STATE OF ILLINOIS)
)SS
COUNTY OF LAKE)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Larry Matson,
Petitioner,

vs.

Knauz Motor Sales, Inc.
Respondent.

No. 15WC 29529
18IWCC 0094

ORDER

This matter comes before the Commission on its own Petition to Recall the Commission Decision to Correct Clerical Error pursuant to Section 19(f) of the Act. The Commission having been fully advised in the premises finds the following:

The Commission finds that said Decision should be recalled for the correction of a clerical/computational error.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Commission Decision dated February 9, 2018, is hereby recalled pursuant to Section 19(f) of the Act. The parties should return their original decisions to Commissioner Kevin W. Lamborn.

IT IS FURTHER ORDERED BY THE COMMISSION that a Corrected Decision shall be issued simultaneously with this Order.

Kevin W. Lamborn

DATED: FEB 20 2018

STATE OF ILLINOIS)	☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
) SS.	☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
COUNTY OF LAKE)	☐ Reverse	☐ Second Injury Fund (§8(e)18)
		☐ PTD/Fatal denied
	☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Larry Matson,
Petitioner,

vs.

NO: 15WC 29529
18IWCC0094

Knauz Motor Sales, Inc.,
Respondent.

CORRECTED DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of medical expenses, temporary total disability, permanent partial disability, penalties, fees and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed July 25, 2016, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $67,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: FEB 20 2018
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KWL/jrc
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Kevin W. Lamborn

Michael J. Brennan

Thomas J. Tyrrell

ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF ARBITRATOR DECISION

MATSON, LARRY
Employee/Petitioner

Case# **15WC029529**

KNAUZ MOTOR SALES INC
Employer/Respondent

18IWCC0094

On 7/25/2016, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.43% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

4835 MARKHAM M JEEP & ASSOC
GRAHAM J JEEP
200 N MARTIN L KING JR AVE
WAUKEGAN, IL 60085

2623 McANDREWS & NORGLE LLC
MICHAEL P LATZ
53 W JACKSON BLVD SUITE 315
CHICAGO, IL 60604

STATE OF ILLINOIS)
)SS.
COUNTY OF Lake)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Larry Matson
Employee/Petitioner

v.

Knauz Motor Sales, Inc
Employer/Respondent

Case # **15** WC **29529**

Consolidated cases: **N/A**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Stephen J. Friedman**, Arbitrator of the Commission, in the city of **Waukegan**, on **June 22, 2016**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☒ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **July 7, 2015**, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned **$13,316.56**; the average weekly wage was **$289.49**.

On the date of accident, Petitioner was **60** years of age, ***single*** with **0** dependent children.

Petitioner ***has not*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of **$2,608.57** for TTD, **$0.00** for TPD, **$0.00** for maintenance, and **$0.00** for other benefits, for a total credit of **$2,608.57**.

Respondent is entitled to a credit of **$0.00** under Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner temporary total disability benefits of $220.00/week for 38 4/7 weeks, commencing July 30, 2015 through August 11, 2015 and September 11, 2015 through May 24, 2015, as provided in Section 8(b) of the Act. Respondent shall be given a credit of $2,608.57 for temporary total disability benefits that have been paid.

Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule, of $23,869.41 to the providers as listed in the finding with respect to Medical herein, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall pay Petitioner permanent partial disability benefits of $220.00/week for 43 weeks, because the injuries sustained caused the 20% loss of the Left Leg, as provided in Section 8(e)12 of the Act.

Respondent shall pay to Petitioner penalties of **$5,949.31**, as provided in Section 16 of the Act; **$14,873.28** as provided in Section 19(k) of the Act; and **$7,110.00**, as provided in Section 19(l) of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of Arbitrator

July 14, 2016
Date

JUL 25 2016

Statement of Facts

Petitioner Larry Matson testified that he had been employed by Respondent Knauz Motor Sales since 2013 as a manager of the logistics department. His duties included shuttling customers, pick up and delivery of vehicles for service. This was a part time job. He was previously employed for 23 years by the Illinois Department of Transportation initially as a highway maintainer and heavy equipment operator, then as a foreman and engineering technician. He then was employed by the City of Waukegan for 13 years as safety director until he retired in 2009. His duties included writing policy and accident investigation and conducting safety sessions. He also taught Advanced Safety at College of Lake County.

Petitioner testified that on July 7, 2015, he was looking for an employee to locate a missing vehicle. He was in the BMW showroom when he walked into a glass wall. Petitioner testified he broke his nose and bounced back and twisted. He was bleeding from his nose. Petitioner testified that he was walking at a normal pace. He struck the wall with his whole body, nose first. He testified he struck the wall at a 45 degree angle with the right side closer and the left side away from the wall. He testified that he spoke with someone at the time of the impact. He does not know who it was because the person was behind him.

He testified he went to the men's room and pushed his nose back in place. The walk was about 15 feet. He was bleeding but not copiously at that time. The blood was covering his hands, but not falling onto the floor. He had his hands over his face. His nose was to the left side. He testified he has broken his nose three times before. He then walked back to the Mercedes building where his office was located and continued his duties. He spoke with a couple of coworkers about it and they had a good giggle. He testified he was limping and his left knee felt irritated. Petitioner admitted Petitioner's Exhibits 1 and 2, photos of his nose taken by his girlfriend on the date of the accident.

Petitioner testified he had a prior injury to his left knee in 1994 when he struck a gas meter and hyper extended his knee. He has surgery in March, 1995 by Dr. Hamming. Petitioner testified he had a full recovery. Petitioner testified to a back injury in 2005 when he stepped in a hole. He had a two level lumbar fusion. He has had surgery on his left leg in 2002 for a melanoma below the knee. They took lymph nodes out. He had swelling in his ankle. This is separate from his knee. He has also had other cancer surgeries. He did not take any pain medication for that condition. He had been an active distance runner, golfer, and fisherman. He had enjoyed camping and yardwork on his 6 ½ acre property including gardening. He testified that he build a cabin in 2009 including hand carrying the materials. Immediately before July 7, 2015 he had no problems with his left knee.

Petitioner testified that on July 14, 2015, he was having pain in his left knee and it was hard to walk. He reported the injury to his supervisor Joe Coleman, head of parts and service. Mr. Coleman told him to report the accident to Traci Weaver in Human Resources. He reported the accident to Ms. Weaver that same day. He testified that on July 29, 2015 that he spoke with Tracy Weaver and told her he was not coming into work because of pain and was going to see his own doctor.

Curt Laczniak testified by evidence deposition taken December 17, 2015 (PX 7). He is employed by Respondent as the used car manager. His desk is on the north end of the BMW showroom. He testified he was at his desk when he heard a loud noise. He turned and it was Larry who had walked into a glass wall behind him. His back was to the wall. He did not see Petitioner actually walk into the wall. He testified he was 10 feet from where Petitioner was standing. He testified Petitioner uttered profanity and was holding his face.

Mr. Laczniak asked him if he was OK and Petitioner said, "yeah, and then embarrassed." Bob Geisheker was also in view and made light of the situation. Mr. Laczniak testified he did not see any blood. He did not notice Petitioner limping. Petitioner did not complain of any injury other than his nose. His entire observation was less than 30 seconds. He is sure he saw Petitioner in the weeks after the accident. He did not see him limping. He has no clear memory of seeing Petitioner walk at any time after July 7, 2015.

John Getner testified by evidence deposition taken December 17, 2015 (PX 5). He is employed by Respondent as driver. His employment is centered in the Mercedes building. Mr. Getner testified he observed Petitioner on the afternoon of July 7, 2015. He observed blood on his nose. Later, after Petitioner sat down, Mr. Getner noticed Petitioner had some trouble getting started walking when he was leaving. He observed Petitioner limping. Over the next several days, he noticed Petitioner limping here and there. He does not remember which leg he was favoring.

Thomas Ehlen testified by evidence deposition taken December 17, 2015 (PX 15). He is employed by Respondent doing pick up and delivery. He testified he saw Petitioner in the early afternoon on July 7, 2015 in the Mercedes building. Petitioner came in with blood around his nose and he was limping. Petitioner told him he ran into a glass panel in the BMW building. Over the next few days, Mr. Ehlen observed Petitioner. He had his nose cleaned up, but he was still limping.

Joseph Coleman testified by evidence deposition taken December 17, 2015 (PX 6). He is employed by Respondent as the parts and service manager. He knows Petitioner. He is Petitioner's boss. He recalls Petitioner came into his office and told him, "I feel so stupid. I walked into a glass wall and I broke my nose and I hurt my knee." Petitioner said it was a few days ago. Mr. Coleman testified he told Petitioner to report to the HR Manager Traci Weaver. They have a very strict policy. He testified Petitioner told him he broke his nose a few times before. Mr. Coleman testified that his impression was that Petitioner thought it was not big deal. Mr. Coleman testified he did not notice Petitioner limping on that date. He did observe him limping and using crutches some time afterwards.

Traci Weaver testified that she is the HR Manager for Respondent. She testified that Petitioner received orientation including the need to report accidents promptly. Petitioner was called Safety Larry because of his prior experience. On July 14, 2015, Petitioner came to her office. He hung his head and was embarrassed. Petitioner told her he had walked into a glass wall. He told her his nose was OK. His leg has been bothering him; his knee has been hurting. She testified she called Lake Forest Acute Care to see Petitioner. Ms. Weaver testified that she prepared a hand written Form 45 (identified as PX 4). The typed Form 45 (PX 3) contains the same information. The Form 45 states "employee walked into a window, injuring nose and knee." Ms. Weaver testified that she received a telephone call from Petitioner on July 30, 2015. He told her he was putting on his socks and his knee popped. He was calling Illinois Bone & Joint to see if he could get in and that he was not coming in to work.

Petitioner testified that on July 30, 2015 he had his left leg over his outstretched right leg and heard a pop in his left knee followed by excruciating pain. Between July 7, 2015 and July 30, 2015, the pain and swelling in the left knee were gradually getting worse.

Petitioner was seen at Lake Forest Acute Care beginning July 14, 2015. The records of Lake Forest Acute Care were admitted as Petitioner's Exhibit 11. Petitioner reported the accident on July 7, 2015. The history was that he walked into a plate glass window. He hit his nose, but not his knee, but twisted his left knee.

Petitioner reported his nose was now better. It was a little crooked, but it was always that way from a prior broken nose. He complained of left knee pain with full flexion, standing from a chair, and walking. The examination noted a positive drawer test, reduced range of motion, and swelling and tenderness of the knee. X-rays noted no acute fracture. Petitioner was diagnosed with a knee sprain and given an ace bandage. He was released to return to duty with restrictions on kneeling, squatting, running and prolonged sitting and standing. On July 21, 2015, Petitioner was advancing the same complaints. He was continued on the same restrictions. Dr. Edelstein noted that he would request an MRI if no improvement in the next week or two. On July 28, 2015, Petitioner's complaints remained the same. He was scheduled for physical therapy and remained on the same restrictions.

Petitioner testified that he sought treatment from Dr. Chams beginning July 29, 2015. He saw Dr. Chams on July 30, 2015 (PX 12) with a history of a work injury on July 7, 2015. Petitioner reports that he ran into a window and twisted his knee approximately one month ago. Petitioner also reported the he woke up this morning and felt a pop in his left knee. Following the pop, the knee swelled up. The physical examination noted swelling and effusion with loss of range of motion. Dr. Chams' assessment was left knee pain, rule out meniscus tear. He ordered an MRI and physical therapy He provided an off work note.

The report of the MRI performed on August 11, 2015 notes an impression of osteoarthritis, a medial patellar plica, a full thickness erosion of the medial femoral articular weigh bearing cartilage, a ganglion cyst, an intraarticular ossicle posterior to the posterior horn of the medial meniscus, and possible mild medial collateral and prepatellar bursitis (PX 9). Dr. Chams impression was a meniscus tear, loose body and patellofemoral chondromalacia. He recommended surgery (PX 9). He allowed Petitioner to return to work pending surgery. He was to continue with physical therapy (PX 12). Dr. Cham's records include a September 11, 2015 note stating Petitioner contacted the office stating his knee pain has gotten significantly worse. He was offered light duty with restrictions, but claims the bathroom is hundreds of feet away. Petitioner is adamant about being off work. He states his restrictions cannot be accommodated. A note was provided for off work, desk work only with no prolonged standing or walking, lifting, carrying, climbing or stairs.

Petitioner was examined at Respondent's request by Dr. Brian Cole on September 24, 2015. His records include a Knee Intake Survey describing the injury as "walked into unmarked full window, twisted knee on impact." A handwritten Initial Intake Survey lists the mechanism of injury as "Fell." Dr. Cole's records also include correspondence received by him prior to the September 24, 2015 examination that states the injury occurred when Petitioner walked into a window, the Form 45 describing the accident as walking into a window, and the medical records of Lake Forest Acute Care, Kenosha Radiology Center and Dr. Chams with the history of accident included (PX 12).

Dr. Cole prepared a report of the examination which was admitted as Respondent's Exhibit 1. The report includes a history of injury that on July 7, 2015, claimant fell while at work fracturing his nose in the process and having immediate onset of left knee pain. Petitioner reported that he had a cortisone injection with temporary relief. He reported constant knee pain as 6/10, ranging in impairment from moderate to extreme. The physical examination reported tenderness to palpation with range of motion from 0-120 degrees with an effusion. Dr. Cole opined that Petitioner's need for treatment is related to the injury. He may have incurred an aggravation of a preexisting condition, but in either regard he has arrived at the need for treatment as a result of this injury. He agrees that arthroscopic surgery is reasonable and necessary as a result of the injury. He states that Petitioner is restricted to sedentary desk work. He needs to get off the crutch.

Petitioner returned to Dr. Chams on December 8, 2015. He continued to walk with an antalgic gait and use of crutches. The note states that Workers Compensation denied surgery due to inconsistencies with the medical history. Petitioner continues to complain of pain, locking and instability of the knee and would like to proceed with surgery under his own insurance (PX 9). Surgery was performed on December 10, 2015. The operative report states that the procedure performed was a left knee arthroscopy with partial medial and lateral meniscectomy and partial chondroplasty of the patellofemoral joint and medial compartment (PX 9). Petitioner testified that he underwent follow up and physical therapy. He testified he had swelling and pain after surgery and a venogram was performed due to concerns about a blood clot. The study performed on December 21, 2015 at the order of Dr. Chams was negative for DVT (PX 9).

Dr. Cole authored an addendum report on February 23, 2016 in response to additional inquiries posed (RX 1). He states that Petitioner's history to him was that he slipped and fell, but also indicated that he twisted in the process with immediate onset of left knee pain. Dr. Cole notes the first report of injury indicates that he walked into a window. This is the history provided to Dr. Chams on July 30, 2015. He notes that Dr. Chams history is somewhat more consistent with what the claimant told him. Dr. Cole opines that twisting is a plausible mechanism to incite knee pain and bring on the need for care. Dr. Cole states that there is certainly some inconsistency in the exact description of the mechanism of injury. There seems to have been enough of an event to incite knee pain such that Petitioner seems to have arrived at a need for care as a result of this injury at work.

Petitioner underwent a Functional Capacity Evaluation at Creative Rehab on May 11, 2016. The report indicates that Petitioner's prior occupation would be sedentary physical demand level with the duties requiring walk, sit and drive. A valid test found Petitioner performed at the medium physical demand level with lifting maximum of 50 pounds, 25 pounds frequently and 10 pounds constantly (PX 13). Petitioner last saw Dr. Chams on May 24, 2016. The Petitioner continued to complain of knee pain. The physical examination noted no swelling or effusion. Range of motion was symmetrical at 0/140 degrees. The left knee is noted to have a positive patellar grind test/crepitus. Petitioner received an injection. Petitioner was placed at MMI and given permanent restrictions per the FCE (PX 10).

Petitioner testified that he is not working. Petitioner does not take pain medication. He does not like them. His knee is painful. In the morning, he is cautious with concerns his left knee will give out. He testified he limps. Walking is difficult. He uses a cart for golf instead of walking the course. He now sleeps on his side with a pillow between his legs. He is limited in doing his yard work. He does not feel comfortable on a ladder. The knee affects his weeding and hand mowing. He uses a utility cart to assist in his work.

Conclusions of Law

In support of the Arbitrator's decision with respect to (C) Accident, the Arbitrator finds as follows:

Petitioner is alleging an accidental injury on July 7, 2015. To obtain compensation under the Act, a claimant must show, by a preponderance of the evidence, that he suffered an injury that arose out of and in the course of his employment. An injury occurs "in the course of' employment when it occurs during employment and at a place where the claimant may reasonably perform employment duties, and while a claimant fulfills those duties or engages in some incidental employment duties. An injury arises out of one's employment if, at the time of the occurrence, the employee was performing acts he was instructed to perform by his employer, acts which

he had a common law or statutory duty to perform, or acts which the employee might reasonably be expected to perform incident to his assigned duties. A risk is incidental to the employment where it belongs to or is connected with what an employee has to do in fulfilling his duties.

Petitioner testified that on that date, he was looking for an employee to locate a vehicle and while in the BMW showroom, he walked into a glass wall. The accident was confirmed by the testimony of Curt Laczniak, John Getner and Tom Ehlen. Their testimony also confirms that Petitioner sustained injuries when he struck the wall. Petitioner has provided consistent reporting to Respondent on July 14, 2015 and to all of his medical providers. Petitioner's testimony as to his duties is uncontested by Respondent. His accident occurred at a place where he was performing his duties and occurred during the performance of his duties and prerforming acts which he might reasonably be expected to perform incident to his assigned duties..

Based upon the record as a whole, the Arbitrator finds that Petitioner has proved by a preponderance of the evidence that he sustained accidental injuries arising out of and in the course of his employment on July 7, 2015.

In support of the Arbitrator's decision with respect to (F) Causal Connection, the Arbitrator finds as follows:

Based on the Arbitrator's finding with respect to Accident, the Arbitrator finds that Petitioner did sustain an accident arising out of and in the course of his employment when he walked into the glass wall on July 7, 2015. The evidence is uncontested and compelling that he injured his nose at that time. The dispute raised by Respondent is whether Petitioner's condition of ill being in the left knee is causally connected to this accident. Based upon the overwhelming preponderance of the evidence the Arbitrator finds this condition causally connected.

Petitioner admits to a significant prior history of physical injuries and complaints. He testified to a 1994 left knee surgery and surgery on his left leg in 2002 for a melanoma below the knee. He admitted to a 2005 back fusion, several previous broken noses and multiple cancer surgeries. This extensive history is provided to the medical providers as well. Petitioner testified credibly to his physical abilities and activities prior to the July 7, 2015 accident. He was working and performing his other activities at home without problem prior to the accident. Respondent presented no evidence of recent medical care to Petitioner's left knee or leg prior to the accident.

Petitioner testified that after the impact and his initial visit to the men's room, he then walked back to his office. He testified he was limping and his left knee felt irritated. His testimony was corroborated by John Getner and Tom Ehlen. Curt Laczniak testimony that he did not notice Petitioner limping during his brief observation of the Petitioner immediately after the impact is not inconsistent or persuasive that Petitioner did not injure his knee.

The Arbitrator does not find the one week delay in reporting the accident significant given Petitioner's embarrassment at his injury. The immediate reaction from Mr. Laczniak and Bob Geisheker confirm the embarrassing nature of the event, particularly given Petitioner's reputation for safety. When Petitioner reported the injury on July 14, 2015, both Mr. Coleman and Ms. Weaver confirmed the description of the accident, Petitioner's embarrassment at its occurring, and that Petitioner reported injuries to both the nose and left knee. Petitioner's treatment at Lake Forest Acute Care contains a consistent history of accident and notes findings in the left knee sufficient to suggest work restrictions and a recommendation for an MRI. Petitioner's history to

Dr. Chams is also consistent. Although Ms. Weaver testified that she received a telephone call from Petitioner on July 30, 2015 telling her he was putting on his socks and his knee popped, the Arbitrator finds Petitioner's explanation of that event persuasive and views this as a manifestation of the symptoms from the July 7, 2015 accident and not an intervening event.

A chain of events which demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability may be sufficient circumstantial evidence to prove a causal nexus between the accident and the employee's injury. The rationale justifying the use of the 'chain of events' analysis to demonstrate the existence of an injury would also support its use to demonstrate an aggravation of a preexisting injury.

In the present case, not only does the chain of events analysis produce a sufficient nexus to find causal connection of Petitioner's knee injury to the July 7, 2015 accident, but the medical opinions also support causation. The Lake Forest Acute Care records detail treatment related to the history of the July 7, 2015 accident. Dr. Chams records relate the condition to a work related accident on July 7, 2015. In his September 24, 2015 report, Dr. Cole also specifically finds causal connection of the knee injury and the need for surgery to the July 7, 2015 accident. Even in his addendum requested to address the history he recorded of a fall, Dr. Cole still opines that the twisting reported by Petitioner is a plausible mechanism to incite knee pain and bring on the need for care. Dr. Cole states that there seems to have been enough of an event to incite knee pain such that he seems to have arrived at a need for care as a result of this injury at work.

Based upon the record as a whole, the Arbitrator finds that Petitioner has proved by a preponderance of the evidence that he suffered injuries to the nose and left knee causally connected to the accidental injuries sustained on July 7, 2015.

In support of the Arbitrator's decision with respect to (J) Medical, the Arbitrator finds as follows:

Based upon the Arbitrator's findings with respect to Accident and Causal Connection, the Arbitrator finds that reasonable and necessary medical treatment for Petitioner's conditions of ill being to the nose and left knee are causally connected to the accidental injuries sustained on July 7, 2015. Petitioner testified he had no treatment for his nose. Petitioner submitted Petitioner's Exhibit 14 alleging medical bills for treatment to Petitioner left knee. Respondent's Exhibit 5 lists payments made by Respondent for treatment rendered. These payments are reflected in the balances listed on PX 14. Petitioner provided revised Medical Expense Summary with his proposed decision. There is no documentation of the analysis contained and the Arbitrator notes that with respect to the bill of Dr. Chams, the proposal is actually higher that the bill submitted. Further, Respondent has had no opportunity to address this proposal or address negotiated rate for the charges.Therefore, the Arbitrator does not give Petitioner's analysis any evidentiary value.

The Arbitrator has reviewed the Exhibits and notes that there are no records in evidence to support the bill of Athletico for treatment from April 7, 2016 through April 27, 2016. This bill is therefore denied. The remaining bills included in PX 14 are for treatment to the left knee supported by the medical records submitted, including:

Northwestern Medical Lake Forest Hospital	$1,402.00
Hawthorn Surgery Center	$10,920.00
Dr. Chams	$2,924.00

United Hospital System	$4,777.50
Dr. Pallin	$1,115.83
Dr. Lichtenberg	$1,350.00
Dr. Mendelson	$206.00
Creative Rehab	$1,174.08

Based upon the record as a whole, the Arbitrator finds that Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule, of $23,869.41 to the providers as listed above, as provided in Sections 8(a) and 8.2 of the Act.

In support of the Arbitrator's decision with respect to (K) Temporary Compensation, the Arbitrator finds as follows:

Based upon the Arbitrator's findings with respect to Accident and Causal Connection, the Arbitrator finds that Petitioner is entitled to temporary total compensation for the periods he was disabled as a result of the condition of ill being in his left knee. Petitioner has alleged entitlement to temporary total disability for the periods July 29, 2015 through August 12, 2015 and September 1, 2015 through May 24, 2016, totaling 40 weeks.

Petitioner was initially allowed to work with restrictions by Lake Forest Acute Care. Petitioner was taken off work by Dr. Chams on July 30, 2015. He was returned to full duty pending surgery on August 11, 2015. Petitioner is therefore entitled to temporary total disability benefits from July 30, 2015 through August 11, 2015, a period of 1 6/7 weeks.

Thereafter, Petitioner was again disabled by Dr. Chams beginning September 11, 2015 at Petitioner's request. The note indicates that light duty was offered, but the bathroom was hundreds of feet away. The evidence offered describing Petitioner's job duties and the multiple buildings in which he was required to work confirms the extensive walking required in his job. Dr. Cole confirms in his September 24, 2015 report that Petitioner is restricted to sedentary desk work. The Arbitrator finds that Petitioner was again disabled as of September 11, 2015. Petitioner remained off work and under the care of Dr. Chams until after the completion and review of the FCE and Dr. Chams finding Petitioner at Maximum Medical Improvement on May 24, 2016, an additional period of 36 5/7 weeks.

Based upon the record as a whole, the Arbitrator finds that Petitioner is entitled to a total of 38 4/7 weeks of temporary total disability for the periods from July 30, 2015 through August 11, 2015 and from September 11, 2015 through May 24, 2016 at the minimum rate in effect on the date of accident of $220.00 per week. Per the stipulation of the parties, Respondent shall be given a credit of $2,608.57 for temporary total disability benefits that have been paid.

In support of the Arbitrator's decision with respect to (L) Nature and Extent, the Arbitrator finds as follows:

Based upon the Arbitrator's findings with respect to Accident and Causal Connection, the Arbitrator has found that Petitioner sustained injuries to his nose and left knee as a result of the July 7, 2015 accident.

Petitioner testified that he has broken his nose on several prior occasions. His testimony and medical records state that it was crooked before the July 7, 2015 accident. He sought no medical treatment for his nose. Other that his statement that his nose was broken; there is no evidence that he suffered any fracture. The photos taken the same day as the accident depict only that his nose was scraped. They demonstrate no other injury. The Arbitrator finds that Petitioner has failed to prove any permanent partial disability as a result of the injury to his nose suffered on July 7, 2015.

With respect to Petitioner's left knee, Petitioner's date of accident was after September 1, 2011 and therefore the provisions of Section 8.1b of the Act are applicable to the assessment of partial permanent disability in this matter.

With regard to subsection (i) of §8.1b(b), the Arbitrator notes that no permanent partial disability impairment report and/or opinion was submitted into evidence. The Arbitrator therefore gives no weight to this factor.

With regard to subsection (ii) of §8.1b(b), the occupation of the employee, the Arbitrator notes that the record reveals that Petitioner was retired from his employment with the State of Illinois and City of Waukegan. Petitioner also has experience in teaching. He was employed by Respondent part time as a manager of logistics and Red Carpet Valet at the time of the accident. Although he has not returned to work, this job was considered sedentary and the FCE found Petitioner could perform at the medium physical demand level. He is therefore able to return to work in his prior capacity as a result of said injury. Because of these facts, the Arbitrator therefore gives lesser weight to this factor.

With regard to subsection (iii) of §8.1b(b), the Arbitrator notes that Petitioner was 60 years old at the time of the accident. This would make Petitioner an older worker. Petitioner had previously retired from his primary employment in safety. He was working part time for Respondent. While Petitioner has not returned to work, he provided no evidence of a job search since being released from medical care. Because of these facts, the Arbitrator therefore gives lesser weight to this factor.

With regard to subsection (iv) of §8.1b(b), Petitioner's future earnings capacity, the Arbitrator notes Petitioner had previously retired from his primary employment in safety. He was working part time for Respondent and has not returned to work or provided any evidence of a job search since being released from medical care. The evidence does not prove that any effect on Petitioner's earning was caused by the work accident. Because of these facts, the Arbitrator therefore gives lesser weight to this factor.

With regard to subsection (v) of §8.1b(b), evidence of disability corroborated by the treating medical records, the Arbitrator notes that Petitioner suffered an injury to his left knee requiring left knee arthroscopy with partial medial and lateral meniscectomy and partial chondroplasty of the patellofemoral joint and medial compartment. The FCE released him with restrictions in the medium physical capacity level. While Petitioner advanced significant subjective complaints at trial and outlined the limitations he now experiences in his activities of daily living, hobbies and gardening, the May 24, 2016 notes from Dr. Chams records only complaints of soreness. No swelling or effusion is found and full range of motion. Petitioner does have crepitus. He received an injection and was released to work within the FCE restrictions. Because of these facts, the Arbitrator therefore gives greater weight to this factor, noting the restrictions of the FCE, the subjective limitations testified to by Petitioner, but also the limited objective findings noted by Dr. Chams and the release from care in May, 2016.

Based on the above factors, and the record taken as a whole, the Arbitrator finds that Petitioner sustained permanent partial disability to the extent of 20% loss of use of the Left Leg pursuant to §8(e)12 of the Act.

In support of the Arbitrator's decision with respect to (M) Penalties, the Arbitrator finds as follows:

Petitioner has filed a Penalty Petition seeking penalties under Sections 19(l) and 19(k) of the Act and attorneys fees pursuant to Section 16 of the Act (PX 16).

Penalties imposed under section 19(l) are in the nature of a late fee. The award of section 19(l) penalties is mandatory if the payment is late, for whatever reason, and the employer or its carrier cannot show an adequate justification for the delay. The standard for determining whether an employer has good and just cause for a delay in payment is defined in terms of reasonableness. The employer bears the burden of justifying the delay, and its justification is sufficient only if a reasonable person in the employer's position would have believed the delay was justified.

Respondent paid timely temporary compensation and medical bills only through August 11, 2015. Thereafter, benefits were stopped pending the receipt of the Section 12 report from Dr. Cole. The Arbitrator finds that this delay was reasonable. But upon receipt of the report which found causal connection and surgery as a reasonable and necessary course of care, benefits were not initiated despite Petitioner's October 30, 2015 demand for medical authorization and reinstatement of temporary total disability. The case was delayed to obtain the addendum report from Dr. Cole, but even this report did not deny causal connection. The Arbitrator finds no reasonable basis to deny benefits after delivery to Petitioner's counsel of Dr. Cole's opinions on October 30, 2015. Petitioner is entitled to Section 19(l) penalties of $30.00 per day from October 30, 2015 through the date of trial on June 22, 2016, a period of 237 days totaling $7,110.00.

The standard for awarding penalties and attorney fees under sections 19(k) and 16 is higher than the standard for awarding penalties under section 19(l) because sections 19(k) and (16) require more than an "unreasonable delay" in payment of benefits. For the award of penalties and attorney fees under sections 19(k) and 16, it is not enough for the claimant to show that the employer simply failed, neglected, or refused to make payment or unreasonably delayed payment without good and just cause. Instead, penalties and attorney fees under sections 19(k) and 16 are intended to address situations where there is not only delay, but the delay is deliberate or the result of bad faith or improper purpose. In addition, while section 19(l) penalties are mandatory, the imposition of penalties and attorney fees under sections 19(k) and 16 is discretionary. In the present case, the Arbitrator finds that Respondent engaged in deliberate delay despite the accumulated evidence clearly demonstrating that Petitioner sustained the accident in question, that the condition of ill being in the left knee was causally connected and that the proposed medical treatment including surgery was reasonable and necessary.

While there may have been initial questions raised in this matter, Respondent's own witnesses confirm that the Petitioner struck the glass wall. He was limping and reported the knee injury within days of the accident. The medical histories are completely consistent as to the mechanism of injury. Any question on this matter was put to rest months before trial during evidence depositions of the co employees taken in December, 2015. More damning, Respondent's own Section 12 examination found the left knee condition causally connected and found the surgery reasonable and necessary. While there was

never any uncertainty as to the Petitioner's statements as to how the injury occurred, Respondent maintained its denial based upon an erroneous history listed in Dr. Cole's report.

During trial evidence was introduced concerning a prior knee injury and surgery. No medical evidence of this prior treatment was offered and Dr. Cole noted this prior condition in his initial report, but still provided an opinion finding causation to the July 7, 2015 accident. Respondent also presented testimony from Ms. Weaver concerning her conversation with Petitioner concerning increased symptoms on July 30, 2015 at home. But Dr. Cole was never presented any question concerning whether this incident would impact his causation opinion and provided an addendum report reasserting his opinion of causal connection to the work injury.

Even after receiving the addendum report which continued to relate Petitioner's need for surgery to the July 7, 2015 work accident, Respondent continued to refuse benefits, despite not one shred of evidence to support the denial from its own employees, the treating medical records or their own evaluating physician. As a result of this unsupported intransigence, Petitioner was unable to obtain medical treatment for months and was without benefits for almost a year. Such delay reaches the level of deliberate and bad faith.

The unpaid temporary total disability is $5,877.14 ($8485.71-$2608.57). The unpaid medical is $23,869.41. Total unpaid benefits owing therefore total $29,746.55.

Based upon the record as a whole, the Arbitrator finds that Petitioner is entitled to attorneys fees of $5,949.31 (20% of $29,746.55), as provided in Section 16 of the Act; $14,873.28 (50% of $29,746.55), as provided in Section 19(k) of the Act; and $7,110.00, as provided in Section 19(l) of the Act.

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Kevin Jones,
Petitioner,

vs.

No: 07 WC 4399; previously consolidated with 12 WC 07237

Southwest Airlines Company,
Respondent.

ORDER

This matter comes before the Commission on Petitioner's Amended Notice of Motion, filed November 30, 2015. No motion, petition other request for relief was filed with the Notice of Motion. Hearings were held in Chicago before Commissioner Luskin on October 17, 2016 and August 15, 2017. Both parties were represented by counsel and a record was taken.

In Petitioner's submission captioned, "Memorandum of Decision of Commissioner," filed herein in lieu of a brief, he now asks the Commission to: (1) order Respondent pay $53,123.10 in medical bills from Advocate Christ Hospital and Prompt Medical Transport, and (2) find Petitioner entitled to temporary total disability benefits for 116-2/7 weeks at a rate of $591.77, from March 26, 2012 through June 20, 2014.

Petitioner sustained two separate injuries to his left knee while working for Respondent Southwest Airlines Company: on August 30, 2005 (07 WC 4399), he fell from a broken ladder; and on January 2, 2012 (12 WC 7237), he slipped and fell while exiting a van. Following a nature and extent hearing for his first accident (07 WC 4399), the Arbitrator awarded Petitioner 27½% loss of use of left leg pursuant to §8(e) of the Act, in a decision dated March 7, 2011. Neither party appealed that decision, which then became a final order. On May 25, 2012, Petitioner then filed, in connection with his first claim, a, "Motion Pursuant to Section 8(a) of the Workers' Compensation Act," in which he sought authorization for a total knee replacement recommended by his treating physician.

Petitioner did undergo left total knee replacement surgery on July 24, 2012. Thereafter, in September and October 2012, he proceeded to arbitration hearing on his second claim, 12 WC 7237. In that claim, Petitioner alleged that his knee surgery was also causally related to his January 2, 2012 accident. A different Arbitrator entered a decision in that claim on May 29, 2013, finding it was not. That Arbitrator denied all benefits and found Petitioner's left knee condition at that time to have been the result of a pre-existing condition.

On June 11, 2013, Petitioner filed a Review of the Arbitrator's decision in 12 WC 7237. That Review was consolidated with Petitioner's §8(a) Petition from his first claim, 07 WC 4399, which was still pending before the Commission. In both claims, Petitioner argued his knee condition and need for a knee surgery were causally related. In each claim, he requested the Commission award him: medical expenses connected with his knee replacement surgery; related temporary total disability; penalties under §19(k) and §19(l), and attorney's fees under §16 of the Act.

On July 25, 2014, the Commission entered separate decisions. In its 14 IWCC 612 decision regarding Petitioner's §8(a) Petition from his first accident claim (07 WC 4399), the Commission granted the §8(a) Petition and ordered, "Respondent pay Petitioner the reasonable and necessary medical expenses related to his total knee replacement surgery." However, the Commission declined to award Petitioner temporary total disability benefits, penalties, or attorney's fees.

In the Commission's 14 IWCC 611 decision relating to Petitioner's second accident of January 2, 2012 (12 WC 7237), it affirmed and adopted the Arbitrator's decision finding no causal connection and denying all benefits. Neither party filed an appeal of that decision, which is now a final order.

The relief Petitioner is now seeking can only be awarded, if at all, in his first claim, 07 WC 4399, relating to his August 30, 2005 accident – the only claim in which the Commission (14 IWCC 612) found his knee condition and surgery to be related. Because the Commission previously found no causal connection between Petitioner's January 2, 2012 accident (12 WC 7237) and his knee condition and surgery, and because its July 25, 2014 decision in that case, 14 IWCC 611, is a final order, its finding of no causal connection for that claim is now res judicata, and Petitioner cannot now seek benefits related to that claim.

Medical Expenses:

Petitioner requests the Commission now find that Respondent, "failed to pay a $52,957.00 bill for Advocate Christ Hospital submitted as Petitioner's Exhibit 12 at the October 29, 2012 hearing," as well as a "$166.10 bill from Prompt Medical Transport," and order Respondent pay these bills. The latter bill was not offered into evidence at Petitioner's §8(a) Review hearing before Commissioner Donohoo on October 29, 2012; it was first offered at the Review hearing before Commissioner Luskin on August 15, 2017.

Because the $52,957.00 bill of Advocate Christ Hospital was a reasonable and necessary medical expense related to Petitioner's knee replacement surgery – which the Commission ordered Respondent pay in its 14 IWCC 612 decision (07 WC 4399) – Petitioner's current request for an order that Respondent pay it is essentially a request that the Commission enforce payment of its prior award dated July 25, 2014. This, the Commission has no jurisdiction to do.

The appellate court has held, *"Under the Act, the Commission has no power to enforce payment of its own award. [citation omitted.] Rather, the only method to enforce a final award of the Commission is in the circuit court pursuant to section 19(g) of the Act (820 ILCS 305/19(g) (West 2013))." Millennium Knickerbocker Hotel v. Guzman, 2017 IL App (1st) 161027WC, 76 N.E.3d 825.*

Regarding the $166.10 bill of Prompt Medical Transport, it was not offered into evidence at Petitioner's prior §8(a) hearing before the Commission. This is a new request. The Commission now finds, in addition to the fact that Petitioner never filed a new §8(a) Petition seeking payment of this bill, that he failed to prove this bill was related to his 2012 knee replacement surgery. While on its face this bill suggests it might be related to a wheelchair rental, that was never established by Petitioner's testimony at either of the two Review hearings before Commissioner Luskin. For these reasons, the Commission denies Petitioner's request for payment of the Prompt Medical Transport bill.

Temporary Total Disability:

The Commission finds Petitioner is not entitled to temporary total disability benefits under §8(a), §8(b), or §19(h) of the Act.

In seeking temporary total disability benefits from March 26, 2012 to June 20, 2014, Petitioner asserts that period of lost time was related to his knee condition and his July 24, 2012 surgery.

In finding Petitioner not entitled to TTD pursuant to §8(a) of the Act, the Commission first notes Petitioner filed no new §8(a) Petition after the one filed on May 25, 2012, in which the Commission previously declined to award Petitioner TTD benefits related to his ongoing left knee condition (see Commission decision in 14 IWCC 612, dated July 24, 2015). With regard to the propriety of the Commission awarding temporary total disability awards pursuant to §8(a), the appellate court has held that §8(a) of the Act governs medical expenses, but not TTD benefits. It has held there is no provision in §8(a) which provides for an award of temporary total disability benefits. *Curtis v. Illinois Workers' Compensation Comm'n, 2013 IL App (1st) 120976 WC; 987 N.E.2d 407 (1st Dist., 2013).*

In finding Petitioner not entitled to TTD pursuant to §8(b) of the Act, the Commission notes that Petitioner never filed a Petition for TTD benefits under that section. His November 30, 2015 Notice of Motion made no such request. The first time Petitioner

claimed he was seeking temporary total disability benefits *pursuant to §8(b) of the Act* was in his proposed Memorandum of Decision of Commissioner, filed on September 22, 2017. Even if that submission were considered a request under §8(b), it was not timely filed within 30 months of the final arbitration decision dated 3/15/11. The appellate court in *Curtis* also held that while §8(b) may not include a time limit to petition for additional TTD benefits, *"the plain meaning of §19(h) unambiguously does,"* and that Court found that ignoring the 30-month limitation period in §19(h) as it relates to TTD benefits would render that section meaningless. *(Id.)*

Finally, the Commission finds Petitioner not entitled to TTD benefits under §19(h) of the Act. Petitioner claims that due to changes in his disability, he requested TTD benefits pursuant to §19(h) on November 30, 2015, just sixteen months after the Commission's July 25, 2014 order, and "well within the time requirement of §19(h) of the Act." However, Petitioner never filed any petition or motion alleging a change in his disability pursuant to §19(h) on November 30, 2015. The only document he filed, a Notice of Motion, omitted a description of the relief he was seeking. The Commission will not speculate as to this. The Commission finds Petitioner's November 30, 2015 Notice of Motion was insufficient to serve as a request for relief under §19(h) of the Act.

IT IS THEREFORE ORDERED BY THE COMMISSION that Petitioner's requests that Respondent pay $53,123.10 in medical bills from Advocate Christ Hospital and Prompt Medical Transport, and award him 116-2/7 weeks of temporary total disability benefits from March 26, 2012 through June 20, 2014, are denied.

DATED: FEB 14 2018

Joshua D. Luskin

Charles J. DeVriendt

L. Elizabeth Coppoletti

o-01/17/18
jdl/mcp
68

ILLINOIS WORKERS' COMPENSATION COMMISSION

Illinois Workers' Compensation Commission, Insurance Compliance Division,	)	
Petitioner,	)	No. 14 INC 97
v.	)	
Roger Gates Individually and as President Of Gates Painting & Drywall, Inc.	)	
Respondent.	)	

ORDER

This matter, after oral request by the Petitioner, The Illinois Workers' Compensation Commission – Insurance Compliance Division, by and through its attorney, the Office of the Illinois Attorney General, is dismissed. The Office of the Attorney General has advised this Commission it no longer seeks to proceed in this matter against Respondents, as this matter has settled.

Commissioner Charles DeVriendt

Dated: 2-2-18

FEB 8 – 2018

STATE OF ILLINOIS)
) SS.
COUNTY OF WILL)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

TIMOTHY YEATES,

Petitioner,

vs. NO: 13 WC 11790

REINHART FOOD SERVICES,

Respondent.

ORDER

This cause comes before the Commission on a request for adjudication of a Petition for Fees under Section 16 of the Act, which was originally filed on February 25, 2014. The motion was heard by Commissioner DeVriendt on October 20, 2017 and December 1, 2017, and a record was made.

The claimant originally retained the law firm of McCready, Garcia, & Leet, P.C. in April 2013 to represent him in his workers' compensation claim. Once commissioned to represent the claimant, attorney Edwin Reyes handled the file. On October 1, 2013, Reyes received a $50,000.00 offer from the insurance company and Reyes advised claimant to consider it since it was early in the case and surgery might not be needed. Reyes' fee from this offer would be $10,000.00. Claimant met with Horwitz & Horwitz on October 18, 2013. In letters dated that same day, claimant and Horwitz advised Reyes that Horwitz was now retained as claimant's attorney. 10/20/17 Tr., Ex.4 and 5. A Stipulation to Substitute Attorneys was signed by Reyes on November 19, 2013, and it was filed on November 26th. Id., Ex.7.

Claimant subsequently underwent a cervical fusion and treatment for the shoulder and carpal tunnel region. A settlement contract was approved by Arbitrator Ory on August 26, 2017, for $150,000.00 with attorney's fees of $30,000.00. Id., Ex.11. Reyes filed another Petition for Fees on September 7, 2017, and negotiations began between the attorneys regarding the settlement of the fee petition.

Based on the first offer to claimant of $50,000.00, Reyes felt he was entitled to a full 20% fee of $10,000.00. Horwitz offered $2,500.00, which Reyes rejected. Reyes prepared an

itemization of time spent on this case on a *quantum meruit* basis, which reflects 13.1 hours worked at $475.00 per hour. 12/1/17 Tr.; Px1.

Attorney Reyes is well known to the Commissioner on various matters over the last fourteen years. The Commissioner finds Reyes to be highly competent in handling cases. However, the Commissioner will not allow a $475.00 rate on a *quantum meruit* basis in this case. Based on the facts adduced from both hearings, the Commissioner finds $300.00 per hour to be a more equitable hourly fee in this case. The Commissioner has carefully reviewed the hourly fee record, which totals 13.1 hours, and finds this to be very reasonable for this case. The Commissioner orders payment from Horwitz and Horwitz to McCready, Garcia & Leet, P.C. in the amount of $3,930.00 ($300 per hour x 13.1 hours) to satisfy the Petition for Fees, as provided in Section 16 of the Act.

IT IS THEREFORE ORDERED that Horwitz and Horwitz shall pay $3,930.00 to McCready, Garcia & Leet, P.C. for the reasonable attorney's fees earned by Edwin Reyes in this case.

The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: FEB 5 - 2018

Charles J. DeVriendt

CJD/se
49

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

ANGEL BLANCO,

Petitioner,

vs. NO: 09 WC 24303

LAKE FOREST PRESERVE DISTRICT,

Respondent.

ORDER

This matter comes before Commissioner Michael J. Brennan pursuant to Petitioner's Petition for Penalties, which was partially heard and continued to this date, and the parties now presenting their "Stipulation" (captioned as an Agreed Order) a copy of which is attached hereto and made a part hereto as Exhibit "A" on the continued hearing date of January 31, 2018.

Per the Stipulation, the parties have agreed to the following:

1) That Petitioner's attorney agrees to withdraw any and all pending Motions for Penalties and Fees before the Illinois Workers' Compensation Commission;

2) That Petitioner represents that all proper payments have been made on the Appellate Court Order relative to the captioned matter, dated December 23, 2016;

3) That Respondent waives any and all overpayments in this matter; and,

4) That Respondent will tender to Petitioner a draft in the amount of $3,500.00.

IT IS THE ORDER OF THE COMMISSION:

1) That based upon the above referenced stipulation of the parties, Petitioner's Penalty Petition be and it is hereby Dismissed.

DATED: FEB 1 - 2018
MJB/tdm
1-31-18
052

Michael J. Brennan

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

BEFORE THE ILLINOIS WORKERS' COMPENSATON COMMISSION

ANGEL BLANCO,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**No.** ~~16 WC 16277~~ 09 WC 24303
	)	
LAKE FOREST PRESERVE DISTRICT,	)	
	)	
Respondent.	)	

AGREED ORDER

NOW COME the parties, by and through their respective attorneys, and represent to this Honorable Court that the parties have come to an agreement as follows:

1. Petitioner's attorney withdraws any and all pending Motions for Penalties and Fees before the Illinois Workers' Compensation Commission.
2. Petitioner represents that all proper payments have been made on Appellate Court Order dated 12/23/16.
3. Respondent waives any and all overpayments in this matter.
4. Respondent will tender to Petitioner a draft in the amount of $3,500.00.

Respectfully submitted,

Kisa P. Sthankiya,
Attorney for Respondent,
Lake County Forest Preserve District

James Ridge,
Attorney for Petitioner,
Angel Blanco

Exhibit "A"

ILLINOIS WORKERS' COMPENSATION COMMISSION

Illinois Workers' Compensation Commission, Insurance Compliance Division,	)	
Petitioner,	)	No. 12 INC 230
v.	)	
Jose Angel Martinez Meza Indv. & Pres., J Jesus Martinez aka Jesus Martinez Ind. & Secretary, Martinez Banquet Hall.	)	
Respondent.	)	

ORDER

This matter, after oral request by the Petitioner, The Illinois Workers' Compensation Commission – Insurance Compliance Division, by and through its attorney, the Office of the Illinois Attorney General, is dismissed. The Office of the Attorney General has advised this Commission it no longer seeks to proceed in this matter against Respondents, as this matter has settled.

Charles J. DeVriendt

Commissioner Charles DeVriendt

Dated: 2-1-18