

**KWORCC Select Claims Reports**

**Presented July 25, 2019**



## Claim Summary – Settlement Request

Employer:	Jewell County	Date of Injury:	10/14/2015
Claim No.:	2015072337	Job Description:	Equipment Operator
Employee Age:	61	Updated:	7/15/2019
AWW:	588.75	TTD Rate:	388.92
Attorneys:	Thomas Pyle	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
<b>Reserves:</b>	\$155,848.92	\$ 151,776.60	\$ 0.00	\$ 12,090.00	\$ 6,357.33	\$ 326,072.85
<b>Amount Paid:</b>	\$147,647.51	\$ 31,776.60	\$ 0.00	\$ 415.00	\$ 2,680.65	\$ 182,519.76
<b>Outstanding:</b>	\$ 8,201.41	\$ 120,000.00	\$ 0.00	\$ 11,675.00	\$ 3,676.68	\$ 143,553.09

**Accident Description / Nature of Injury:**

- As claimant drove a blade runner to smash clods in the road, she was bounced about in the cab heavily injuring her lower back.

**Investigation / Compensability:**

- Employee was in the course and scope of her employment when the accident occurred.
- The prevailing factor was addressed both in 2015 and in again in 2018 and work was found to be the cause of her surgical needs.

**Medical Management:**

- The claimant was originally treated surgically in 2015 by Dr. Weimar with Abay Neuroscience and released in 2016 followed by a settlement with open medical in 2017. Since that time, she had a resurgence of pain in her lower back and legs with no new intervening event. The claimant was referred back to Dr. Weimar who found that the claimant required an L3-4 and L4-5 transforaminal lumbar interbody fusion. The surgery was authorized based on the prevailing factor opinion of Dr. Weimar. She has now been placed at maximum medical improvement with permanent work restrictions.

**Periods of Disability:**

- The claimant has permanent work restrictions which her employer can accommodate however she has refused to report to work.

**Permanent Partial Impairment / Permanent Disability:**

- The claimant received a previous general body impairment resulting in a prior agreed settlement of \$11,278.68
- She has been paid the equivalent of 35 weeks of temporary total compensation. If this claimant were to pursue a work disability award or permanent total disability award, each 1% of impairment would have a value of approximately \$2,409.50.
- The claimant has been paid a total of \$31,776.60 in TTD and PPD benefits to date. The claimant would have \$123,223.40 remaining available to her as against a max permanent total award. The claimant would have \$98,223.40 remaining available to her as against a max permanent partial disability award.

**Subrogation / Other Issues:**

- Claimant's counsel has argued that claimant had been constructively terminated because it took the County approximately four weeks to offer accommodated duty. In addition, they find that the accommodated duty offer which consists of a move to another department, change of pay and hours worked is retaliatory and discriminative in nature.
- The claimant will turn 62.5 years old on October 25, 2019. If the case is settled prior to October 25, 2019, arguably, Medicare's interest would not need to be considered. The claimant would be required to testify at a settlement hearing, however, that she does not intend to seek Social Security Disability benefits within 30 months of the settlement date.

**Plan of Action:**

- Counsel recommends that this case be settled on a full final basis with a voluntary resignation from the claimant. Such a settlement would terminate the claimant's rights to future medical care and treatment and any further review and modification rights.
- Settlement request is made to settle the claim, in its entirety for up to \$120,000.00



## Claim Summary – Settlement Request

Employer:	Lyon County	Date of Injury:	01/11/2006
Claim No.:	2006027028	Job Description:	Unemployed
Employee Age:	64	Updated:	7/15/2019
AWW:	415.14	TTD Rate:	276.76
Attorneys:	Matthew Bergmann	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
<b>Reserves:</b>	\$250,000.00	\$ 89,958.94	\$ 0.00	\$ 4,500.00	\$ 20,000.00	\$ 364,458.94
<b>Amount Paid:</b>	\$138,643.93	\$ 89,958.94	\$ 0.00	\$ 90.00	\$ 19,492.01	\$ 248,184.88
<b>Outstanding:</b>	\$111,356.07	\$ 0.00	\$ 0.00	\$ 4,410.00	\$ 507.99	\$ 116,274.06

**Accident Description / Nature of Injury:**

- The claimant was injured as she tripped over a co-worker’s foot while passing out food trays to inmates. She fell onto a metal rack and then the floor. She originally alleged injury to her right forearm, right elbow and lower back. She alleged further injury to her left shoulder in 2007 and in 2008 injury to her right shoulder. Ultimately she alleged psychological injury from all the injuries combined.

**Investigation / Compensability:**

- The former employee was in the course and scope of her employment for the first event. She was generally determined to be malingering however this was an old law claim, pre 2011 law change, and she was able to convince doctors and therefore the judge of treatment needs resulting in court ordered treatment.

**Medical Management:**

- The claimant’s back injury was found to be non-surgical however Dr. Do found her R shoulder injury to be surgical and repaired the same. She was eventually referred to ongoing pain management for her multiple complaints however it was found that her pain complaints increased with specific personal life problems and a psychological exam was ordered. The claimant was then court ordered to have ongoing psychological care which was found related to her work injuries. Recently an independent medical evaluation was performed by Dr. Aks who found her continued need for psychological treatment as unrelated to her original work events.

**Periods of Disability:**

- The claimant is no longer employed by the county and has been found disabled and on disability benefits since approximately 2012.

**Permanent Partial Impairment / Permanent Disability:**

- The claimant was found to have permanent restrictions, task loss and permanent injury to her body as a whole. Ultimately her claim was settled with open medical and review and mod in 2012 for \$84,500.00

**Subrogation / Other Issues:**

- Claimant is a Medicare beneficiary and a Medicare set aside will require CMS approval

**Plan of Action:**

- Request is made to fund a Medicare Set-Aside in a lump sum and consider a separate cash incentive up to \$35,000.00 to close all issues in this long-term case. This would also serve to resolve any outstanding issues regarding post-award attorney's fees. The claimant's counsel is currently alleging post-award attorney's fee of approximately \$2,700.00.



## Claim Summary – Reserve Advisory

Employer:	Republic County	Date of Injury:	06/20/2019
Claim No.:	19775989	Job Description:	Mechanic
Employee Age:	31	Updated:	7/15/2019
AWW:	643.62	TTD Rate:	429.10
Attorneys:	none	Employer:	none
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
<b>Reserves:</b>	\$272,000.00	\$ 58,582.00	\$ 0.00	\$ 500.00	\$ 40,750.00	\$ 371,832.00
<b>Amount Paid:</b>	\$ 353.16	\$ 858.20	\$ 0.00	\$ 0.00	\$ 15.00	\$ 1,226.36
<b>Outstanding:</b>	\$271,646.84	\$ 57,723.80	\$ 0.00	\$ 500.00	\$ 40,735.00	\$ 370,605.64

**Accident Description / Nature of Injury:**

- The employee slipped and fell as he was standing on a piece of equipment moldboard which had been wet from rain while replacing a window. As he fell he hit his right leg around the R shin area on metal and then landed with all his body weight on his top of his R ankle. He later was diagnosed with Compartment Syndrome from the muscle contusion.

**Investigation / Compensability:**

- The employee’s fall was witnessed but reportedly appeared minor at onset. He did not seek treatment until several days later and after he also had drove in a race as a racecar driver. Despite the intervening activities the claimant was not found to have any known intervening injuries and his description of injury and resulting development of the compartment syndrome was found to be consistent per doctor opinion. The claim is accepted as compensable.

**Medical Management:**

- The claimant was seen at Republic County Hospital and then transferred to Salina Regional Health Center where he had an emergency fasciotomy performed from his ankle to his right knee. He was released home after a hospital stay of more than a week. He is currently in active wound care and will likely require future skin grafts to the injured area.

**Periods of Disability:**

- The claimant is off of work and will likely remain off of work for up to 6 months as he heals and has subsequent skin grafts.

**Permanent Partial Impairment / Permanent Disability:**

- Although long term employment accommodation and disability is unknown, it is estimated that he will suffer a scheduled injury of up to 30% to the lower leg.

**Subrogation / Other Issues:** No Subrogation is applicable at this time nor other issues.

**Plan of Action:**

- A nurse case manager has been assigned to assist claimant with his multiple follow up appointments and ongoing medical care
- Once the claimant has completed his surgical needs we will work with his employer to return the claimant to a light duty position
- Ultimately, the claimant will be placed at MMI and we will attempt to settle his claim on a full and final basis



## Claim Summary – Settlement Request

Employer:	Stafford County	Date of Injury:	07/24/2017
Claim No.:	17679789	Job Description:	Operator/Laborer
Employee Age:	50	Updated:	7/15/2019
AWW:	793.08	TTD Rate:	528.74
Attorneys:	Charles Hess	Employer:	Ron Laskowski

Adjuster: Amanda Chamberland

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
<b>Reserves:</b>	\$191,000.00	\$ 84,517.32	\$ 0.00	\$ 4,750.00	\$ 11,500.00	\$ 291,767.32
<b>Amount Paid:</b>	\$ 92,918.35	\$ 11,793.73	\$ 0.00	\$ 283.09	\$ 1,585.01	\$ 106,580.18
<b>Outstanding:</b>	\$ 98,081.65	\$ 72,723.59	\$ 0.00	\$ 4,466.91	\$ 9,914.99	\$ 185,187.14

### Accident Description / Nature of Injury:

- As the employee drove a truck carrying oil the truck exited the roadway for an unknown cause resulting in a roll of the vehicle.

### Investigation / Compensability:

- Use of safety restraint was confirmed. Employee alleged mechanical failure although KCAMP investigation determined no mechanical issues. The possibility of cell phone usage or inattentiveness was questioned. It is possible the shift of the oil in the semi could have caused the pull of the vehicle to one side. Defense counsel was consulted and the claim has been determined to be compensable.

### Medical Management:

- The claimant received treatment for a right shoulder injury and clavicle fracture by Dr. Pollock in Wichita. He also sustained a third degree AC joint separation which is non-surgical at this time. He suffered facial, nasal and rib fractures which were healed non-operatively. He lost total vision in his right eye and sustained hearing loss to his right ear. He will need hearing aid replacements, yearly eye care and possible future care to the R extremity including further surgery.

### Periods of Disability:

- Employee received TTD and TPD wage loss benefits for approximately 22 weeks. He has been released to return to work regular duty however his employer changed his positions at work/job duties out of concern for his lack of vision in his right eye.

### Permanent Partial Impairment / Permanent Disability:

- The claimant has received ratings from Dr. Fevurly and Dr. Pratt with a split of the two under the 6<sup>th</sup> edition equaling \$46,349.05. If the 6<sup>th</sup> edition is found unconstitutional the 4<sup>th</sup> edition ratings would equal \$60,361.56.

### Subrogation / Other Issues:

- Subrogation cannot be pursued unless concrete evidence is shown, beyond claimant testimony, to demonstrate a mechanical failure.
- If future medical is left open it is estimated that his medical care would equate to over \$100,000. Deposition of the claimant was taken and counsel finds it unlikely he will want to close his future medical benefits.

**Plan of Action:**

- Counsel requests authority to pursue the below settlement options:

1. Agreed Running Award:

\$46,349.05 with all rights open including review and modification, no litigation.

2. Full and Final Settlement closing all issues taking into consideration all exposures:

\$100,000

3. Settlement of all issues except future medical:

\$60,000.00

\*note with all open medical options counsel will *attempt* to limit his future medical rights to his hearing and eye care only and/or set a future medical care time limit such as two years then auto term.