

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

Injury No.: 02-045936

Employee: Virginia L. Neves
Employer: Lewis County Nursing Home District
Insurer: Missouri Nursing Home Insurance Trust
Date of Accident: April 19, 2002
Place and County of Accident: Lewis 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 December 28, 2005. The award and decision of Administrative Law Judge Robert J. Dierkes, issued December 28, 2005, is attached and incorporated by this reference.

Employee's brief contained an objection to employer/insurer's brief. That objection is overruled.

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 24th day of May 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Virginia L. Neves

Injury No. 02-045936

Dependents: N/A
Employer: Lewis County Nursing Home District
Additional Party: N/A
Insurer: Missouri Nursing Home Insurance Trust
Hearing Date: October 26, 2005

Before the
**DIVISION OF WORKERS'
COMPENSATION**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri
Checked by: RJD/tmh

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: April 19, 2002.
5. State location where accident occurred or occupational disease was contracted: Lewis 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? Not applicable.
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:
Claimant sustained injury to her low back as the result of continually lifting and turning nursing home patients.
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: Low back.
14. Nature and extent of any permanent disability: 20% permanent partial disability of the body as a whole.
15. Compensation paid to-date for temporary disability: None.
16. Value necessary medical aid paid to date by employer/insurer? \$2,614.45.
17. Value necessary medical aid not furnished by employer/insurer? \$59,462.99.
18. Employee's average weekly wages: \$260.46.
19. Weekly compensation rate: \$173.64/\$173.64.
20. Method wages computation: Stipulation.

COMPENSATION PAYABLE

21. Amount of compensation payable:

Unpaid medical expenses:	\$59,462.99
19 1/7 weeks of temporary total disability benefits:	\$ 3,323.97
80 weeks of permanent partial disability benefits from Employer:	<u>\$13,891.20</u>

TOTAL: \$76,678.16

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: Terrell Dempsey

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Virginia L. Neves

Injury No: 02-045936

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Department of Labor and Industrial Relations of Missouri
Jefferson City, Missouri

Dependents: N/A

Employer: Lewis County Nursing Home District

Additional Party: N/A

Insurer: Missouri Nursing Home Insurance Trust

Checked by: RJD/tmh

ISSUES DECIDED

The evidentiary hearing in this case was held before the undersigned administrative law judge on October 26, 2005, in Hannibal. The parties requested leave to file post-hearing briefs, which leave was granted. The case was submitted on November 10, 2005. The hearing was held to determine the following issues:

1. Whether Claimant, Virginia Neves, sustained an accident or occupational disease arising out of and in the course of her employment with Employer, Lewis County Nursing Home District, on or about April 19, 2002;
2. If sustained, whether the accident or occupational disease was the medical and legal cause of the injuries and conditions alleged by Claimant;
3. Whether the notice requirement of Section 287.420, RSMo, serves to bar the Claim for Compensation herein;

4. Whether Claimant is entitled to temporary total disability (“TTD”) benefits, and, if so, for what period(s) of time;
5. Whether Employer and Insurer shall be ordered to pay Employee’s medical bills; and
6. The nature and extent of Claimant’s permanent partial disability, if any.

STIPULATIONS

The parties stipulated:

1. That the Missouri Division of Workers’ Compensation has jurisdiction over this case;
2. That venue is proper in Lewis County and adjoining counties; Marion County is an adjoining county to Lewis County;
3. That the Claim for Compensation was filed within the time allowed by the Statute of Limitations, Section 287.430, RSMo;
4. That both Employer and Employee were covered under the Missouri Workers’ Compensation Law at all relevant times;
5. That the rates of compensation are \$173.64/\$173.64, based on an average weekly wage of \$260.46;
6. That Lewis County Nursing Home District was self-insured for Missouri Workers’ Compensation purposes at all relevant times through Missouri Nursing Home Insurance Trust; and
7. That Employer paid medical benefits of \$2,614.45.

EVIDENCE

The evidence consisted of the testimony of Claimant, Virginia Neves; the testimony of Douglas Neves, Claimant’s husband; a medical report and deposition testimony of Dr. Jerome Levy; a medical report of Dr. Russell Cantrell; medical records; and medical bills.

FINDINGS OF FACT

I find that Claimant, Virginia Neves, was born May 28, 1963, is married with four children, and has a tenth-grade education. I find that Claimant worked for Employer for three or four years prior to the alleged work-related injury. Employer is a nursing home. Claimant worked in the laundry for the first year of her employment, and then worked as a certified nursing assistant (“CNA”) thereafter. Claimant would usually work the 10:00 P.M. to 6:00 A.M. shift, and usually worked less than 40 hours each week. Claimant was responsible for approximately 36 of the nursing home residents during her shift. A significant portion of Claimant’s duties consisted of “turning” residents in their beds, for comfort and to prevent bed sores. Approximately 30 of the patients would need to be turned; usually a patient was turned every two hours. A sheet was used to turn the patients; some of the patients could assist Claimant in this task, others could not. Another part of Claimant’s duties consisted of getting residents out of bed in the morning, dressing them, brushing their teeth, and otherwise attending to their hygiene. Claimant testified that she would, thus, assist approximately six residents each morning.

Claimant testified that a significant portion of her duties consisted of lifting the residents. Claimant testified that, at least once or twice a night, a resident would lose his or her balance and “they would fall on me”.

There was no evidence adduced that indicated that Claimant suffered from any back or neck problems prior to her employment at Lewis County Nursing Home.

The claim for compensation filed in this case (Injury No. 02-045936) on May 10, 2002, alleges that Claimant injured “neck, spine, and back”, and a description of how the injury occurred alleges “Claimant was injured while lifting patients repetitively”, “on or about April 19, 2002”.

Claimant testified that in February 2002, an incident occurred when Claimant was working in a resident’s room with her back to the door, and a nurse came to the door to talk to Claimant. Claimant testified that as she turned her head to listen, she felt immediate pain in her neck. On April 4, 2002, Claimant filed with Employer a REPORT BY INJURED EMPLOYEE concerning this incident. On May 13, 2002, Employer filed a first report of injury with the Division of Workers’ Compensation, and Injury No. 02-044039 was assigned.

According to the REPORT BY INJURED EMPLOYEE filed by Claimant, Claimant was seen by Dr. Dysktra for her neck as well as for her back in March 2002, although there are no such medical records in evidence. The first medical records in evidence are a CERTIFICATE OF PHYSICAL EXAMINATION from a nurse practitioner at Quincy Medical Group, stating that Claimant should not work until seen by Dr. Gilchrist, and a WORK ABILITY REPORT from Dr. Gilchrist at Quincy Medical Group dated April 16, 2002, stating that Claimant could return to work with no lifting over 25 pounds, and scheduling Claimant for physical therapy beginning April 17, 2002. Claimant testified that Employer did provide her with light duty from this time forward until her last day of work on September 12, 2002.

The first history noted in the medical records is on the physical therapist's INITIAL EVALUATION dated April 23, 2002. This noted an onset date of "February 2002" and states: "Patient recalls no specific injury. She noticed pain in her back beginning in February. Patient states that her work is also a difficulty (sic) type job and this could have been gradually building up reportedly from her work."

A lumbar MRI was done on April 19, 2002, which showed a posterior disc bulge at L4-5 and at L5-S1, with significant dessication in the L5-S1 disc, without compromise of the nerve roots.

On May 6, 2002, Claimant was seen by Dr. Linda Johnson. The history recorded by Dr. Johnson is as follows:

She has a 4-year history of working as a CNA. Through the last two of those, she has had increasing amounts of back pain. It has been especially severe for two or three months with pain in the right buttocks going into the back of the thigh, which was stabbing. She tried to go back to work about 2 ½ weeks ago, but the lifting and weight seemed to worsen the pain and it has become a cramping pain rather than a stabbing pain that more often travels into the lateral thigh and sometimes down into the leg. ... She does not remember a specific injury, although there is some neck pain and she remembers that in February she was working and turned her head to answer a question and felt the neck pop. Since then, pain problems have been somewhat worse, especially in the neck.

On May 15, 2002, Claimant was seen by a pain clinic specialist, Dr. M. Azad Tayyab, who performed an epidural steroid injection. The history given to Dr. Tayyab was similar to that given to Dr. Johnson, with the addition of the following: "She is married, with four children, who currently keep her very active, busy, and may be the cause of her pain."

On May 16, 2002, Employer-Insurer sent Claimant to see Dr. Christopher Bieniek, an orthopedic surgeon. Dr. Bieniek's PROGRESS REPORT of that date was admitted into evidence over the objection of Employer-Insurer. Employer-Insurer argues that Dr. Bieniek's PROGRESS REPORT is not a record of medical treatment, but is rather an evaluation for forensic purposes. Employer-Insurer offered no correspondence or other evidence to show that Claimant was sent to Dr. Bieniek for something other than treatment. By denominating his note as a PROGRESS REPORT, it appears that Dr. Bieniek felt that he was rendering treatment to Claimant. I find that Dr. Bieniek's PROGRESS REPORT of May 16, 2002, is a record of medical treatment, and was admissible.

In Dr. Bieniek's PROGRESS REPORT, the history is recorded as follows:

Ms. Neves is a 38 year old female with complaints of neck and low back pain. She states she has had the neck pain since about February of this year. It occurred while working at Lewis County Nursing Home. She was in patient's room, someone entered the room and she quickly turned her head to see who it was and felt a snap to her neck and, since that time, has had some neck discomforts. She has not had any specific treatment for her neck and hasn't really sought much medical attention for this. She is fairly comfortable during the day but has increasing pain to her neck at night when she lays on her side. The level and areas of pain have not changed really since the time of the onset in February. She does also complain of low back pain. She doesn't recall any specific incident that contributed to the development of the pain. She thinks her low back pain is more the result of repetitive bending and stooping, lifting and helping of patients from one body position to another. She has worked for Lewis County Nursing Home for a period of about 4 ½ years. She has in the past, prior to working at Lewis County Nursing Home, had to take off some from work for a short period of time to the best of her recollection (sic) but she is a little bit sketchy in this. None the less, she has been able to work pretty regularly at Lewis County Nursing Home up until about 1 month ago when she has been taking off intermittently because of the low back pain.

Dr. Bieniek's PLAN AND DISCUSSION includes the following:

In conclusion, the cervical injury occurred as a single incident occurring at the Lewis County Nursing Home for which she has not yet received treatment and may not need any significant treatment other than some time, medications and possibility of some therapy.

With regard to the lumbar spine, the cervical spine injury did not cause the low back pain in any way. However, it appears that the repetitive bending, stooping and lifting of objects and people at the Lewis County Nursing Home, in all likelihood, has contributed to the development of her low back pain and possibility to the development of the herniated disc, although this is uncertain.

On June 10, Claimant saw Dr. Reuben Morris, a neurosurgeon. The history recorded by Dr. Morris states:

Virginia Neves is a 39-year-old right handed lady with a chief complaint of bulging discs in her back and right leg pain that she has had for 6 months that has gotten somewhat worse over the last 3 months. She can recall no particularly precipitating event. She is employed as a certified nurse's assistant in a local nursing home and this activity requires her to do a good deal of lifting and repetitive bending.

Dr. Morris recommended myelography to see if nerve root compression could be documented.

On August 22, 2002, Claimant was evaluated by a neurosurgeon, Dr. A. Reynolds. As part of that evaluation, Claimant filled out a Patient History Questionnaire. Claimant checked a box for "Gradual Onset" and wrote "back" in that box; she checked a box for "Sudden Onset" and wrote "neck" in that box. In the narrative portion, Claimant wrote the word "Neck" and described the February incident of turning her head and suffering neck pain. Regarding her back, Claimant wrote:

Lower spine had bothered me for awhile. Went to Doctor Dykstra (Canton) he thought it may be my hip out of place. He did a treatment on my neck and my hips. As time went by mainly at work, my lower back started burning and I would get a crampy feeling in my hips and sharp knifing pains down mainly my right leg. I went back to the doctor. Recently in my lower back I feel a lot of pressure at work when I walk a lot it almost feels like in my tail bone (lower back) something is grinding together. I do vitals as a part of light duty on all halls. The bending causes a lot of pain not so much going down as coming up.

Claimant proceeded to have surgery performed by Dr. Reynolds on November 6, 2002, consisting of an L5-S1 anterior interbody fusion with LT tapered cages and Infuse graft. Claimant had an uneventful recovery post-surgery.

On March 14, 2003, Claimant had a cervical MRI done. This showed disc abnormalities at C2-3, C5-6 and C6-7. Claimant began physical therapy for her neck on April 17, 2003. A portion of the recorded history states:

Patient reports she originally hurt her neck and low back when she turned to the L to look at someone behind her when something popped on the L side of her neck. Patient reports that she had pain pointing to the L portion of her neck and low back.

Physical therapy proved unsuccessful and Claimant proceeded to surgery, again with Dr. Reynolds, on June 25, 2003. The surgery consisted of a C5-6 anterior microdiscectomy with fusion and instrumentation.

Claimant has not returned to work for any employer since her last date of employment with Lewis County Nursing Home in September 2002. Claimant currently takes prescription muscle relaxants. Claimant complains of low back soreness with pain down the back of her right leg down to the foot. Claimant states that she cannot drive for more than 25 miles at a time, and that she needs to use a cane to walk when she shops to "brace" herself. Claimant states that she cannot stand comfortably for more than 20 minutes, she cannot sit comfortably for more than 15 minutes, and that she has trouble going up stairs.

RULINGS OF LAW

Notice. The notice of issue is most easily disposed of and I will do so first. It is abundantly clear that Claimant has alleged an occupational disease. The notice requirement of Section 287.420 is inapplicable to claims of occupational disease, *Endicott v. Display Technologies*, 77 S.W.3d 612 (Mo. 2002), and therefore is not a bar to the Claim for Compensation in this case.

Occupational disease; causation. As noted above, the claim for compensation alleges that Claimant injured "neck, spine and back", and that "Claimant was injured while lifting patients repetitively on or about April 19, 2002". Of course, the employee has the burden of proving a causal connection between the work activity and the claimed injuries. *Griggs v. A. B. Chance Co.*, 503 S.W.2d 697 (Mo. App. K.C. 1973). Such proof is made only by competent and substantial evidence and may not rest on speculation. *Griggs*, at 703. Expert testimony is required where the cause and effect relationship between a claimed injury or condition and the alleged cause is not within the realm of common knowledge. *McGrath v. Sattelite Sprinkler Systems*, 877 S.W.2d 704, 708 (Mo. App E.D. 1994).

Claimant has presented the expert medical testimony of Dr. Jerome Levy in support of her claim of occupational disease. Dr. Levy's testimony regarding Claimant's work activities was:

She told me that she was 40 years of age, she had done a lot of heavy work in her time, but was a care giver at Lewis County Nursing Home, was a certified nursing assistant, and as a part of that she had to turn and change patients every several hours and assist them in dressing, getting up and hygiene activities. (Exhibit A, p.6)

Dr. Levy testified that Claimant had the following diagnoses:

I diagnosed one, status post discectomy C5-6; two, status post fusion C5-6; three, chronic strain of the cervical spine; four, status post discectomy L5-S1; next, status post cage insertion L5-S1 with fusion; and six, chronic lumbosacral strain.

Regarding causation, Dr. Levy testified:

- Q. And Doctor, with regard to each of the six diagnoses that you arrived at, do you have an opinion for each of those that you can state to a reasonable degree of medical certainty as to the cause of the injuries or the problems you diagnosed?
- A. Yes. I would state that all of them were caused in a very significant way by the work-related activities she performed prior to 2002.
- Q. And what specific activities would you be referring to at the nursing home?
- A. Her activities as a certified nursing assistant where she had to lift individuals, turn them over, pull them, assist them in activities of daily living, all those things.

Employer-Insurer had Claimant evaluated by Dr. Russell Cantrell, and his September 28, 2004, report was in evidence. Regarding causation, Dr. Cantrell opined as follows:

The most likely diagnosis resulting in her insidious onset and progressively worsening lumbar pain complaints would be that of degenerative disc disease in the lumbar spine that in my opinion is not substantially caused by her job activities as a C.N.A. at Lewis County Nursing Home, although some of the activities she is required to perform in this capacity may certainly serve to temporarily exacerbate those pain complaints associated with disc degeneration in the lumbar spine. ... It would be my opinion, within a reasonable degree of medical certainty, that the incident in which she simply turned her head would not be of a sufficient magnitude or be consistent with an injury that could lead to acute discogenic pathology that would necessitate surgical treatment.

In addition to the fact that Dr. Levy and Dr. Cantrell disagree on the causation of Claimant's back and neck problems, Employer-Insurer also argues that Dr. Levy's causation opinions are of no merit whatsoever, as he had insufficient information regarding the nature of Claimant's work duties, and particularly the nature and frequency of Claimant's lifting and turning patients. I find that Employer-Insurer's argument in this regard misses its mark. Dr. Levy's testimony cited above gives a reasonably accurate description of Claimant's work duties. I found Claimant's testimony regarding her work duties to be complete and believable; counsel for Employer-Insurer cross-examined Claimant very little in regard to her work duties, and presented no evidence to suggest that Claimant's work duties were different or less strenuous than those testified to by Claimant. In addition, while a physician such as Dr. Levy may not have the technical expertise to understand the body mechanics involved in certain industrial jobs without a plethora of information, it is very reasonable to infer that Dr. Levy is much more familiar with the lifting and turning of patients done by a C.N.A. in a nursing home, and the type of body mechanics involved, as well as the frequency of such activities. Certainly, Dr. Levy is sufficiently familiar therewith to allow him to opine credibly upon whether, and to what degree, such work was a factor in Claimant's back and neck conditions.

I find that Claimant's work in lifting and turning patients at Lewis County Nursing Home was a substantial factor in causing Claimant's back (i.e., lumbar spine) conditions, but I find that Claimant's work in lifting and turning patients at Lewis County Nursing Home was *not* a substantial factor in causing Claimant's neck conditions. I will attempt to explain my reasons for those findings in the succeeding paragraphs.

Back. First of all, the histories given by Claimant to the various health care providers is instructive. Regarding her back, Claimant told the physical therapist that she recalled no specific injury, that she noticed pain in her back beginning in February, that her work is a difficulty type of job and that the back pain could have been gradually building up from her work. Claimant told Dr. Johnson that she had been working as a CNA for four years, that she has had increasing amounts of back pain, especially severe for two or three months and that she did not remember a specific injury. Claimant told Dr. Bieniek that she didn't recall any specific incident that contributed to the development of the back pain, but thought it was more the result of repetitive bending and stooping, lifting and helping of patients from one body position to another. Claimant told Dr. Morris that she had back and right leg pain for six months that has gotten somewhat worse over the last three months and she could recall no particularly precipitating event, and that she is employed as a certified nurse's assistant in a local nursing home and this activity requires her to do a good deal of lifting and repetitive bending. Certainly, the histories given by Claimant regarding her back are consistent with an occupational disease.

Second, logic and intuition suggest that repetitive lifting and turning of patients, and the bending associated therewith, are going to contribute greatly to the development of or exacerbation of low back problems.

Third, Dr. Levy's conclusions regarding the causation of the back problems are reinforced somewhat by Dr. Cantrell's statement "although some of the activities (Claimant) is required to perform in this capacity may certainly serve to temporarily exacerbate those pain complaints associated with disc degeneration in the lumbar spine", and is significantly reinforced by Dr. Bieniek's statement: "it appears that the repetitive bending, stooping and lifting of objects and people at the Lewis County Nursing Home, in all likelihood, has contributed to the development of her low back pain and possibility to the development of the herniated disc, although this is uncertain".

Neck. The history given by Claimant to the health care providers is consistent for a sudden onset of neck pain, associated only with the February 2002 incident of sharply turning her head. While I am not suggesting that this incident would constitute a compensable injury (and, even if it did, no Claim for Compensation has been filed regarding this incident), it clearly demonstrates that the onset of the neck symptoms was *sudden* and not *gradual*, which is inconsistent with an occupational disease. Unlike the back, there is no logical nexus between the lifting and turning of patients and cervical disc disease.

TTD benefits. Beginning April 16, 2002, Claimant was under a 25-pound weight restriction due to her work-related back injury. Employer accommodated that restriction for several months by allowing Claimant to work light duty until September 12, 2002. Claimant clearly is entitled to TTD benefits from and after September 13, 2002, until she reached maximum medical

improvement after the November 7, 2002, back surgery. Of course, Claimant proceeded to have additional surgery on June 23, 2003, for her non-work-related neck conditions, and has never returned to work. Unfortunately, the medical records in evidence are incomplete, and it is impossible to ascertain exactly when Claimant's post-surgical back condition reached maximum medical improvement. There is a letter from Dr. Reynolds' nurse dated January 24, 2003, which reads:

Virginia is not working at this time due to her recent back surgery Virginia was last seen in the office on January 21, 2003, which at that time her back pain was improving and her back fusion was continuing to heal. Virginia's time off from work is unknown at this time and we will monitor with future office appointments.

Therefore, it is clear that Claimant had not reached maximum medical improvement on her back on January 24, 2003. Therefore, at a minimum, Claimant is entitled to TTD benefits from September 13, 2002, through January 24, 2003, a total of 19 1/7 weeks. At the stipulated weekly rate of \$173.64, this totals \$3,323.97. **Employer and Insurer are ordered to pay Claimant the sum of \$3,323.97 for TTD benefits.**

Medical bills. Employer-Insurer has denied Claimant any benefits on her work-related back injury, and, therefore, Employer and Insurer are responsible for the payment of the reasonable medical bills for necessary services related to the back injury. I find that the Employer and Insurer are responsible for the following:

Blessing Hospital	5/15/02	Epidural Steroid Injection	\$ 967.37
Blessing Hospital	6/12/02	Lumbar CT/myelogram	\$ 2,569.61
Blessing Hospital	8/28/02	Lumbar discogram	\$ 5,084.34
Blessing Hospital	11/6-11/8/02	Surgery	\$44,021.77
Blessing Hospital	1/20/03	Lumbar CT	\$ 1,377.00
Blessing Hospital	2/20/04	Lumbar CT/myelogram	\$ 2,182.90
Clinical Radiologists	6/12/02	Lumbar CT/myelogram	\$ 979.00
Clinical Radiologists	8/28/02	Lumbar CT	\$ 272.00
Clinical Radiologists	11/5/02	Lumbar discogram	\$ 1,445.00
Clinical Radiologists	1/20/03	Lumbar CT	\$ 278.00
Clinical Radiologists	2/20/04	Lumbar CT	\$ 286.00

These bills total \$59,462.99. **Employer and Insurer are ordered to pay Claimant the sum of \$59,462.99 for medical bills.**

Permanent partial disability. Dr. Levy testified that Claimant sustained a 40% permanent partial disability of the body as a whole due to her back injury, and Dr. Cantrell opined that Claimant sustained a 10% permanent partial disability of the body as a whole due to her back injury. Considering Claimant's relatively good recovery from a microdiscectomy and one-level fusion, I find that Claimant has sustained a permanent partial disability of 20% of the body as a whole. This totals 80 weeks of benefits at the stipulated rate of \$173.64, totaling \$13,891.20. **Employer and Insurer are ordered to pay Claimant the sum of \$13,891.20 for permanent partial disability benefits.**

Claimant's attorney, Terrell Dempsey, is allowed 25 percent of all sums awarded to Claimant hereunder as and for necessary attorney's fees, and the amount of such fees shall constitute a lien thereon, until paid.

Interest shall accrue as per applicable law.

Date: _____

Made by: _____

ROBERT J. DIERKES
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation