

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

Injury No.: 07-080003

Employee: James Ryan
Employer: Murphy Company
Insurer: ACIG Insurance Company
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund (Denied)

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated August 10, 2012. The award and decision of Administrative Law Judge Suzette Carlisle, issued August 10, 2012, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 18TH day of July 2013.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

NOT SITTING
Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee: James Ryan

Injury No.: 07-080003

Dependents: N/A

Employer: Murphy Company

Additional Second Injury Fund (Denied)

Insurer: ACIG Insurance Co.

Before the
**Division of Workers'
Compensation**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Hearing Date: June 4, 2012

Checked by:SC

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: July 27, 2007
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:
Claimant injured his left shoulder while operating a lift at work.
12. Did accident or occupational disease cause death? No
13. Part(s) of body injured by accident or occupational disease: Left shoulder
14. Nature and extent of any permanent disability: 10% permanent partial disability of the left shoulder
15. Compensation paid to-date for temporary disability: 0
16. Value necessary medical aid paid to date by employer/insurer? \$1,853.04

Employee: James Ryan

- 17. Value necessary medical aid not furnished by employer/insurer? None
- 18. Employee's average weekly wages: \$1,238.96
- 19. Weekly compensation rate: \$742.72/\$389.04
- 20. Method wages computation: Stipulated

COMPENSATION PAYABLE

21. Amount of compensation payable:

23.2 weeks of permanent partial disability from Employer **\$9,025.73**

22. Second Injury Fund liability: Denied

TOTAL: \$9,025.73

23. Future requirements awarded: N/A

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: D. Andrew Weigley

FINDINGS OF FACT and RULINGS OF LAW:

Employee:	James Ryan	Injury No.: 07-080003
Dependents:	N/A	Before the
Employer:	Murphy Company	Division of Workers'
Additional:	Second Injury Fund (Denied)	Compensation
Insurer:	ACIG Insurance Co.	Department of Labor and Industrial
		Relations of Missouri
		Jefferson City, Missouri

STATEMENT OF THE CASE

The parties appeared before the undersigned administrative law judge on June 4, 2012 for a hearing for a final award at the request of James Ryan (“Claimant”) to determine the liability of Murphy Company (“Employer”), ACIG Insurance Company (“Insurer”), and the Second Injury Fund (SIF) for permanent partial disability benefits. Attorney D. Andrew Weigley represented Claimant. Attorney Jennifer L. Dickerson represented the Employer & Insurer¹, and Assistant Attorney General Carol Barnard represented SIF.² The record closed after presentation of the evidence. Also present was Mr. Dennis Johnson, Loss Control Director for Employer.

Prior to the hearing, Attorney Shaun M. Falvey withdrew from representation of Claimant with a lien totaling \$7,303.50. Mr. Falvey was not present at the hearing, and none of the parties made arrangements with Mr. Falvey concerning the lien.

Venue is proper and jurisdiction lies with the Division of Workers’ Compensation. The court reporter was Stacy L. Waterkotte.

STIPULATIONS

The parties stipulated that on or about July 27, 2007:

1. Claimant was employed by the Employer, and sustained an accident, which arose out of and in the course of employment in St. Louis County, Missouri;
2. Employer and Claimant operated under the Missouri Workers’ Compensation Law;³
3. Employer’s liability was fully insured;
4. Employer had notice of the injury;
5. The claim for compensation was timely filed;
6. Claimant’s average weekly wage \$1,238.96 which resulted in rates for temporary total disability (“TTD”) of \$742.72 and \$389.04 for permanent partial disability (“PPD”) benefits;

¹ All references in this award to the Employer also refer to the Insurer.

² Ms. Barnard appeared prior to the hearing and offered a written stipulation regarding SIF liability, but did not participate in the hearing.

³ All statutory references in this award are to Chapter 287 of the Revised Statutes of Missouri (2005) unless otherwise stated.

7. Employer paid no TTD benefits and paid \$1,853.04 in medical benefits;
8. If the court finds for Claimant on causation, the Claimant is entitled to 18 5/7 weeks of TTD benefits which equals \$13,899.47 and \$12,019.16 is owed by Employer in medical liens.

ISSUES

The parties have identified four issues:

1. Whether Claimant's need for surgery and post-operative treatment for the left shoulder is medically, causally related to the work accident?
2. Whether the Employer is liable for medical expenses totaling \$12,019.16?
3. Whether Claimant is entitled to TTD benefits during recovery of his left shoulder?
4. What is the nature and extent of the Employer's liability for PPD benefits, if any?

Exhibits

Claimant's exhibits A through Q were admitted into evidence without objection. The SIF offered no additional exhibits. To the extent that there are marks or highlights in the exhibits they were made prior to becoming part of this record and were not made by the undersigned administrative law judge.

SUMMARY OF EVIDENCE

All evidence was reviewed but only evidence which supports this award will be summarized below. Any objections not expressly ruled on during the hearing or in this award are now overruled.

1. At the time of the hearing, Claimant was 58 years old. At work, Claimant performed heavy sheet metal work. He fabricated ductwork and placed hangers to installed ductwork.
2. Claimant had the following injuries before July 27, 2007:
 - a. In 1992, Claimant injured both shoulders while at work for Ryan Heating Company. The shoulders continued to hurt for years at work. An MRI revealed spur formation and degenerative changes in the acromioclavicular joint, questionable impingement, possibly tendonitis.
 - b. Right shoulder surgery took place on February 8, 1993, where Dr. Lehman repaired a torn labrum, impingement syndrome, and acromioclavicular arthritis. Left shoulder surgery was performed on January 14, 1993, and he debrided the labrum. The subacromial space contained significant joint changes. A large spur that was bone on bone was seen at the joint. A decompression was performed, and the clavicle was resected.

- c. Dr. Lehman prescribed physical therapy, and Claimant missed 23 weeks from work.
 - d. Dr. Lehman concluded Claimant did “exceptionally well,” with full range of motion of the left shoulder and good mechanics. Dr. Lehman released him to work full duty in June 1993, with a 7% rating of the left shoulder, and 7% rating of the right shoulder.
 - e. Right shoulder complaints include occasional pain when he does not perform his exercises. Prior to 2007, he had pain when lifting heavy objects over his shoulder.
 - f. In July 1993, **Thomas F. Musich** provided an independent medical evaluation (IME) for Claimant’s bilateral shoulders and concluded his sheet metal work for another employer caused arthritis, impingement and the need for surgery. He rated 35% disability of the left shoulder and 30% of the right shoulder. Further, the combined disabilities were greater than their simple sum.
3. On March 26, 2002, Claimant sustained a left shoulder sprain while carrying duct work with three other workers.⁴ Claimant settled the case for 6% of the left shoulder.
 4. Prior to July 2007, Claimant had occasional left shoulder pain in winter and with overhead work. During deposition, Claimant testified he had no left shoulder pain between 1991 and 2007.

The work injury

5. On July 27, 2007, Claimant sustained a left shoulder injury while working on a machine. Exhibit D is a picture of a lift similar to the one Claimant used on the date of injury. The lift was suspended 15 feet in the air. To install ductwork he drilled holes in the ceiling to install a strap to hold ductwork. Hangars were placed above pipes.
6. To operate the machine, Claimant pushed a pedal and then pushed hard on the lever which should have extended out 2 feet. He extended the lift, but it jammed at 1 foot and Claimant felt extreme left shoulder pain.
7. The rails Claimant pushed were not visible in Exhibit D. Claimant pushed hard with his arms, pressed on the foot pedal; however, the foot pedal jammed. He began to feel pain after he pushed the machine and it stopped. The majority of the pain came from pushing but there was also some pain with pulling back from the machine. On cross-examination, Claimant did not recall if he pulled the lever.
8. The work accident occurred in the morning and Claimant remained in the safety trailer until noon when he left for an appointment with Dr. Leston, a neurologist, for left hand numbness. Claimant does not recall if he told Dr. Leston about his left shoulder injury earlier that day, or his chronic left shoulder pain. However he does not dispute information contained in medical records.

⁴ During Claimant’s deposition, he testified he did not recall the injury.

9. Claimant reported the injury to Employer, who provided an aspirin and placed him on a different crew to avoid extending his arms overhead.

Medical treatment – left shoulder

10. On August 3, 2007, Claimant received medical treatment at **St. Luke's Urgent Care**, and was placed on light duty with no overhead work until August 10. He gave a history of "pulling extender lift tray out and felt pop in left shoulder."
11. An x-ray of the left shoulder revealed left distal clavicle deformity, probably related to previous surgery. Claimant was diagnosed with a sprain/strain of the left shoulder.
12. On August 10, Employer terminated Claimant and refused to provide additional treatment.
13. On August 20, 2007, Claimant gave **Dr. Steven D. Stahle** a history that: "He installs ductwork and he has pain and soreness in his left shoulder. He states that he was at work and it almost came out. He felt a pull. Now it is sore and tender."
14. **Dr. Greg A. Jamroz** ordered an MRI of the left shoulder on August 21, 2007, which revealed possible supraspinatus tendinitis but no evidence of rotator cuff tear or labral tear. On August 22, 2007, Claimant was placed on light duty and referred to an orthopedic surgeon.
15. In September 2007, Dr. Stahle injected Claimant's left shoulder with cortisone, and prescribed physical therapy. Dr. Stahle diagnosed left shoulder impingement, and referred him to Dr. Lehman.
16. Claimant saw **Dr. Richard C. Lehman** on November 1, 2007, and gave a history that his shoulder almost came out of the joint.
17. Examination revealed pain and significant weakness in shoulder, no subscap weakness, grinding with abduction, external rotation, and crepitus. No significant instability inferiorly, and minimal instability anteriorly, and limited cuff strength.
18. Dr. Lehman diagnosed probable rotator cuff tear, and performed surgery on November 30, 2007, including arthroscopic repair of a significant type II SLAP tear, where the labrum pulled off the bone. Dr. Lehman ordered physical therapy.
19. On April 7, 2008, Mr. James Host, the physical therapist, concluded Claimant made good progress, had normal range of motion, good strength, and "excellent functional mobility," and found Claimant ready for work, including overhead activities, and released Claimant to full duty April 30, 2008.
20. After Dr. Lehman released Claimant from care, he went to work at Lyons Sheet Metal. In 2009 Claimant returned to Dr. Stahle for recurring pain, however, he sustained no new

injury. Dr. Stahle injected the shoulder, prescribed physical therapy and took an MRI.⁵ Claimant believed the ongoing left shoulder problems stemmed from the 2007 work injury.

21. An MRI revealed tendinosis, but no labral tear. Dr. Stahle prescribed physical therapy in February 2010.
22. Before the work accident, both shoulders hurt in wintertime, but did not hurt in July. Also, Claimant had pain with overhead work.⁶
23. Current left shoulder complaints include occasional pain with overhead work.

Expert Medical Opinion

24. Dr. Musich performed three medical examinations, wrote reports and testified on behalf of Claimant at the request of Claimant's attorney.
25. In 2009, Claimant gave a history of left shoulder injury when he pulled an extender lift tray out and felt an acute pop in his left shoulder.
26. After examination in 2009, Dr. Musich diagnosed a torn labrum, impingement syndrome, and subacromial breakdown to his left shoulder on July 27, 2007. The work accident was the prevailing factor in causing symptoms and the need for surgery. Dr. Musich rated 40% of the left shoulder for the July 2007 work accident. For preexisting disability, Dr. Musich rated 25% of the right shoulder, and 15% of the left foot. Furthermore, Claimant's combined disabilities are significantly greater than their simple sum and create a hindrance to his routine activities of living.
27. In 2010, Dr. Musich referred to the history contained in the 2009 report. After the August 2010 examination, Dr. Musich opined Claimant's left shoulder injury on July 27, 2007 was the prevailing factor in causing symptoms related to a torn labrum, impingement syndrome, and subacromial pathology. Dr. Musich rated 40% of the left shoulder for the 2007 work accident. For preexisting disabilities, Dr. Musich rated 50% of the right shoulder. Dr. Musich found the last injury and preexisting disabilities combine to create more disability than their simple sum, and produce a chronic hindrance to his routine activities.
28. Dr. Musich opined Claimant could not return to work as a sheet metal specialist, and should avoid actions that require repetitive gripping, squeezing, or prolonged extension of his arms, and overhead activity, any activity above and below ground level, and limit lifting to 25 pounds. Claimant should avoid use of power tools and commercial vehicles.

⁵ Claimant testified he returned to Dr. Stahle in September 2009 because his left shoulder started to hurt again. However, Dr. Stahle's records show Claimant reported right shoulder tenderness and grinding, and constant left shoulder pain since the previous surgery. By November 2009 both shoulders hurt but the right shoulder had degeneration and a rotator cuff tear. Dr. Stahle injected the right shoulder.

⁶ However, during Claimant's deposition, he testified he received no additional shoulder treatment after surgery in the 1990s until 2007, and he had no left shoulder pain during that period, even when lifting objects. On cross-examination, Claimant explained the pain occurred in winter but not in July.

29. In 2011, Dr. Musich interpreted Claimant's 2009 history of injury as follows: while extending the steel platform from the lift, the left side of the plate jammed as he pushed. He pulled the platform back towards the lift, and it bound again. At that time, Claimant felt a pop in his left shoulder with pain.
30. After the May 2011 examination, Dr. Musich rated 40% of the left shoulder for the last injury. For preexisting injuries, he rated 50% of the right shoulder, and 30% of the left shoulder. Dr. Musich restricted lifting to 25 pounds, and recommended Claimant avoid using power tools and commercial vehicles. Also, the combination of the last injury and preexisting injuries is greater than their simple sum, and create a hindrance or obstacle to routine activities.
31. Dr. Musich opined the subsequent treatment provided by Dr. Stahle was partially for the July 27, 2007 injury and partially for the preexisting left shoulder injury.
32. On September 21, 2010, **Michael P. Nogalski, M.D.**, examined Claimant at Employer's request, with the history of pushing the platform extender hard with his arm and he felt pain and tingling in his left arm.
33. Dr. Nogalski diagnosed post left shoulder arthroscopy, debridement, continued pain, and rotator cuff tendinopathy. Dr. Nogalski found inconsistencies in Claimant's statement about how the accident occurred under oath and the history Claimant reported to him.⁷
34. Dr. Nogalski opined the act of pushing would not load labral tissue enough to create a significant SLAP tear like the one Claimant had. Also, Claimant did not report a shoulder pop to him. Dr. Lehman's records contain the only report the shoulder almost came out of the socket, which demonstrates inconsistency about the mechanism of injury. Dr. Nogalski noted potential exaggerations raise questions about whether an accident occurred.
35. Dr. Nogalski further opined a person may walk around with a SLAP tear and begin to have symptoms without an event, or tissue degeneration may develop over time with use. He does not believe the tissue came off the socket from a push injury. Dr. Nogalski believed Claimant's shoulder pain may have come from his neck.
36. Dr. Nogalski concluded Claimant lacked a consistent history and mechanism of injury. In addition, Claimant gave an inconsistent history of symptoms leading up to the 2007 work accident.
37. Based on the above evidence, Dr. Nogalski concluded Claimant's work activities on July 27, 2007 did not cause the diagnosis, and were not the prevailing factor that caused his current complaints or need for surgery in November 2007.

⁷ However, on direct examination, Dr. Nogalski testified Claimant's deposition testimony regarding the mechanism of injury was consistent with the history Claimant provided to him.

ADDITIONAL FINDINGS OF FACT and RULINGS OF LAW

After careful consideration of the entire record, based upon the above testimony, the competent and substantial evidence presented, and the applicable law of the State of Missouri, I find Claimant's need for left shoulder surgery was not medically causally related to the July 27, 2007 work accident for the reasons stated below.

Left shoulder surgery was not medically causally related to the July 2007 accident

Claimant asserts the need for surgery was caused by the July 27, 2007 work accident. Employer contends the need for surgery was not caused by the work accident.

Under the Missouri Workers' Compensation Law, employee bears the burden of proving all the essential elements of his claim, including medical causation. ***Roberts v. Mo. Highway & Trans. Comm.***, 222 S.W.3d 322, 331 (Mo. App. 2007). While the claimant is not required to prove the elements of his claim on the basis of "absolute certainty," he must at least establish the existence of those elements by "reasonable probability." ***Sanderson v. Porta-Fab Corp.***, 989 S.W.2d 599, 603 (Mo.App. 1999). 'Probable' means founded on reason and experience which inclines the mind to believe but leaves room for doubt." ***Mathia v. Contract Freighters, Inc.*** 929 S.W.2d 271, 277 (Mo.App. 1996).

For an injury to be compensable, the evidence must establish a causal connection between the accident and the injury. ***Roberts v. Mo. Highway & Trans. Comm.***, 222 S.W.3d 322, 331 (Mo. App. 2007). "Medical causation, which is not within common knowledge or experience, must be established by scientific or medical evidence showing the relationship between the complained of condition and the asserted cause." ***Gordon v. City of Ellisville***, 268 S.W.3d 454, 461 (Mo. App. 2008) (*citations omitted*).

Section 287.120.1 provides, in pertinent part, that "[e]very employer subject to the provisions of this chapter shall be liable, irrespective of negligence, ***to furnish compensation under the provisions of this chapter for personal injury or death of the employee by accident arising out of and in the course of employee's employment.***" (Emphasis added.) Section 287.120.1 thus requires two independent inquiries. First, it must be determined whether an employee has suffered a compensable injury "by accident arising out of and in the course of employee's employment." Second, ***if*** a compensable injury has been sustained by an employee, the appropriate compensation to be furnished must be determined. ***Tillotson v. St. Joseph Medical Center***, 347 S.W.3d 511, 517 (Mo.App. 2011).

Here, the parties stipulate Claimant sustained an accident which arose out of and in the course of employment. Therefore, I find Claimant sustained a compensable injury.

To determine the appropriate compensation, Section 287.140.1 provides that "in addition to all other compensation paid to the employee, the employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, ***as may reasonably be required after the injury or disability, to cure and relieve the effects of the injury.***" (Emphasis added.) ***Tillotson***, 347 at 518.

Section 287.140.1 makes no reference to a “prevailing factor” test and, as previously noted, presumes of necessity that the presence of a compensable injury under Section 287.020.3(1) (which does require application of the prevailing factor test) has already been demonstrated. *Id.*

Once it is determined that there has been a compensable accident, a claimant need only prove that the need for treatment and medication flow from the work injury. *Id.* The fact that the medication or treatment may also benefit a non-compensable or earlier injury or condition is irrelevant. *Id.* at 517.

Here, St. Lukes Urgent Care diagnosed a sprain/strain, and Dr. Stahle diagnosed impingement. However, Dr. Lehman repaired a significant type II SLAP tear. Surgery did not address the earlier diagnoses. Also, the tear was not present on the MRI which was taken August 2007 MRI.

I find Dr. Nogalski’s causation opinion is more credible than Dr. Musich’s opinion. Dr. Nogalski provided a well reasoned explanation why Claimant’s work activities on July 27, 2007 were not the prevailing factor that caused his need for surgery. Dr. Nogalski is a board certified orthopedic surgeon, and Dr. Musich is not.

Dr. Nogalski opined a pushing event would not cause a significant labral tear like the one Claimant developed. Also, a person can develop symptoms and walk around with a SLAP tear without an event, or it can develop from degeneration or use. Dr. Nogalski’s opinion is consistent with the August 2007 MRI finding of no clear labral tear, in contrast to the significant labral tear found during surgery in November 2007.

In contrast, Dr. Musich offered no explanation for the lack of a labral tear on the August 2007 MRI and the presence of a significant labral tear in November 2007. Dr. Musich wrote three IME reports for the 2007 accident before he included a rating for the preexisting left shoulder injury. In the second IME report, he doubled the right shoulder disability without explanation. Furthermore, Claimant was diagnosed with a strain/sprain and impingement injuries, with no recommendation for surgery until Dr. Lehman suspected a rotator cuff tear. What he found was a significant type II SLAP tear.

Moreover, Dr. Nogalski found inconsistencies in Claimant’s history about the mechanism of injury. Claimant told Dr. Lehman the shoulder almost came out of the socket, he told St. Lukes doctors and Dr. Musich that he felt a pop, he told Dr. Stahle the shoulder felt sore, and he told Dr. Nogalski he felt arm pain and tingling. As a result of these inconsistencies, Dr. Nogalski questioned if an accident occurred. Also, Dr. Nogalski opined Claimant’s problems may stem from his neck because the C-5 and C-6 level nerves run through the shoulder area. In addition, a week before the work accident, Claimant’s physician reported chronic left shoulder pain.

I find Claimant to be a poor historian and generally not credible. He did not accurately recall dates and type of treatment received in the past four years for his neck and bilateral shoulders. Also, he offered conflicting testimony about pre 2007 treatment for his left shoulder and symptoms. At the hearing, Claimant testified that prior to 2007 he had intermittent problems with his left shoulder, and with lifting. But during deposition, Claimant testified he had no left

shoulder pain, even with lifting, after he recovered from the 1993 shoulder surgeries. Claimant gave Dr. Musich a history of pulling back the lift lever on the date of accident, but during his earlier deposition he could not recall if he pulled it back.

Also, Exhibit D was admitted to show the type of equipment Claimant operated at the time of the injury, but the levers he pushed/pulled were not visible in the picture. At the hearing, Claimant's explanation about how the accident occurred was not clear.

Based on credible evidence by Dr. Nogalski, medical records, and reports, and less than credible evidence by Claimant and Dr. Musich, I find Claimant did not meet his burden to show his left shoulder surgery was reasonably required to cure and relieve the effects of the compensable work injury. I find Claimant's compensable injury did not directly relate to or flow from the shoulder surgery.

Employer is not liable for TTD and medical expenses

The employer waives the right to select the treating physician by failing or neglecting to provide necessary medical aid. ***Herring v. Yellow Freight System***, 914 S.W.2d 816 (Mo. App. 1995). Claimant testified Employer stopped medical treatment in August 2007, shortly after treatment began. Claimant exercised his right to obtain medical treatment at his own expense, based on Section 287 140.1. However, Claimant retained the burden to show a causal connection between treatment and the work injury, which he failed to do. Therefore, issues related to TTD and medical benefits are moot.

Employer is liable for PPD benefits

The parties stipulate Claimant sustained an accident on July 27, 2007. St. Luke's Urgent Care diagnosed a left shoulder strain/sprain. He received an injection and physical therapy. At the hearing, Claimant testified he has problems in the winter and with lifting. I find Claimant sustained 10% disability of the left shoulder.

SIF liability is not triggered

Claimant and SIF agreed to an amount SIF would pay if the court found the case compensable. However, the threshold was not reached to trigger SIF liability. Therefore the SIF case is denied.

CONCLUSION

Claimant's left shoulder surgery was not medically causally related to the July 27, 2007 work accident. Employer is liable for PPD benefits but not TTD or medical expenses. The Second Injury Fund claim is denied. Claimant's attorney is entitled to a 25% lien for legal services rendered.

Made by: _____
Suzette Carlisle
Administrative Law Judge
Division of Workers' Compensation