

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

Injury No.: 02-128220

Employee: Linda Stockman

Employer: Ford Motor Company

Insurer: Self-Insured

Date of Accident: October 11, 2002

Place and County of Accident: Claycomo, Clay 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 May 24, 2006. The award and decision of Administrative Law Judge Rebecca S. Magruder, issued May 24, 2006, 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 27th day of September 2006.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary

AWARD

Employee: Linda Stockman

Injury No. 02-128220

Dependants: N/A

Employer: Ford Motor Company

Insurer: Self-Insured

Hearing Date: March 29, 2006

Checked by: RSM/bi

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 11, 2002
5. State location where accident occurred or occupational disease was contracted: Claycomo, Clay 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:
While in the course and scope of her employment, Claimant twisted her right knee when she slipped and fell doing down stairs.
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 knee.
14. Nature and extent of any permanent disability: 50 percent permanent partial disability at the 160-week level.
15. Compensation paid to-date for temporary disability: None.
16. Value necessary medical aid paid to date by employer/insurer? None.
17. Value necessary medical aid not furnished by employer/insurer? None.
18. Employee's average weekly wages: \$1,000.00
19. Weekly compensation rate: \$649.32/\$340.12
20. Method wages computation: By agreement.

COMPENSATION PAYABLE

21. Amount of compensation payable:

47 ½ weeks of temporary total disability at \$649.32	\$30,842.70
80 weeks of permanent partial disability at \$340.12.....	\$27,209.60

Total: \$58,052.30

22. Second Injury Fund liability: N/A

23. Future requirements awarded: Medical treatment on Claimant's right knee to be left open for her lifetime.

Said payments to begin upon receipt of award 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 percent of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant: John Christiansen

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Linda Stockman Injury No. 02-128220
Dependants: N/A
Employer: Ford Motor Company
Insurer: Self-Insured
Additional Party: N/A

STIPULATED FACTS

At the hearing the parties stipulated:

1. that on or about March 13, 2002, Ford Motor Company was an employer operating under the provisions of the Missouri Workers' Compensation Law and that their liability was fully insured by the authority to self-insure;
2. that on or about March 13, 2002, Linda Stockman was an employee of Ford Motor Company and was working under the provisions of the Missouri Workers' Compensation Law;
3. that the Employer had notice of the alleged injury and a claim for compensation was filed within the time prescribed by law;
4. that the average weekly wage was \$1,000 and that the applicable compensation rate was \$628.90 for temporary total disability benefits and \$324.42 for permanent partial disability benefits; and
5. that compensation had been paid in the amount of \$13,914 for 22 1/7 weeks, and that medical aid had been provided in the amount of \$10,067.68.

ISSUES

The issues to be determined by the hearing are as follows:

1. whether the Claimant sustained injury by accident arising out of and in the course of her employment on March 13, 2002;
2. the nature and extent of permanent disability resulting from the accident;
3. liability for future medical aid.

Claimant's evidence consisted of her testimony, various medical records submitted at the hearing and an independent medical evaluation by Dr. Swaim.

On the same day that Claimant tried this claim Injury No. 02-138491 involving an alleged March 13, 2002 injury to her right knee, she also tried a claim Injury No. 02-128220 involving an alleged October 11, 2002 injury to her right knee.

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STIPULATIONS

The admissions in the October 2002 case were as follows:

1. that on or about October 11, 2002, Ford Motor Company was an Employer operating under the provisions of the Missouri Workers' Compensation Law and that their liability was fully insured by the authority to self-insure;
2. that on or about October 11, 2002, Linda Stockman was an employee of Ford Motor Company and was working under the provisions of the Missouri Workers' Compensation Law;
3. that the Employer had notice of the alleged injury and that a claim for compensation was filed within the time prescribed by law;
4. that the average weekly wage was \$1,000 and that the applicable compensation rate was \$649.32 for temporary total disability benefits and \$340.12 for permanent partial disability benefits; and
5. that no compensation or medical aid had been furnished.

ISSUES

The issues in this case are as follows:

1. whether the Claimant sustained injury by accident arising out of and in the course of her employment on October 11, 2002;
2. the nature and extent of any permanent disability resulting from that accident;
3. liability for temporary total disability benefits from November 17, 2003 through today's date with the exception of the period of March 22, 2005 through April 11, 2005, when the Claimant was working and receiving salary; and
4. liability for future medical aid.

The evidence in this case also consisted of the Claimant's testimony, the independent evaluation of Dr. Swaim and various medical records admitted at the hearing.

On March 13, 2002, I find the Claimant sustained injury by accident arising out of and in the course of her employment at Ford Motor Company. I make this finding based on the Claimant's testimony and medical records, which indicate she did sustain some type of injury to her right knee when she fell from a platform on a truck she was working on and injured her right knee. She was evaluated by the company physician and had some physical therapy. No temporary total disability benefits were paid at this time as the Claimant missed only a day or two of work.

She testified at the hearing that her knee did continue to crack, pop and click, but that these symptoms did not prevent her from continuing to work. On October 11, 2002, I also find the Claimant sustained injury arising out of and in the course of her employment with Ford Motor Company and that such injury was, again, to her right knee. She apparently slipped and fell while going downstairs and twisted her right knee. She testified that all of her symptoms got worse, and that she received additional treatment, as well as more physical therapy. She testified that the treatment and therapy did not help.

On November 18, 2002, Ms. Stockman had an MRI evaluation of her right knee at Medical Imaging, Inc. The radiology report noted that she had right knee pain since October of 2002 rather than March of 2002. The MRI study revealed evidence of an oblique tear of the posterior horn of the medial meniscus with a tear extending to the inferior articular margin of the meniscus; chondromalacia of the medial facet of the patella was seen with an erosion of the cortical bone in this region and subchondral sclerotic changes; a bone bruise was seen involving the medial margin of the medial tibial plateau and there appeared to be a small region involving the weight-bearing portion of the medial femoral condyle suggesting possible avascular necrosis. While the medial collateral ligament was intact, there appeared to be minor fluid adjacent to the ligament.

The Claimant was referred to Dr. Paul, an orthopedic surgeon for a right knee arthroscopy, which he performed in January of 2003. When Dr. Paul saw the Claimant in December of 2002 he did note that the Claimant had fallen on March 13, 2002, as well as twisting her knee on October 11, 2002. Dr. Paul's impression was as follows: mild degenerative joint disease of the right knee with osteochondral lesion of the medial femoral condyle, possible posterior horn medial meniscus tear and chondromalacia. Dr. Paul performed surgery to the Claimant's right knee on January 8, 2003 at North Kansas City Hospital. He performed arthroscopic surgery of her right knee with posterior medial meniscectomy, chondroplasty of the medial femoral condyle and patella. The arthroscopic evaluation revealed chondromalacia involving a large portion of the weight-bearing surface of the medial femoral condyle. Postoperatively Dr. Paul referred the Claimant to physical therapy and kept her off work. The Claimant was paid temporary total disability benefits through February 10, 2003. She was returned to work on February 11, 2003 with restrictions.

On May 5, 2003, Dr. Paul indicated that the Claimant would eventually need a total knee replacement. On that day he injected the Claimant's knee with a steroid and local anesthetic. She remained on work with restrictions. On June 9, 2003, Claimant received the first injection to the right knee and on June 16th the second injection, and on June 23rd the third injection. She was also given a prescription for Celebrex at that time. Claimant continued to work through July 23, 2003. Claimant apparently quit working on July 24, 2003 as she received temporary total disability benefits from that date through November 16, 2003. On August 25, 2003, Claimant continued to have pain and swelling to her right knee. In that evaluation, Dr. Paul noted that most of her pain was coming from the degenerative joint disease to the knee including the medial femoral condyle and patellofemoral joint. Dr. Paul again noted that the Claimant would eventually need a total knee replacement. On October 6th Dr. Paul determined that a subsequent MRI was in order and on October 13, 2003 when he reviewed that MRI, he noted that her degenerative joint disease was exacerbated by the meniscal tear. The new MRI showed marked abnormality to the posterior torn to the medial meniscus, which was where her previous meniscectomy was performed. No new tear was noted. Significant degenerative changes to the lateral meniscus were noted and advanced degenerative joint disease of the knee to the medial compartment of the patellofemoral joint was noted. Dr. Paul noted on October 13, 2003 the following: "Degenerative joint disease exacerbated by meniscal tear and failed conservative measures for symptomatic improvement." The total knee replacement was recommended at this visit by Dr. Paul. Approval, apparently, was not given by work comp for this surgery, but Dr. Paul did perform the surgery in March of 2004. From November 17, 2003 through March 21, 2005, the Claimant was paid benefits by Unicare rather than workers' compensation benefits. In March of 2004, Ms. Stockman was evaluated by Dr. Paul status post total right knee arthroplasty. The Claimant indicated her pain was improving and the doctor's exam revealed good stability throughout and good range of motion.

On June 14, 2004, x-rays of the right knee were done at Midwest Imaging and the report noted that the total knee prosthesis was in place. On September 7, 2004, Ms. Stockman followed up again with Dr. Paul and he indicated the Claimant was not ready to return to work which involved standing all day and walking. He did indicate, however, in September of 2004 that the Claimant was able to perform sedentary work. Apparently, there was no such work available at that time at Ford Motor Company. However, that it not the test under the Workers' Compensation Law. The Claimant had a total knee replacement in January of 2004 and by September of 2004, Dr. Paul indicated the Claimant was able to perform sedentary work.

Based on the Claimant's testimony and her previous work experience involving clerical work, computer work, and managerial work, I find she was capable of competing for gainful employment at that time. Claimant continued to be paid by Unicare through March 21, 2005. However, I find that the Claimant was not entitled to workers' compensation benefits after September 7, 2004. Claimant returned to work on March 22, 2005 and worked through April of 2005 and, again, has been off of work since April 12, 2005 up to the date of the trial being

paid benefits from Unicare. My findings are solely relative to the Employer's liability under the Workers' Compensation Law to provide temporary total disability benefits. Because the Claimant received work comp benefits from January 8, 2003 through February 10, 2003, and again from July 24, 2003 through November 16, 2003, the Claimant obviously is not entitled to any additional benefits during that period of time. However, I do find that Claimant should have been paid workers' compensation or temporary total disability benefits from November 17, 2003 through September 7, 2004. No other temporary benefits under the Workers' Compensation Law are due the Claimant. After that time, I find the Claimant has been capable of performing at least sedentary employment since September 7, 2004.

With regard to the issue of whether the Claimant sustained injury to her right knee as a result of both of the accidents, I find that she did, in deed, suffer injury as a result of both accidents. I find that the second accident was a much more significant factor in causing the Claimant's need for medical treatment and disability; however, I do find the Claimant sustained injury as a result of both accidents.

With regard to the issue of the nature and extent of permanent disability resulting from the accidents, I find no permanent disability as a result of the first accident, but do find the Claimant sustained permanent disability as a result of the second or the October 11, 2002 injury. I find that Claimant's need for the arthroscopic surgery, as well as the total knee replacement were clearly job related or related to the accident she sustained in October of 2002. In spite of Dr. Hood's note that it was his opinion that the Claimant's need for the total knee replacement was not job related and was merely related to degenerative joint disease, I find Dr. Paul's medical notations in his records as well as the opinion of Dr. Swaim more persuasive. Both of these physicians were of the opinion that the job injury, which caused the meniscal tear, exacerbated Claimant's degenerative joint disease. See Dr. Paul's medical record of October 13, 2003 and the medical opinion of Dr. Swaim, Claimant's Exhibit A p. 9.

Again, with regard to the issue of permanent disability to the Claimant's right lower extremity, I find that she has sustained significant disability due to her injury, the meniscal tear, and the exacerbation of her degenerative disease, which was asymptomatic prior to the 2002 injury. Considering the ratings of disability in this case, the Claimant's testimony and physical findings, I find the Claimant has sustained 50 percent permanent partial disability rating at the 160-week level referable to her right knee, which I attribute to the October 11, 2002 injury. Therefore, the Claimant is entitled to 80 weeks of permanent partial disability.

With regard to the issue of future medical care, the Claimant is clearly entitled by statute to have the medical left open with regard to her prosthetic device, i.e. her knee replacement. Therefore, medical treatment with regard to the Claimant's right knee is to be left open for the lifetime of the Claimant.

Date: _____

Made by: _____

Rebecca S. Magruder
Administrative Law Judge
Division of Workers' Compensation

A true copy: Attest:

Patricia "Pat" Secrest
Director
Division of Workers' Compensation