disc and updated his diagnosis as a result of the interim surgeries. He found no change in depression, believed that the upper extremity remained at 50% disability and added 20% to the body as a whole for the preexisting back condition. He believed that Claimant was probably permanently and totally disabled and unable to compete in the open labor market as a result of all the disabilities.
37. Dr. Wolfgram examined Claimant on behalf of the Employer and believes that Claimant needs further specific medical treatment and believes that she is temporarily disabled. Dr. Wolfgram believes that Claimant is determined, focused and physically and mentally capable of pursuing some goals in life. Dr. Wolfgram believes that Claimant is suffering from narcotic addiction because she has had an increasing need for pain medication as her pain has become worse. Dr. Wolfgram reports that Claimant was excited about his opinions but this directly contradicts Claimant's testimony at trial. Dr. Wolfgram recommends removing the narcotic addiction in order to identify the sources of her pain but Claimant objects because he simply wants to remove the medications used to control her pain without addressing the pain that she will experience.
38. Dr. Wolfgram believed Claimant suffered from a 5% permanent partial disability for an obsessive, compulsive disorder which has been longstanding and 15% for depression preexisting 1997. He believes she is temporarily and partially disabled to the extent of 100% for the addiction to pain medication and doesn't find any temporary or partial disability to her wrist from a psychiatric point of view and will be unable to do so until the addiction is cleared. Dr. Wolfgram explains that the temporary partial disability assignment is assessed because the disability is partial in that it may be successfully treated with a common method of treatment. Dr. Wolfgram also doesn't want her to rule out any left-handed only work considering her lifetime resilience in activity. Dr. Wolfgram suggests use of bupremorphine as a means of withdrawing people from addictive substances.

39. Dr. Eickmeyer diagnosed Claimant with reflex sympathetic dystrophy.
40. Dr. Wolfram says that none of the physicians have noted any problems with Claimant's addiction to pain medication and asserts that they are acting below the reasonable standard of care and that they don't know what's going on pertaining to the pain side of Claimant's drug addiction. Dr. Wolfram believes that it's the government's responsibility to control Claimant's pain drug usage.
41. Claimant suffers from trichotilomania which is a chronic manifestation of a repetitive physical act where Claimant picks at her hair as a repetitive obsessive manifestation.
42. Dr. Wolfram refers to Claimant as having a 100% partial temporary disability because she has been exposed to medications that have a crippling affect on her entire life adjustment.
43. Dr. Wolfram points to a pamphlet from the Pain Center at Washington University for the proposition that after years of trying to eradicate pain, physicians are now recognizing that pain cannot be eliminated but can be worked with and minimized. He credits his own speaking out on the matter for a fair number of years as proof that Claimant can be treated. He points out that Claimant is not a heroin addict and while he states that she doesn't have a lifelong pattern of addiction she should be treated at a pain center such as Barnes Hospital, Washington University Pain Treatment Center where they will use anti-depressants and other psychoactive drugs, anti-anxiety drugs and physical rehabilitation as a means of alleviating the pain and rehabilitating the Claimant.
44. Dr. Wolfram points to a seminar that occurred on July 29, 2005 where bupremorphine was touted as a means of withdrawing people from addictive substances because addictive practices need to be intercepted early and the addictive cycles need to be broken because they are medical conditions.

RULINGS OF LAW

1. Claimant sustained an accident and injuries on October 14, 1997 which arose out of and in the course of her employment with J. Bathe Electric Co. Following reasonable and necessary medical care, Claimant became permanently and totally disabled as a result of that injury, considered alone.
2. Claimant is entitled to future medical care to cure and relieve of the effects of this injury.

DISCUSSION

I am certainly sympathetic with Dr. Wolfram's advocacy towards elimination of narcotic addiction. Nevertheless, Claimant's skepticism at his offered treatment by simply removing her pain medication is also quite reasonable. Claimant suffers from a devastating medical condition which requires potent prescription medications to allow some minimal level of functionality. Nevertheless, given her suicidal ideations and overall mental and physical condition, I don't believe an enforced stay at Washington University's pain clinic while they experiment with her possible addiction to drugs is a wise course of action.

I have awarded future medical in this case. If Claimant decides that she wants to undertake the program at Washington University Pain Management center and attempt to regain any semblance of her former life, she may. I can't force her to do so.

Utilizing Dr. Wolfram's opinion, Claimant is currently suffering from a medical condition which at the least is crippling and prevents her from engaging in any gainful employment. I don't think anyone chooses to live the existence in which Claimant currently finds herself.

There is provision in the Missouri Workers' Compensation law that should the Claimant's condition change, the lifetime award of benefits can be revisited. I would suggest that rather than trying to force medical procedures upon Claimant that the Employer/Insurer may want to entice Claimant into a situation where she truly believes that her best interests are being met rather than those of the insurance company. After having undergone eight unsuccessful medical procedures, I think Claimant is justified in taking a pass on Dr. Wolfram's treatment proposal.

Date: _____ Made by: _____

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

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation