

**KWORCC Select Claims Report**

**Presented May 17, 2018**

**CLAIM SUMMARY-Reserve Advisory**

**Employer:** Ellis County

**Claim No.:** 18716375

**Employee Age:** 55

**AWW:** \$N/A

**Attorneys:**

**Adjuster:** Amanda Chamberland

**Date of Injury:** 4/10/2018

**Job Description:** VFF

**Updated:** 5/9/2018

**TTD Rate:** \$630 Max, statutory

**Employer:**

	<b>Medical</b>	<b>Indemnity</b>	<b>Expense</b>	<b>Total</b>
<b>Reserves</b>	\$32,286	\$10,867.50	\$6,957.20	\$50,110.70
<b>Amount Paid</b>	\$0	\$0	\$0	\$0
<b>Outstanding</b>	\$32,286	\$10,867.50	\$6,957.20	\$50,110.70

**Accident Description/Nature of Injury:**

- There was a lower walkway behind the cab of the truck where a water hose was hooked up and claimant was using the hose to fight fire; there was a gate enclosing said walkway, but the latch was not secured and when turned and leaned, the gate had opened and claimant fell approximately 5 feet to the ground, onto his left shoulder. Claimant experienced immediate pain, reported to Commander who sent him to the Emergency Room.

**Investigation/Compensability**

- Employee was in the course and scope of his volunteer work.
- 5 years ago, had surgery to left shoulder, potential off-set.

**Medical Management**

- The claimant was treated at the ER advised was a rotator cuff injury, offered pain medicine, but declined. Instructed to take it easy until could get in for the Orthopedic referral.
- Claimant indicated treatment for prior left shoulder problem by Dr. Harbin. Because we are familiar with Harbin at Salina Ortho – we suggested he return to Harbin for this injury and Claimant concurs.

**Periods of Disability**

- Claimant is owner and operator of Smokey Hill Meat Processing in Victoria, Kansas – he is able to limit what he does to protect the shoulder, so no lost time at this juncture;
- If should is torn and needs surgery, anticipate 6 weeks of Temporary Total.

**Permanent Partial Impairment/Permanent Disability**

- Reserves set for likely shoulder repair and 5% disability to the shoulder. Will ask Dr. Harbin to distinguish claimant's preexisting condition in contrast to current trauma, for potential credit.

**Subrogation/Other Issues**

- There is no third party liable for the event and no subrogation will be pursued. The gate/walkway was known, it was claimant's misjudgment as to whether the gate was latched.

**Plan of Action:**

- Next recheck is pending MRI and appointment with Dr. Harbin. Under go treatment, applicable.
- Strive for full and final closure of the claim.

**CLAIM SUMMARY**  
**Increased Settlement Authority Requested**

**Employer: Harvey County**

**Claim No.: 2016074850**

**Employee Age: 18**

**AWW: \$ 615.00**

**Attorneys: Employee: Lawrence M. Gurney**

**Adjuster: Amanda Chamberland**

**Date of Injury: 09/24/2016**

**Job Description: Jailer**

**Updated: 5/9/2018**

**TTD Rate: \$ 410.12**

**Employer: Ron Laskowski**

	Medical	Indemnity	Expense	Total
Reserves	\$10,000.00	\$150,000.00	\$33,000	\$193,000.00
Amount Paid	\$6,245.43	\$0	\$16,118.17	\$16,881.83
Outstanding	\$3,754.57	\$150,000.00	\$16,881.83	\$170,636.40

**Accident Description/Nature of Injury:**

- Employee fell for unknown reason and hit head on concrete. He was shining a light on wound of inmate and fell backward.
- Claimant seeking coverage under the workers compensation act, based upon fainting reaction to the blood/trauma. Claimant alleges permanent brain damage because of the fall. Claimant is unemployed.

**Investigation/Compensability**

- Interviewed multiple Harvey County personnel and claimant's family. Procured numerous opinions from medical experts' fall was not work-related. Burden of proof has not been established to show causal relationship between on the job duties and injury.

**Medical Management**

- Claimant underwent extensive medical treatment: He was seen at Newton Medical Center then Via Christi in Wichita, KS; next to Madonna Rehab Hospital in Nebraska. We have not authorized nor paid for any medical treatment.

**Periods of Disability**

- Claimant has not returned to work, although he is volunteering for City of Gava Ambulance and is in vocational school (despite alleged disability).

**Permanent Partial Impairment/Permanent Disability**

- Dr. Grundmeyer (one of the treating physicians) opines that Claimant fainted due to the sight of inmate's ear wound (vasovagal reaction). We have developed extensive medical evidence establishing that claimant's fall was not work-related.
- Kansas Court of Appeals in *Stepter v. LKQ Corp* held denial on basis of personal risk, neutral risk or idiopathic fall is an affirmative defense, with the burden shifting to employer that the fall was NOT due to work risk. Kansas Supreme Court currently considering *Graber v. Dillon Companies* that touches on this as Court of Appeals in that case held unexplained fall was compensable due to conditions of employment in which it occurred. We could lose leverage with an unfavorable result from the Supreme Court.

**Subrogation/Other Issues**

- Kcamp has been notified as general liability carrier, potential civil suit. They have hired Allen Glendenning to investigate exposure.

**Plan of Action:**

- **If deemed compensable, KWORCC exposure is \$750,000 and potential more medical later if Excess layer of \$3,000,000 is exceeded.**
- **To resolve all outstanding issues on a denial basis, request increase settlement authority from \$150,000 to \$200,000, full and final.**
- **One major sticking point is that Claimant is being pursued by medical providers. Settlement will need to include enough to satisfy the vendors. After deep investigation, current outstanding medical is believed to be \$102,869.92, of which the two largest bills are Madonna Rehab (\$56,800.00) and Via Christi (\$31,100.00). Counsel is negotiating with providers with some commitments obtained for substantial reduction of bills. Madonna Rehab, however, cannot commit until it receives an official denial of the work comp claim at which time they should receive another \$12,000.00 from health insurance. That will leave another \$44,000.00 outstanding for which claimant was reportedly uninsured. At that point, Madonna Rehab should be willing to compromise the balance. To insure an overall settlement of the claim, additional settlement authority to \$200,000.00 is requested in the event this bill becomes problematic.**
- **Fortunately, the media circus surrounding this claim has ended. In addition, the claimant now is being counseled only by his mother and his attorney (as opposed to his extended family) which improves the odds of settlement.**

## CLAIM SUMMARY

Employer: Jefferson County  
Claim No.: 18717783  
Employee Age: 49  
AWW: \$944.39  
Attorney: Employee: N/A  
Adjuster: Amanda Chamberland

Date of Injury: 4/20/2018  
Job Description: Technical Foreman  
Updated: 5/9/2018  
TTD Rate: \$629.62  
Employer: N/A

	Medical	Indemnity	Expense	Total
Reserves	\$34,500.00	\$6470.38	\$10,400.00	\$51,370.38
Amount Paid	\$1133.00	\$629.62	\$0.00	\$1762.62
Outstanding	\$33,367.00	\$5840.76	\$10,400.00	\$49,607.76

### Accident Description/Nature of Injury:

Claimant was changing a truck tire and when he yanked the tire to take it off, the jack slipped and pinned him under the vehicle. Claimant was able to lift and/or squeeze himself out from under the vehicle and call an ambulance. Claimant was in an area where cell phone service was limited.

### Investigation/Compensability

- Claimant was in the course and scope of his employment at the time of injury. The injury was acute, not questioned and no pre-existing applies. Claim determined compensable.

### Medical Management

- Claimant was transported via ambulance to Stormont Vail Hospital. He was seen in the ER Department by Dr. Kenneth Boyd and was admitted to the hospital overnight. Claimant was diagnosed with left side cracked ribs, left shoulder abrasion and right side rib area contusion. Claimant was discharged from the hospital on 4/21/18 and was advised to remain off work for 1 week. If still in pain at the end of 1 week, claimant was advised to follow back up with Dr. Boyd for MRI. If no pain, claimant was to follow up with his family physician. Claimant was doing well so was seen by his family physician, Dr. Rizza on 5/1/18. Claimant was released to light duty (4 hours per day) at that time. Claimant is scheduled for follow-up with Dr. Rizza on 5/15/18.

### Periods of Disability

- Claimant was paid \$629.62 in TTD benefits for the period of 4/28/18-5/4/18. Claimant was able to work 5/2/18 & 5/3/18, was off work on 5/4/18 due to soreness. Claimant returned to regular work on 5/7/18 and seems to be doing okay.

### Permanent Partial Impairment/Permanent Disability

- 0% PPI anticipated in light of diagnosis

### Subrogation/Other Issues: N/A

### Plan of Action:

- Monitor medical documentation for any changes to on-going recovery or treatment plan.
- Review claim for applicability of TPD benefits for 5/2/18 – 5/4/18 vs. overpayment.
- Monitor work status.
- MMI anticipated in the next 60 – 90 days.

## CLAIM SUMMARY

Employer: Metropolitan Topeka Airport Authority  
Claim No.: 18717977  
Employee Age: 61  
AWW: \$976.90  
Attorney: Employee: N/A  
Adjuster: Amanda Chamberland

Date of Injury: 4/19/2018  
Job Description: Maintenance Technician  
Updated: 5/7/2018  
TTD Rate: \$630.00  
Employer: N/A

	Medical	Indemnity	Expense	Total
Reserves	\$66,000.00	\$11,300.00	\$16,700.00	\$94,000.00
Amount Paid	\$0.00	\$630.00	\$0.00	\$630.00
Outstanding	\$66,000.00	\$10,670.00	\$16,700	\$93,370.00

### Accident Description/Nature of Injury:

- Claimant was on a 10 foot ladder cutting tree branches with a chain saw when the top of a cut branch hit the ground which resulted in the larger end flinging back up and knocking the claimant off of the ladder. Claimant says fell approximately 8 feet his left heel/ankle taking the brunt -- he did not hit his head nor lose consciousness.

### Investigation/Compensability

- Claimant was in the course and scope of his employment at the time of injury. The injury was acute, not questioned and no pre-existing applies. Claim determined compensable.

### Medical Management

- Claimant was taken via ambulance to University of Kansas, St. Francis Campus, Medical Center. Claimant was seen and treated by Dr. Ken Teter, Orthopedic Surgeon. Claimant was diagnosed with multiple broken bones in left heel and left ankle fractured. Claimant underwent emergent surgery which included pinning of the left heel bone and left ankle fracture repair. Claimant was in-patient in the hospital from 4/19/18 – 4/21/18. Claimant is single and lives alone therefore; Dr. Teter prescribed in-home rehab and a Nurse Case Manager (NCM) to check in with him. He is currently getting in-home rehab 2 x a week and the NCM evaluates him once a week. Will follow-up with Dr. Teter 5/31. An extensive course of physical therapy is anticipated once claimant can bear weight on the extremity.
- Claimant has been fitted with a full shell air walker (CAM Boot) and is using crutches and a knee scooter to get around. Claimant was released to return to work (light duty / desk work only) effective 5/3/18. Restrictions include: No weight bearing on left lower extremity; must be able to wear CAM boot, ice and elevate left ankle frequently while working. Employer not able to accommodate restrictions.

### Periods of Disability

- Employee has been paid \$1890.00 in TTD benefits for the period of 4/20/18-5/10/18. Next TTD benefit payment is scheduled to be released on 5/15/18 and will cover the benefit period of 5/11/18 – 5/17/18 (\$630.00). Claimant remains off work at this time; TTD benefits are on-going.

### Permanent Partial Impairment/Permanent Disability

- Reserves anticipate a 5 – 6% PPI.

Subrogation/Other Issues: N/A

### Plan of Action:

- Continue to monitor claim file for receipt of updated medical documentation supporting either on-going TTD benefits or return to work in some capacity.
- MMI anticipated in 90 – 120 days.

## CLAIM SUMMARY

Employer: Osage County  
Claim No.: 18716157  
Employee Age: 53  
AWW: \$708.09  
Attorneys: Employee: N/A  
Adjuster: Amanda Chamberland

Date of Injury: 4/6/2018  
Job Description: Law Enforcement Officer  
Updated: 5/7/2018  
TTD Rate: \$472.08  
Employer: Ronald J. Laskowski

	Medical	Indemnity	Expense	Total
Reserves	\$23,512.00	\$18,572.24	\$10,702.40	\$52,786.64
Amount Paid	\$0.00	\$472.08	\$0.00	\$472.08
Outstanding	\$23,512.00	\$18,100.16	\$10,702.40	\$52,314.56

### Accident Description/Nature of Injury:

- Claimant involved in high speed chase around midnight on a dirt road. The dirt made it hard to see when driving. Claimant approached T intersection but could not clearly see it and hit a berm or embankment causing him to be airborne for an undetermined amount of feet and the vehicle landed in a pasture. The vehicle caught fire but he was able to remove himself before it became engulfed in flames and was a total loss. Original injury reported as a back fracture and possible concussion.

### Investigation/Compensability

- Claimant was wearing his seatbelt, in the course and scope of his employment and suffered an acute event. This is a compensable claim. Claimant had low back injury (5/5/17) and evidence developing that considerable degree of permanent damage attributed to prior claim.

### Medical Management

- The claimant was taken by ambulance to Stormont Vail ER in Topeka and told that a brace had been ordered for him and referred to neurosurgeon, Kelli Crabtree Willis, associated with their facility. His supervisor sent him to the designated doctor, Dr. Swanson, at Ransom Occ. Health where he was diagnosed with T12 compression fracture and told likely non-surgical, to use brace and physical therapy (scheduled at Gollier PT).
- Claimant was seen by Nurse Practitioner at Stormont Vail on 4/26/18. No records yet, however, per the provider's office, T12 fracture is result of prior work injury and his current condition of low back pain should resolve over the next 4-6 weeks. He was seen by Dr. Swanson on 5/7/18 and released to full duty. Medical records related to this visit have not yet been received. He is scheduled to follow up on 5/21/18 at 1:30pm.

### Periods of Disability

- Employee has been paid \$472.08 in TTD benefits for the period of 4/14/18-4/20/18. Adjuster is confirming date the employee returned to work light duty to determine any additional TTD days owed as well as whether any wage loss is also owed. Employee has been released to full duty as of 5/7/18.

### Permanent Partial Impairment/Permanent Disability

- Reserves anticipate 5% impairment to the body as a whole, plus future medical closure for settlement. This is based on the diagnosis of T12 fracture, which is now reported to be directly related to the 2017 work injury.

### Subrogation/Other Issues

- No restitution or subrogation because suspect did not cause the crash nor assault claimant; no other vehicles in crash.
- Claimant's prior claim of 5/5/2017 is currently being litigated.

**Plan of Action:**

- **Follow up for receipt of updated medical and work status ensure appropriate indemnity benefits have been paid.**
- **Anticipate MMI in the next 30 days.**
- **Confirm no litigation issues on this claim prior to closure. Anticipate closure in 45-60 days.**