

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

Injury No. 10-062547

Employee: Billy Styles
Employer: Fulton State Hospital
Insurer: Self-Insured
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

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 December 15, 2014. The award and decision of Chief Administrative Law Judge Robert J. Dierkes, issued December 15, 2014, 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 28th day of May 2015.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee: **Billy Styles**

Injury No. **10-062547**

Dependents:

Employer: **Fulton State Hospital**

Before the
**DIVISION OF WORKERS'
COMPENSATION**

Additional Party: **Second Injury Fund**

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

Insurer: **Self-Insured**

Hearing Date: **September 24, 2014**

Checked by: RJD/njp

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: **August 10, 2010.**
5. State location where accident occurred or occupational disease was contracted: **Fulton, Callaway 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? **Employer is self-insured.**
11. Describe work employee was doing and how accident occurred or occupational disease contracted: **Employee was assaulted by a client.**
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: **Body as a whole.**
14. Nature and extent of any permanent disability: **Employee is permanently and totally disabled.**
15. Compensation paid to-date for temporary disability: **\$54,111.19.**
16. Value necessary medical aid paid to date by employer/insurer? **\$63,642.10.**
17. Value necessary medical aid not furnished by employer/insurer? **\$880.93.**

Employee: **Billy Styles**

Injury No. **10-062547**

18. Employee's average weekly wages: **\$1,446.00.**
19. Weekly compensation rate: **\$799.11 for temporary total disability benefits; \$418.58 for permanent partial disability benefits.**
20. Method wages computation: **Stipulation.**

COMPENSATION PAYABLE

From Employer:

30 weeks of temporary total disability benefits	\$ 23,973.30
Reimbursement for medical charges	\$ 880.93
Permanent total disability benefits of \$799.11 per week, beginning May 31, 2013, for Employee's lifetime.	
Future medical benefits pursuant to §287.140, RSMo.	

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 (**with the exception of future medical benefits**) hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

Van Camp Law Firm LLC

Employee: **Billy Styles**

Injury No. **10-062547**

FINDINGS OF FACT AND RULINGS OF LAW

Employee: **Billy Styles**

Injury No. **10-062547**

Dependents:

Employer: **Fulton State Hospital**

Additional Party: **Second Injury Fund**

Insurer: **Self-Insured**

Before the
**DIVISION OF WORKERS'
COMPENSATION**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

PRELIMINARIES

These six cases (Injury Nos. 09-110831, 09-110885, 10-091705, 10-062547, 10-087903 and 11-015559) were consolidated for hearing. The evidentiary hearing was held on September 24, 2014 in Jefferson City. Claimant, Billy Styles, appeared personally and by counsel, Douglas Van Camp and Elizabeth Skinner; Employer, Fulton State Hospital, appeared by counsel, Assistant Attorneys General Colette Neuner, Brian Herman and David McCain; the Second Injury Fund appeared by counsel, Assistant Attorney General Joye Hudson. The parties requested leave to file post-hearing briefs, which leave was granted. The case was submitted on October 24, 2014.

STIPULATIONS IN INJURY NO. 09-110831

In Injury No. 09-110831, the parties stipulated as follows:

1. That the Missouri Division of Workers' Compensation has jurisdiction over this case;
2. That venue for the evidentiary hearing is proper in Callaway County and adjoining counties, including Cole 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 Claimant's average weekly wage is \$1256.12, resulting in compensation rates of \$772.53 for temporary total disability benefits and permanent total disability benefits and \$404.66 for permanent partial disability benefits;
6. That Claimant, Billy Styles, sustained an accident arising out of and in the course of his employment with Fulton State Hospital on May 11, 2009;
7. That Employer was self-insured for Missouri Workers' Compensation purposes at all relevant times; and
8. That Employer has paid no benefits in this case.

ISSUES TO BE DECIDED IN INJURY NO. 09-110831

In Injury No. 09-110831, the hearing was held to decide the following issues:

Employee: **Billy Styles**

Injury No. **10-062547**

1. Whether the notice requirement of Section 287.420, RSMo, shall serve as a bar to the claim for compensation;
2. Whether Employer's failure to raise the notice defense in the Answer precludes Employer from raising lack of notice as an issue at the hearing;
3. Employer's liability, if any, for permanent partial disability benefits;
4. The liability, if any, of the Second Injury Fund for permanent partial disability benefits; and
5. Employer's liability, if any, for future medical benefits.

.....

STIPULATIONS IN INJURY NO. 09-110885

In Injury No. 09-110885, the parties stipulated as follows:

1. That the Missouri Division of Workers' Compensation has jurisdiction over this case;
2. That venue for the evidentiary hearing is proper in Callaway County and adjoining counties, including Cole 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 Claimant's average weekly wage is \$1467.03, resulting in compensation rates of \$807.48 for temporary total disability benefits and permanent total disability benefits and \$422.97 for permanent partial disability benefits;
6. That Claimant, Billy Styles, sustained an accident arising out of and in the course of his employment with Fulton State Hospital on September 4, 2009;
7. That Employer was self-insured for Missouri Workers' Compensation purposes at all relevant times; and
8. That Employer has paid no benefits in this case.

ISSUES TO BE DECIDED IN INJURY NO. 09-110885

In Injury No. 09-110885, the hearing was held to decide the following issues:

1. Whether the notice requirement of Section 287.420, RSMo, shall serve as a bar to the claim for compensation;
 2. Whether Employer's failure to raise the notice defense in the Answer precludes Employer from raising lack of notice as an issue at the hearing;
 3. Employer's liability, if any, for permanent partial disability benefits;
 4. The liability, if any, of the Second Injury Fund for permanent partial disability benefits; and
 5. Employer's liability, if any, for future medical benefits.
-

Employee: **Billy Styles**

Injury No. **10-062547**

STIPULATIONS IN INJURY NO. 10-091705

In Injury No. 10-091705, the parties stipulated as follows:

1. That the Missouri Division of Workers' Compensation has jurisdiction over this case;
2. That venue for the evidentiary hearing is proper in Callaway County and adjoining counties, including Cole 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 Claimant's average weekly wage is \$1500.00, resulting in compensation rates of \$799.11 for temporary total disability benefits and permanent total disability benefits and \$418.58 for permanent partial disability benefits;
6. That Claimant, Billy Styles, sustained an accident arising out of and in the course of his employment with Fulton State Hospital on July 9, 2010;
7. That Employer was self-insured for Missouri Workers' Compensation purposes at all relevant times; and
8. That Employer has paid no benefits in this case.

ISSUES TO BE DECIDED IN INJURY NO. 10-091705

In Injury No. 10-091705, the hearing was held to decide the following issues:

1. Whether the notice requirement of Section 287.420, RSMo, shall serve as a bar to the claim for compensation;
2. Whether Employer's failure to raise the notice defense in the Answer precludes Employer from raising lack of notice as an issue at the hearing;
3. Employer's liability, if any, for permanent partial disability benefits;
4. The liability, if any, of the Second Injury Fund for permanent partial disability benefits; and
5. Employer's liability, if any, for future medical benefits.



STIPULATIONS IN INJURY NO. 10-062547

In Injury No. 10-062547, the parties stipulated as follows:

1. That the Missouri Division of Workers' Compensation has jurisdiction over this case;
2. That venue for the evidentiary hearing is proper in Callaway County and adjoining counties, including Cole 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;

Employee: **Billy Styles**

Injury No. **10-062547**

5. That Claimant's average weekly wage is \$1446.00, resulting in compensation rates of \$799.11 for temporary total disability benefits and permanent total disability benefits and \$418.58 for permanent partial disability benefits;
6. That Claimant, Billy Styles, sustained an accident arising out of and in the course of his employment with Fulton State Hospital on August 10, 2010;
7. That the notice requirement of Section 287.420 does not serve as a bar to the claim for compensation;
8. That Employer was self-insured for Missouri Workers' Compensation purposes at all relevant times; and
9. That Employer has paid medical benefits of \$63,642.10 and temporary total disability ("TTD") benefits of \$54,111.19.

ISSUES TO BE DECIDED IN INJURY NO. 10-062547

In Injury No. 10-062547, the hearing was held to decide the following issues:

1. Employer's liability, if any, for permanent partial disability benefits or permanent total disability benefits;
2. The liability, if any, of the Second Injury Fund for permanent partial disability benefits or permanent total disability benefits;
3. Employer's liability, if any, for future medical benefits;
4. Employer's liability, if any, for payment of TTD benefits for the period of August 23, 2011 through March 20, 2012;
5. Employer's liability, if any, for reimbursement to Claimant of medical charges for past medical treatment;
6. Whether the alleged accident of October 28, 2010 is compensable as a part of the August 10, 2010 accident and injury; and
7. Whether the alleged accident of March 3, 2011 is compensable as a part of the August 10, 2010 accident and injury.



STIPULATIONS IN INJURY NO. 10-087903

In Injury No. 10-087903, the parties stipulated as follows:

1. That the Missouri Division of Workers' Compensation has jurisdiction over this case;
2. That venue for the evidentiary hearing is proper in Callaway County and adjoining counties, including Cole 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;

Employee: **Billy Styles**

Injury No. **10-062547**

5. That Claimant's average weekly wage is \$1327.20, resulting in compensation rates of \$799.11 for temporary total disability benefits and permanent total disability benefits and \$418.58 for permanent partial disability benefits;
6. That the notice requirement of Section 287.420 does not serve as a bar to the claim for compensation;
7. That Employer was self-insured for Missouri Workers' Compensation purposes at all relevant times;
8. That Employer has paid \$8,041.32 in medical benefits; and
9. That Employer has paid no temporary benefits in this case.

ISSUES TO BE DECIDED IN INJURY NO. 10-087903

In Injury No. 10-087903, the hearing was held to decide the following issues:

1. Whether Claimant sustained an accident arising out of and in the course of his employment with Fulton State Hospital on October 28, 2010;
2. Employer's liability, if any, for permanent partial disability benefits or permanent total disability benefits;
3. The liability, if any, of the Second Injury Fund for permanent partial disability benefits or permanent total disability benefits; and
4. Employer's liability, if any, for future medical benefits.



STIPULATIONS IN INJURY NO. 11-015559

In Injury No. 11-015559, the parties stipulated as follows:

1. That the Missouri Division of Workers' Compensation has jurisdiction over this case;
2. That venue for the evidentiary hearing is proper in Callaway County and adjoining counties, including Cole 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 Claimant's average weekly wage is \$1236.00, resulting in compensation rates of \$799.11 for temporary total disability benefits and permanent total disability benefits and \$418.58 for permanent partial disability benefits;
6. That the notice requirement of Section 287.420 does not serve as a bar to the claim for compensation;
7. That Employer was self-insured for Missouri Workers' Compensation purposes at all relevant times; and
8. That Employer has paid no benefits in this case.

Employee: **Billy Styles**

Injury No. **10-062547**

ISSUES TO BE DECIDED IN INJURY NO. 11-015559

In Injury No. 11-015559, the hearing was held to decide the following issues:

1. Whether Claimant sustained an accident arising out of and in the course of his employment with Fulton State Hospital on March 3, 2011;
2. Employer's liability, if any, for permanent partial disability benefits or permanent total disability benefits;
3. The liability, if any, of the Second Injury Fund for permanent partial disability benefits or permanent total disability benefits; and
4. Employer's liability, if any, for future medical benefits.

EVIDENCE

The evidence consisted of the testimony of Claimant, Billy Everett Styles, as well as the deposition testimony of Billy Everett Styles; the testimony of Julie Ann Styles, Claimant's wife; extensive medical records; medical bills; the deposition testimony and narrative reports of Dr. Raymond Cohen; the deposition testimony and narrative report of Dr. A.E. Daniel; the deposition testimony and narrative report of Phillip Eldred, a vocational rehabilitation counselor; the deposition testimony of Debbie Overfelt; the deposition testimony of Lori Hollinger; the deposition testimony and narrative report of James England, a vocational rehabilitation counselor; reports of injury; and other miscellaneous correspondence.

DISCUSSION

Billy Styles ("Claimant") was born October 17, 1956. After graduation from Bryant (Arkansas) High School in 1975, Claimant worked for the railroad. He later worked part-time at United Parcel Service while attending school part-time at University of Arkansas-Little Rock. In 1991, Claimant graduated with a B.S. in Nursing from Brigham Young University. Claimant worked as a psychiatric nurse in Utah for over ten years. In July 2002 Claimant began working at Fulton State Hospital ("Employer") as a staff nurse. After approximately one year, he was promoted to Nurse Manager/Supervisor. Prior to August 10, 2010, Claimant was a model employee.

There are six claims with alleged injury dates of May 11, 2009, September 4, 2009, July 9, 2010, August 10, 2010, October 28, 2010, and March 3, 2011. As will be explained in more detail later, the only accident date of consequence is August 10, 2010.

In 1975, Claimant suffered a skull fracture. In 2005, Claimant was diagnosed with diabetes. In 2006, Claimant began successful treatment for depression and anxiety. In 2006, Claimant began having neck pain and upper extremity numbness, ultimately undergoing a two-level surgical fusion. Except for loss of range of motion in the neck, none of these injuries or conditions adversely affected Claimant's ability to work at Fulton State Hospital prior to August 10, 2010.

Employee: **Billy Styles**

Injury No. **10-062547**

Injury Nos. 09-110831, 09-110885, and 10-091705. These claims concern three separate incidents in which Claimant was physically assaulted by a client. These assaults occurred on May 11, 2009, September 4, 2009, and July 9, 2010. After each incident, Claimant complained of some acute symptoms. After each incident, Claimant neither sought nor received medical evaluation and/or treatment. After each incident (according to Claimant's testimony) his symptoms completely resolved. No physicians have assigned any permanent disability to any of these three incidents. Therefore, there can be no liability of the Employer or the Second Injury Fund for permanent partial disability benefits. Likewise, there can be no liability of the Employer for future medical benefits. As no benefits can be awarded under any circumstances in Injury Nos. 09-110831, 09-110885, and 10-091705, the remaining issues regarding statutory notice and pleading same as a defense are moot and will not be addressed.

Injury No. 10-062547. The claim in Injury No. 10-062547 involves an assault by a client on Claimant on August 10, 2010. Exhibit K, a surveillance video, shows (at 19:05) the assault. The assault is depicted in the upper right hand corner of the video. Claimant is back-handed in the face by the client's right hand. The client's action is very sudden and violent, and it does appear that the client's right hand is in a fist when contact is made with Claimant's face and eye. Claimant immediately puts his hand up as if to tell the client not to engage him again; Claimant is, at the same time, backing away from the client, and it appears that Claimant is beginning to fall backwards, although Claimant is out of the video by 19:12. From 19:30 to 19:35 of the video a staff member apparently helps Claimant into a chair, although only Claimant's right arm is actually seen in the video. At 19:50, Claimant gets up from the seated position without assistance and walks 10'-15' to a security door.

Claimant was taken to the emergency room of Callaway Community Hospital on August 10, 2010, with complaints of headache, neck pain, nausea and a swollen right eye. Employer had Claimant seen by Dr. Eddie Runde on several occasions beginning on August 16, 2010 for complaints of headaches, short-term memory loss and dizzy spells, with physical therapy being prescribed for tension cephalgia.

Employer had Claimant seen by Dr. David Peeples, a neurologist, on September 14, 2010. At that time, Claimant reported headaches, nausea, dizziness, panic attacks, neck pain, memory problems, inability to multitask and other symptoms. Dr. Peeples did not note functional limitations on examination in his report. Claimant disputed Dr. Peeples' records when testifying at the hearing and indicated that he had confronted Dr. Peeples about such inaccuracies at a later visit and offered to play back the tape recording of the session, at which point Claimant was asked to leave the office. Claimant testified that he recorded the visit after Dr. Peeples refused to allow his wife to accompany him to the examination and he was concerned that with his memory difficulties, that he would not recall advice or instructions the doctor gave to him.

On October 28, 2010, while still treating for his August 10, 2010 injury, while entering his place of employment where he had been assigned to light duty tasks, Claimant suffered a fall down stairs. Claimant testified that the cause of the fall was dizziness and disequilibrium that he was experiencing from the August 10, 2010 injury. On October 28, 2010 Claimant was seen at Callaway Community Hospital in the emergency room where he was transferred to the University of Missouri Hospital in order to obtain a CT scan of his head. Claimant was seen at Fulton Medical Clinic the following day with complaints about his head, neck, back, and right elbow

Employee: **Billy Styles**

Injury No. **10-062547**

from an injury and had difficulty with gait, inability to do heel-toe test, finger to nose testing, and positive Romberg testing.

Following the 10-28-2010 fall, Claimant was sent home on administrative leave with full pay and benefits until February 10, 2011.

Claimant was sent by Employer for a psychiatric evaluation with Dr. Wayne Stillings on November 18, 2010. Dr. Stillings noted that Claimant's symptoms were the same as previously reported to Dr. Peeples but that his disequilibrium had increased since the most recent fall. At that time, Claimant continued to plan to return to work at Fulton State Hospital with hopes to modify his job by wearing a safety helmet when in patient contact. On mental status, he was initially overbearing and defensive and then became anxious and tense. He had some difficulty with recall and was noted to have limited self-insight. He was tested with the MMPI-2 which produced a valid result and was also given the MCMI-III. Dr. Stillings diagnosed Claimant with Parent-Child relational problems, probable adjustment disorder, and occupational problems. He opined that the injury of August 10, 2010 is the prevailing factor in causing the adjustment disorder and some mild residual post-concussive symptoms and the need for treatment of such. Claimant was placed off of work. In December 2010, Mr. Styles was interviewed by telephone by Dr. Stillings, after which Claimant was returned to work from a psychiatric standpoint without restrictions.

Another telephonic consultation was had between Dr. Stillings and Claimant on February 9, 2011, after which he was sent to vestibular therapy and his psychiatric medications were continued for another month. On March 14, 2011, Dr. Stillings responded to a correspondence request by the nurse-case manager, and placed Claimant at psychiatric maximum medical improvement with a permanent partial impairment of 1-2% from the work injury and a combined 5% pre-existing due to personality and parent-child relationship problems. Dr. Stillings released Claimant to return to work, including in his former job.

Claimant presented for evaluation with Dr. Sarmistha Bhalla, M.D., a psychiatrist at Options Unlimited of Fulton on February 24, 2011. Dr. Bhalla diagnosed Claimant with post-traumatic stress disorder and continued him on the medications previously prescribed by Dr. Stillings. Claimant continued to treat with Dr. Bhalla for his psychiatric disorders through June of 2013 according to the medical records. Medications during that time were continued based upon Claimant's ability to pay for the same and it is noted that the providers attempted to provide samples when able. Panic attacks were also noted when discussing the possibility of returning to Fulton State Hospital.

On March 3, 2011, Claimant was arriving at work at Fulton State Hospital and was entering the building through the security checkpoint or sally port. Claimant testified that he was having a bad day in terms of his balance issues stemming from the previous injury of August 10, 2010. Exhibit J is a series of surveillance videos from March 3, 2011. Video 1 (at 00:39) shows Claimant exiting the passenger side of a maroon sedan and walking slowly along the sidewalk, up a few stairs, and into the building. Claimant is seen walking slowly through the hallway and turning left, out of the video. Video 2 is the next hallway; at 2:42 Claimant is seen walking slowly, then stopping and waiting for a woman to go in front of him through the first door. Claimant and three other employees appear to be "clocking in" in the area between the two

Employee: **Billy Styles**

Injury No. **10-062547**

doors. The first door closes, the second opens, and Claimant and the three co-workers exit the second door and disappear from the video. Video 3 is the next hallway – a long, sloped hallway, immediately on the opposite side of the doors seen in Video 2. At 1:15 of Video 3, Claimant and the three co-employees are seen going through the second door; Claimant is behind the other three employees. At 1:22, Claimant is seen falling quickly on the sloped floor. The three co-employees turn around to see what has happened. Claimant appears to be on his back with his head at the base of the wall. Many, many employees are seen coming and going for the remainder of Video 3. At 4:26 it appears a gurney is brought to the area where Claimant fell. At 17:30, after most of the employees have gone, it is obvious that Claimant and gurney have exited the area. Video 4 is the same camera view as Video 2. From 5:26 to 5:41 of Video 4, Claimant is seen being wheeled out on the gurney. Video 5 is the same view as Video 1. At 00:37, Claimant is seen being wheeled out on the gurney; Claimant appears to be conscious. At 00:59, Claimant and gurney exit the building.

Claimant testified to his belief that the March 3, 2011 fall was caused by the disequilibrium he was experiencing from the August 10, 2010 injuries.

On March 3, 2011, Claimant was taken to the University of Missouri Hospital where he stated that he fell, but had tried to grab the railing to stabilize himself and missed. He was noted to have loss of consciousness and having struck his head when he fell. He was given Tramadol and discharged.

On April 7, 2011, Claimant did attempt to return to work at Fulton State Hospital but was not allowed to return to work unless he would sign a document prepared by a representative of the employer that stated that he had no symptoms.

On April 15, 2011, Claimant's counsel took the deposition of Debbie Overfelt, the Employee Health Nurse for Fulton State Hospital. Ms. Overfelt described Claimant as being a very professional, articulate, and intelligent man prior to May of 2009 who was never hostile and who exhibited emotional stability. However, Overfelt testified that when she met with Claimant on April 7, 2011, she could not describe him in the same way and admitted that he was struggling. She also saw only limited improvement in the way he presented between the fall of 2010 and April of 2011. She also admitted telling Claimant in their meeting the week before that she had hoped he would get treatment. Overfelt testified that if she had the authority to provide more care for Claimant, she "would have loved to do that."

After the March 3, 2011 fall, medical records document that Claimant was provided with vestibular therapy beginning April 21, 2011. Dr. Appelbaum, a neurologist, evaluated Claimant on May 5, 2011, noting the initial accident of August 10, 2011 and the two falls since the accident. Dr. Appelbaum questioned a non-organic cause of difficulties but did note stuttering speech and difficulty with tandem walk. He recommended an MRI of the brain due to the persistent symptoms and hypesthesia noted on examination.

On May 9, 2011, Claimant presented for a neuropsychological consultation with Dale Halfaker, PhD, who recommended neuropsychological counseling which was completed by Dr. Akeson.

Employee: **Billy Styles**Injury No. **10-062547**

Claimant was seen again by Dr. Halfaker on September 12, 2011. At that time, Dr. Halfaker stated it was his impression that Claimant did not present with significant neuropsychological impairment attributable to a traumatic brain injury but that he likely experienced a concussion without a loss of consciousness as a result of the August 10, 2010 incident. He stated his belief that there is significant psychological overlay present which perpetuate his symptoms and are associated with factors of headache pain, disrupted sleep, depression/anxiety, and secondary gain. Dr. Halfaker also opined that he does not believe Claimant to be malingering, unless it is to avoid return to patient care due to fear of re-injury. Dr. Halfaker opined that a part of Claimant's presentation was due to somatoform disorder and that Claimant truly believes that he has all of the problems he has and that they are attributable to the incident of August 10, 2010. Halfaker stated that there appear to be significant features of post-traumatic stress disorder present which serve as sufficient conditions to produce cognitive complaints that could be misattributed to a mild traumatic brain injury. He recommended that Claimant could return to work in a full duty capacity if allowed to wear a helmet.

Claimant was seen by Dr. Lindsey Schrimpf, a psychiatric counselor, beginning October 11, 2012, and continuing until March 18, 2013. Dr. Schrimpf noted that Claimant had sustained significant head injuries resulting in traumatic brain injury ("TBI") and leading to significant mood symptoms and post-traumatic stress disorder. She noted continued neurological difficulties from the TBI including headaches. Claimant continued to experience panic attacks during his treatment and waxing and waning symptoms in terms of his postural instability. Medications for his psychiatric disorders, specifically Abilify, Celexa, doxepin, Prazosin, Lyrica, diazepam, and Xanax, were provided during the time that Dr. Schrimpf was seeing him but were terminated following a reassessment by Dr. Jennifer Brockman.

Claimant testified that he was terminated by Employer and has not worked since that time, nor has he sought work. He testified that he continues to have headaches on a daily basis with days being described as either a bad day or a worse day, but that there are no good days for him. Claimant does not recall a day without a headache after August 10, 2010. He describes the headaches as debilitating and unpredictable. He takes each day as it comes at him without any ability to plan because of this unpredictable nature of the headaches. He testified that he was previously extroverted and enjoyed speaking in crowds and to groups at work and church. Since the accident of August 10, 2010, he is introverted and avoids crowds and is terrified of public speaking.

Claimant testified that no medication taken to date has been able to get rid of the headache, but some medications do take the edge off of the pain. He tends to go to bed and lie down with the worst of the headaches and does lie down seven to eight times during a bad week. He testified that the headaches begin in the frontal lobe, are affected by light and noise, and accompanied at times by nausea.

Claimant testified that he continues to have ringing in his ears since the August 10, 2010 assault. He described the ringing as the roar of a machine shop that increases in intensity along with the increase in his headaches. Claimant testified that he does have difficulty hearing people speak and that this becomes more difficult when there are multiple sounds or people speaking at one time.

Employee: **Billy Styles**

Injury No. **10-062547**

Claimant testified that he continues to experience vertigo or dizziness. Claimant testified that the room spins regardless of whether he is sitting, standing, or lying down but that on a bad day, he will either use a cane or try to remain seated as it is safer for him and reduces the risk of falling. Claimant testified that his wife is somewhat like a seeing eye-dog in that he leans on her for support and balance when they travel. Claimant stated he has also changed his gait to a shuffle with short steps and his feet barely leaving the ground. He testified that the balance and dizziness is unpredictable and that his symptoms can go from bad to worse during the same day which causes him to avoid leaving the home on most days. He does try to avoid stairs, ladders, and uneven ground and testified that in terms of his ability to accomplish tasks, he considered this to be the greatest debilitating factor.

Claimant testified that, following the injury in August 2010, he also began to have nightmares and continues to have nightmares but testified that the subject of those nightmares has changed from specific clients attacking him to being attacked by a generic or unidentified person. He and his wife began sleeping in separate beds due to his nightmares as he tries to fight back during the nightmares and has hit his wife during his sleep. Claimant testified that the difficulty in sleeping results in a very irregular sleep pattern for him and leaves him feeling very tired and sleep deprived during the day. He also testified that his headaches, tinnitus and vertigo symptoms all increase following the nights when his sleep is disturbed.

Claimant also testified as to mood swings and social anxiety that he experiences as a result of the assault. He testified that he avoids crowds and finds that he is easily agitated and yells at his family much more. He also noted that he is less self-aware and rigid in his thoughts which have caused him to argue with his wife based upon an idiotic or irrational position or belief. He testified that his family often has to remind him of his mood swings and ask him to remove himself until he can calm down. He testified that he has resumed Xanax and valium in order to moderate those symptoms.

Claimant testified that he suffered from memory issues which cause him difficulty with cooking, reading, and other tasks around the house. He testified that he had purchased a table saw four years before but despite reading the directions multiple times, cannot recall and comprehend the directions in order to assemble the saw. He also cooks only under supervision as he forgets to turn off the stove and also forgets what ingredients to add or not add into recipes. He testified that his daughter left school in order to be at home and watch him during the day but that his wife now stays home with him. As to reading, he can read for about ten to fifteen minutes only and has switched over to books on tape, but still has difficulty recalling the information he reads.

On questioning by counsel for the Second Injury Fund, Claimant testified that he had no problems with balance, inclines or stairs, headaches, tinnitus, mood swings, or memory before August 10, 2010. He also acknowledged that he did not need to lie down, was not easily agitated and did not need to take valium before August 10, 2010. Before August 10, 2010, he was able to read for long periods of time, could do handy-work around the house and could ride a lawnmower for more than fifteen minutes.

Claimant was evaluated by Dr. Raymond Cohen, a board-certified neurologist, at the request of his attorney on August 3, 2011 and October 12, 2011. Claimant indicated to

Employee: **Billy Styles**Injury No. **10-062547**

Dr. Cohen that he had sustained several head injuries due to assaults by clients in 2009 but that he recalls recovering from those assaults without any *sequelae*. He recounted the injury of August 10, 2010 and recalled dizziness, ringing in the ear, pain in his neck and headache shortly following that assault. He also recounted the two subsequent injuries of October 28, 2010 and March 3, 2011 and indicated to Dr. Cohen that he fell on both occasions after losing his balance and having problems with dizziness and unsteadiness. Claimant recounted the symptoms that he experienced due to the accident of August 10, 2010 and the subsequent falls; those complaints are similar to those Claimant described at the hearing.

Upon mental examination, Dr. Cohen noted deficit upon memory recall at five minutes and a flat and depressed affect. He also noted decreased hearing, slow and unsteady gait, inability to do a tandem gait, and unsteadiness with Romberg testing. Dr. Cohen diagnosed Claimant with post-traumatic migraine headaches, mild traumatic brain injury, post-concussion syndrome, and cervical strain as a result of the August 10, 2010 incident. He did recommend additional treatment with a headache specialist and medications and opined on permanent disability absent that medical care being provided.

Dr. Cohen recommended that Claimant be restricted from any type of work in which he could injure his head. Dr. Cohen stated that Claimant would need to be able to go home or go to a quiet, dark room when suffering from a severe headache. Due to his gait and balance disorder, Claimant needs to be restricted from any significant walking, climbing, ladder work, or work around heights. He also needs to be restricted from driving or operating any type of dangerous equipment. Dr. Cohen concluded that Claimant's injuries of August 10, 2010 and the subsequent falls along with the pre-existing cervical spine condition and the severe psychiatric disorder, i.e., the post-traumatic stress disorder, would render Claimant permanently and totally disabled and not capable of employment in the open labor market.

Upon deposition, Dr. Cohen was questioned as to whether the accident of August 10, 2010, was at least "an equal factor" in causing the subsequent falls of October 28, 2010 and March 3, 2011, and testified affirmatively. He also testified after questioning, that the August 10, 2010 injury, either by itself or in connection with the subsequent falls, is bad enough alone to render Claimant permanently and totally disabled.

Claimant was evaluated at the request of his attorney by Dr. A.E. Daniel, a board-certified forensic psychiatrist. Dr. Daniel evaluated Claimant on three separate occasions and reviewed the medical records and documents provided to him. Claimant reported to Dr. Daniel that he suffered from irritability, mood swings with mostly depressed moods, problems with sleep, short-term memory problems, difficulty multi-tasking and sensitivity to bright lights. Dr. Daniel administered the MMPI-2 test, which produced a valid profile reflecting an individual with much psychological distress. Dr. Daniel opined that the assault by the patient on August 10, 2010 meets the criteria of an incident that would evoke fearfulness in an individual. He testified that this was especially true given that it occurred at work, a place that should be free of violence. Dr. Daniel opined that the accident of August 10, 2010 is the prevailing factor in leading to his diagnoses of PTSD, major depressive disorder and psychological factors associated with general medical conditions.

Employee: **Billy Styles**

Injury No. **10-062547**

Dr. Daniel opined that Claimant had reached the point of maximum medical improvement but that he was in need of continued treatment due to the nature and natural course of PTSD. He also opined that Claimant is permanently and partially disabled due to the psychiatric disabilities arising from the work incident of August 10, 2010 and the subsequent work injuries. He also opined that when considering the current and pre-existing psychiatric disorders and symptoms, Claimant is unable to compete in the open labor market. He noted significant psychiatrically based limitations including poor concentration, depressed mood, anxiety and post-traumatic symptoms which would affect his persistence and pace. He did opine that the total disability is due to the combination of the psychiatric and physical conditions.

During his deposition, Dr. Daniel testified that Claimant's problems began with the August 10, 2010 assault with the exception of having a depressed mood before that assault, which did worsen or increase after the August 10, 2010 injury. Dr. Daniel also noted that while Claimant experienced some nightmares and restless sleep from the assaults in 2009, those were better and resolved before the August 2010 assault.

On August 12, 2012, Claimant was evaluated by Dr. Jennifer Brockman, at the request of Employer. Dr. Brockman reviewed the medical records and conducted an evaluation. She noted that Claimant became very agitated upon his initial presentation to her office when attempting to check his vitals without his wife accompanying him but did calm down and his wife was allowed to remain in the room during the majority of the evaluation. At the time of that evaluation, Claimant was taking medication prescribed by Dr. Bhalla, which was helpful for his symptoms, and Claimant was not working at Fulton State Hospital at the time of the evaluation. Claimant noted that he had been placed on psychiatric medications in 2006 for work-related stress and that he had an increase in depressive symptoms in 2009 due to assaults on him personally and upon his staff. Claimant acknowledged to Dr. Brockman that his symptoms decreased until the August 2010 assault.

Claimant was diagnosed by Dr. Brockman as having Post-Traumatic Stress Disorder (PTSD), major depressive disorder, anxiety disorder and somatization disorder. As to the somatization disorder, Dr. Brockman opined that Claimant may not be purposefully malingering his symptoms, but instead, his psychological factors are impacting his physical presentation. Dr. Brockman opined that the work-related injury of August 10, 2010 is the prevailing factor in the exacerbation of his pre-existing psychiatric conditions including major depressive disorder, PTSD, and anxiety disorder as well as the prevailing factor in the development of his symptoms of somatization disorder. Dr. Brockman did provide a rating for such pre-existing and primary injuries and stated that Claimant was not at maximum medical improvement but needed to undergo more extensive psychiatric treatment and therapy. She also opined that Claimant's need for psychiatric treatment is not directly related to the incident as his prior symptoms warranted similar, if not exact, evaluation and care.

Following additional treatment with Dr. Schrimpf, Dr. Brockman again evaluated Claimant on May 30, 2013. At that time, Dr. Brockman noted little, if any, positive change had occurred. She noted evidence to suggest that Claimant exhibited psychiatric symptoms in the years prior to his 2010 injury and also suggests other life events or motivations may be playing a role in his presentation. However, in her report, the only psychiatric symptom exhibited prior to the 2010 injury was the depression which was treated without psychiatric treatment and the other

Employee: **Billy Styles**Injury No. **10-062547**

life events she discussed were all *sequelae* of the work injury. At that time, she placed Claimant at maximum medical improvement and encouraged him to see his treatment providers, including a therapist and psychiatrist, on a regular basis. However, she again proceeded to find that his need for psychiatric treatment is not “directly related to the incident, as his prior symptoms warranted similar, if not exact evaluation and care.” She opined that the work-related injury of August 10, 2010, is the prevailing factor in the exacerbation of his pre-existing psychiatric conditions and again provided ratings for his primary injury and his pre-existing conditions. She did suggest that Claimant’s ability to work is greatly dependent on his motivation to do so and saw no psychiatric reason that he cannot return to work.

It is noted that while Dr. Brockman attributed permanent partial disability to pre-existing post-traumatic stress disorder, anxiety disorder, somatization disorder and personality disorder, no medical evidence was presented that Claimant suffered from these symptoms prior to the August 10, 2010. The report of Dr. Brockman also fails to identify any symptoms associated with these diagnoses prior to the August 10, 2010 incident.

Claimant was also evaluated by Mr. James England, at the request of Employer. Mr. England evaluated Claimant on May 21, 2014 and concluded that he was unemployable in the open labor market if one would assume Dr. Cohen’s and Dr. Daniels’ findings. Mr. England did indicate that if Mr. Styles was disabled, it would be due to a combination of the effects of this primary injury and the pre-existing problems and not just the last injury in isolation. However, in his deposition, Mr. England testified that he considered the last injury to be the injury of March 2011. Mr. England did not review or have the employment records of Claimant when evaluating him and also acknowledging that he didn’t even know how many injuries or claims Claimant had filed. He acknowledged and agreed that a person with balance issues which required use of a cane, headaches, ringing of the ears, problems driving, walking slowly with a shuffling type gait, sleep deprivation, trouble multi-tasking, impaired decision making and panic symptoms would probably not be employable in the open labor market. Additionally, while Mr. England did opine that Claimant could return to some patient care or even medical records review, he did admit that if Claimant was having the problems which he described such as loss of balance, headaches and lack of recall, that he would not want that individual providing medical care to him.

Claimant was also seen for vocational evaluation by Mr. Phillip Eldred on February 16, 2012. Mr. Eldred noted that in addition to some physical limitations, Claimant was age 55 when seen which can significantly affect a person’s ability to do gainful work and he also had psychological overlay which increased the difficulty in returning a client back to the community and gainful employment. He concluded that it is highly unlikely that any reasonable employer would hire Claimant for competitive gainful employment and that he was permanently and totally disabled. Mr. Eldred opined that the total disability was due to the injuries of August 10, 2010, October 28, 2010, and March 3, 2011 combined with his pre-existing injuries and medical conditions.

Injury Nos. 10-087903 and 11-015559. These claims are from falls suffered at work. There was no question that these falls occurred. Claimant testified that each of these falls occurred due to vertigo, dizziness and resultant disequilibrium caused by the August 10, 2010 work-related accident. Dr. Cohen’s testimony in this regard supports Claimant’s testimony.

Employee: **Billy Styles**Injury No. **10-062547**

Therefore, these falls are part and parcel of the compensable accident and injury of August 10, 2010. Neither of these falls constitutes a separate compensable accident and injury. Therefore, the claims in Injury Nos. 10-087903 and 11-015559 must be denied in full against both Employer and the Second Injury Fund.

Disability (Injury No. 10-062547.) Claimant alleges that he is permanently and totally disabled, and is seeking permanent total disability benefits from Employer or the Second Injury Fund.

Under section 287.020.7, "total disability" is defined as the inability to return to any employment and not merely the inability to return to the employment in which the employee was engaged at the time of the accident. *Fletcher v. Second Injury Fund*, 922 S.W.2d 402, 404 (Mo.App. W.D.1996). The test for permanent and total disability is whether a claimant is able to competently compete in the open labor market given his or her condition and situation. *Messex v. Sachs Elec. Co.*, 989 S.W.2d 206, 210 (Mo.App. E.D.1999). It does not require that the claimant be completely inactive or inert. *Pavia v. Smitty's Supermarket*, 118 S.W.3d 228, 234 (Mo.App. S.D. 2003). When the claimant is disabled by a combination of the work-related event and pre-existing disabilities the responsibility for benefits lies with the Second Injury Fund. Section 287.220.1 RSMo. If the last injury in and of itself renders a claimant permanently and totally disabled the Second Injury Fund has no liability and the employer is responsible for the entire compensation. *Nance v. Treasurer of Missouri*, 85 S.W.3d 767 (Mo.App. W.D. 2003). "The employer's liability is considered in isolation – 'the employer at the time of the last injury shall be liable only for the degree or percentage of disability which would have resulted from the last injury had there been no preexisting disability'." *Kizior v. Trans World Airlines*, 5 S.W.3d 195, 200 (Mo. App. W.D. 1999).

The medical and vocational evidence is convincing that Claimant is unable to compete in the open labor market. Despite the fact that Claimant is obsessed with his injuries and conditions and clearly has a tendency to oversell his symptoms, Claimant was a credible witness and there is little question that no employer would hire Claimant for any job. Considering the serious nature of Claimant's neurological and psychiatric symptoms from the August 10, 2010 injury alone (and further considering the fact that Claimant was a model employee with no hindrances or obstacles to performing a very demanding job prior to August 10, 2010), it is clear that the August 10, 2010 injury, alone, is responsible for Claimant's permanent total disability.

In so finding, I specifically find that Dr. Stillings' and Dr. Brockman's conclusions that Claimant's current psychiatric symptoms are primarily caused by pre-existing conditions to be wholly unworthy of belief. Claimant was able to function on-the-job at the highest levels prior to August 10, 2010. He was being treated, quite successfully, for depression and anxiety prior to August 10, 2010. Dr. Stillings and Dr. Brockman clearly misunderstood the actual facts of the case or deliberately mischaracterized them.

TTD (Injury No. 10-062547.) Claimant is also asking for an award of TTD benefits for the period August 23, 2011 through March 20, 2012. (As it appears Employer began paying TTD benefits on March 20, 2012, the request should actually be through March 19, 2012.) Claimant did not work during this time, nor was he compensated in any way. There was no evidence that he received unemployment benefits. Claimant's condition had not reached

Employee: **Billy Styles**

Injury No. **10-062547**

maximum medical improvement, and it is obvious that Claimant was unable to compete in the open labor market while thus disabled and in need of additional treatment. Temporary total disability is paid until the employee can return to work, his condition stabilizes, or he has reached a point where further progress is not expected. *Minnick v. South Metro Fire Protection Dist.*, 926 S.W.2d 906, 909 (Mo. App. W.D.1996), *overruled on other grounds Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). The test is whether an employee is able to compete in the open labor market, given the employee's present physical condition. *Cooper v. Medical Center of Independence*, 955 S.W.2d 570, 575 (Mo. App. W.D.1997).

Future medical benefits (Injury No. 10-062547.) Claimant is asking for an award of future medical benefits. Section 287.140, RSMo, requires an employer/insurer to provide medical treatment as reasonably may be required to cure and relieve an employee from the effects of the work-related injury. To “cure and relieve” means treatment that will give comfort, even though restoration to soundness is beyond avail. *Landman v. Ice Cream Specialties, Inc.*, 107 S.W.3d 240, 249 (Mo. banc 2003). The claimant must prove the need for treatment by “reasonable probability” rather than “reasonable certainty.” *Downing v. Willamette Industries, Inc.*, 895 S.W.2d 650, 655 (Mo. App. W.D. 1995), *overruled on other grounds Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). “Probable” means founded on reason and experience, which inclines the mind to believe, but leaves room for doubt. *Sifferman v. Sears, Roebuck & Co.*, 906 S.W.2d 823, 828 (Mo.App. S.D.1995), *overruled on other grounds Hampton v. Big Boy Steel Erection*, 121 S.W.3d 220 (Mo. banc 2003). There is no question that Claimant has sustained his burden of proof on the issue of entitlement to future medical benefits.

FINDINGS OF FACT AND RULINGS OF LAW IN INJURY NO. 09-110831

In Injury No. 09-110831, in addition to those facts and legal conclusions to which the parties stipulated, I find the following facts and make the following rulings of law:

1. The work accident of May 11, 2009 resulted in no permanent disability to Claimant;
2. Employer has no liability for permanent partial disability benefits;
3. The Second Injury Fund has no liability for permanent partial disability benefits;
4. Employer has no liability for future medical benefits; and
5. All other issues are moot.

FINDINGS OF FACT AND RULINGS OF LAW IN INJURY NO. 09-110885

In Injury No. 09-110885, in addition to those facts and legal conclusions to which the parties stipulated, I find the following facts and make the following rulings of law:

1. The work accident of September 4, 2009 resulted in no permanent disability to Claimant;
2. Employer has no liability for permanent partial disability benefits;
3. The Second Injury Fund has no liability for permanent partial disability benefits;

Employee: **Billy Styles**

Injury No. **10-062547**

4. Employer has no liability for future medical benefits; and
5. All other issues are moot.

FINDINGS OF FACT AND RULINGS OF LAW IN INJURY NO. 10-091705

In Injury No. 10-091705, in addition to those facts and legal conclusions to which the parties stipulated, I find the following facts and make the following rulings of law:

1. The work accident of July 9, 2010 resulted in no permanent disability to Claimant;
2. Employer has no liability for permanent partial disability benefits;
3. The Second Injury Fund has no liability for permanent partial disability benefits;
4. Employer has no liability for future medical benefits; and
5. All other issues are moot.

FINDINGS OF FACT AND RULINGS OF LAW IN INJURY NO. 10-062547

In Injury No. 10-062547, in addition to those facts and legal conclusions to which the parties stipulated, I find the following facts and make the following rulings of law:

1. The work-related accident of August 10, 2010 is the prevailing factor in the cause of headaches, dizziness, vertigo, disequilibrium, memory loss, mild traumatic brain injury, post-traumatic stress disorder, and major depressive disorder;
2. The dizziness, vertigo and disequilibrium caused by the accident of August 10, 2010 also caused Claimant to suffer falls on October 28, 2010 and on March 3, 2011; these falls, and the additional head injuries Claimant sustained in these falls, are the natural consequence of the August 10, 2010 accident;
3. Claimant's conditions from the August 10, 2010 accident reached maximum medical improvement on May 30, 2013;
4. The opinions of Dr. Wayne Stillings and Dr. Jennifer Brockman are so at odds with the facts of the case as to be unworthy of belief;
5. Claimant is wholly unable to compete in the open market for employment;
6. Claimant is permanently and totally disabled;
7. Claimant is permanently and totally disabled as a result of the injuries and conditions caused by the August 10, 2010 work-related accident;
8. Employer is responsible for the payment of permanent total disability benefits of \$799.11 per week, beginning May 31, 2013;
9. The liability of Employer for the payment of weekly permanent total disability benefits shall cease upon Claimant's death;
10. The Second Injury Fund has no liability for payment of benefits;
11. Claimant was unable to compete in the open market for employment from August 23, 2011 through March 19, 2012, a period of 30 weeks;
12. Employer is responsible for payment of 30 weeks of TTD benefits, totaling \$23,973.30;

Employee: **Billy Styles**

Injury No. **10-062547**

13. Claimant requires additional medical care and treatment to cure and relieve him from the effects of his work-related injuries; and
14. Employer failed and refused to provide Claimant with needed medical treatment, despite demand by Claimant therefor; Employer is responsible for the cost of such needed medical treatment, in the amount of \$440.43 for prescription medication prescribed by Dr. Sarmistha Bhalla, and in the amount of \$440.50 for medical services provided by East Central Mo Behavioral Health Services.

FINDINGS OF FACT AND RULINGS OF LAW IN INJURY NO. 10-087903

In Injury No. 10-087903, in addition to those facts and legal conclusions to which the parties stipulated, I find the following facts and make the following rulings of law:

1. Claimant sustained a fall at work on October 28, 2010 while working light duty after a compensable work-related accident of August 10, 2010 which resulted in multiple injuries, including head injury causing vertigo, dizziness and disequilibrium;
2. The fall on October 28, 2010 was caused by vertigo, dizziness and disequilibrium caused by the work-related accident of August 10, 2010;
3. The fall on October 28, 2010 was a natural consequence of the August 10, 2010 accident and injury, and therefore is a part of the cause of action arising out of the August 10, 2010 accident and is not a separate cause of action;
4. The claim for compensation in Injury No. 10-087903 must be denied in full against Employer and Second Injury Fund.

FINDINGS OF FACT AND RULINGS OF LAW IN INJURY NO. 11-015559

In Injury No. 11-015559, in addition to those facts and legal conclusions to which the parties stipulated, I find the following facts and make the following rulings of law:

1. Claimant sustained a fall at work on March 3, 2011 while working light duty after a compensable work-related accident of August 10, 2010 which resulted in multiple injuries, including head injury causing vertigo, dizziness and disequilibrium;
2. The fall on March 3, 2011 was caused by vertigo, dizziness and disequilibrium caused by the work-related accident of August 10, 2010;
3. The fall on March 3, 2011 was a natural consequence of the August 10, 2010 accident and injury, and therefore is a part of the cause of action arising out of the August 10, 2010 accident and is not a separate cause of action;
4. The claim for compensation in Injury No. 11-015559 must be denied in full against Employer and Second Injury Fund.

Employee: **Billy Styles**

Injury No. **10-062547**

ORDER IN INJURY NO. 10-062547

In Injury No. 10-062547, Employer is ordered to pay Claimant the sum of \$23,973.30 for temporary total disability benefits, and the sum of \$880.93 for medical benefits.

Also in Injury No. 10-062547, Employer is ordered to pay Claimant the weekly amount of \$799.11, beginning May 31, 2013, for permanent total disability benefits.

Also in Injury No. 10-062547, Employer is ordered to provide Claimant with additional medical benefits pursuant to Section 287.140, RSMo.

Claimant's attorney, Van Camp Law Firm, LLC, is allowed 25% of all benefits awarded herein, including future weekly benefits, as and for necessary attorney's fees, and the amount of such fees shall constitute a lien on those benefits. No attorney's fees are awarded on the future medical benefits.

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

Made by: /s/Robert J. Dierkes 12/15/2014

Robert J. Dierkes
Chief Administrative Law Judge
Division of Workers' Compensation