The 25% Safety Appliance/Rule Offset

The offset is found in section 440.09(5), which provides:

> "If injury is caused by the knowing refusal of the employee to use a safety appliance or observe a safety rule required by statute or lawfully adopted by the department, and brought prior to the accident to the employee's knowledge, or if injury is caused by the knowing refusal of the employee to use a safety appliance provided by the employer, the compensation is provided by this chapter shall be reduced 25%."

I. Appliance or rule required by statute or lawfully adopted by the department – In most cases this is going to be a seatbelt. The use of a seatbelt "required by statute." Although the statute says that the rule must be "brought prior to the accident to the employee's knowledge," there is no requirement to advise employees about laws that are subject to common knowledge. However, the employer can possibly waive the defense through acquiesce. That is, an employer that does not demand the use of seatbelts cannot claim entitlement to a 25% offset, or at least that's what Judge Sculco thinks. See *Griffin v. Southeast Personnel Leasing, Inc.*, OJCC #18-017224 (Orlando Dist. February 18, 2019). In that case, the claimant was operating a low speed vehicle that is subject to the seatbelt law and which had functioning seatbelts. Problem – the evidence established that the director of safety routinely drove the low speed vehicles without the use of seatbelts. The claimant testified that no one ever used the seatbelts even though the law required their use.

II. A safety appliance provided by the employer – These cases typically involve roofers, tree trimmers, etc. that have safety harnesses, but who never seem to want to wear them. We have to prove that the safety appliance was "provided" by the employer. We also have to demonstrate a "knowing refusal" to use it, which usually does not require a witness who heard the claimant say "I ain't using it." The test is whether the claimant consciously intended "to do the act which is violative of the statute." See *Gregory v. McKesson*, 54 So.2d 682, 686 (Fla. 1951). I recently won a case because we presented testimony from the roofing company that it was a "100% tie-off" job per contract and that no one was permitted on the roof unless they were tied-off at all times. The claimant admitted that he should have had it on, but he simply did not. See *Humphreys v. Southeast Personnel Leasing, Inc.*, OJCC #18-014448 (Sebastian Dist. February 25, 2019)

III. Causation – Do not forget that we have the burden of proof to establish that the failure to utilize the safety device caused injury. You cannot simply assume that because the claimant was tossed from the vehicle that the failure to utilize a seatbelt caused the injury. You cannot simply

assume that because the claimant fell off a roof his failure to be strapped to the roof caused his injury. You need medical testimony.

IV. The application of this statute to medical benefits –

The offset statute reads:

> "If injury is caused by the knowing refusal of the employee to use a safety appliance or observe a safety rule required by statute or lawfully adopted by the department, and brought prior to the accident to the employee's knowledge, or if injury is caused by the knowing refusal of the employee to use a safety appliance provided by the employer, **the compensation is provided by this chapter shall be reduced 25%**." Section 440.09(5), Fla. Stat.

"Compensation" is defined as:

> (7) "Compensation" means the money allowance payable to an employee or to his or her dependents as provided for in this chapter.

So, the question is, does the offset apply to medical benefits? No appellate case addresses the issue. I have only found one JCC order that allowed an E/C to assert the 25% offset against both indemnity and medical benefits, *Gonzalez-Itzep v. ALM Home Services*, OJCC #07-017331 (Gainesville Dist. May 7, 2008). I do think, however, that we have a great argument that it does apply to both medical and indemnity benefits.

While section 440.09(5) only references "compensation" and does not mention medical benefits, other appellate cases have ruled that the term "compensation" includes medical benefits notwithstanding the definition contained in the statute. See *Gustafson's Dairy, Inc. v. Phillips*, 656 So.2d 1396 (Fla. 1st DCA 1995):

> "The JCC noted that the definition of "compensation" in section 440.02(6) did not mention medical benefits. The JCC concluded that if the legislature had intended that both medical and "indemnity" benefits be denied under section 440.09(3), the legislature could have used the same terminology used in section 440.101. Because the legislature used different terms in the two statutory provisions, the JCC denied "indemnity" benefits but awarded medical benefits. To limit the term "compensation" in section 440.09 to disability benefits leads to illogical results." *Gustafson's Dairy v. Phillips*, 656 So. 2d 1386, 1388 (Fla. 1st DCA 1995).

See also, *United States Fire Ins. Co. v. Hackett*, 260 So.3d 532 (Fla. 1st DCA 2018), which addressed a petition for modification. Section 440.28, Fla. Stat. allows modification of "compensation" orders. The Court held that the term "compensation" included medical benefits:

> "Under the plain language of the statute, "any party in interest" may initiate review of a case for modification of an order. We have previously

> allowed this statute to extend to the provision of medical benefits. In *Camus v. Manatee County School Board*, 923 So. 2d 1266 (Fla. 1st DCA 2006), the claimant petitioned for additional attendant care hours as well as additional monetary compensation, and the E/C petitioned to reduce or eliminate the attendant care obligation based on a change in the claimant's condition. *Id*. at 1267. We reversed and remanded for the JCC to consider the testimony of claimant's treating physician. *Id*. at 1268. We accepted without question the E/C's petitioning to reduce or eliminate attendant care benefits under section 440.28." *United States Fire Ins. Co. v. Hackett*, 260 So. 3d 532 (Fla. 1st DCA 2018).

The argument actually makes a lot of sense. Why would the Legislature implement a statute that reduces only indemnity benefits when the claimant's refusal to utilize the safety device caused the need for lost wages AND medical care? The E/C must pay for both the indemnity benefits and the medical benefits and any 25% reduction should apply to both. Moreover, 440.09(5) references the "Chapter," which is the entirety of the Act, and not 440.15, which governs indemnity. Go for it.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
SEBASTIAN/MELBOURNE DISTRICT OFFICE

Jared Humphreys,
Employee/Claimant,

vs.

Southeast Personnel Leasing Inc./
Packard Claims Administration,
Employer/Carrier/Servicing Agent.

OJCC Case No. 18-014448RLD

Accident date: 10/25/2017

Judge: Robert L. Dietz

FINAL COMPENSATION ORDER

THIS CAUSE was heard before the undersigned in Sebastian, Indian River County, Florida on February 19, 2019. The Petition for Benefits (PFB) was filed on June 14, 2018 (Docket Number (DN) 1). Mediation occurred on October 10, 2018. The parties' Uniform Statewide Pretrial Stipulation was filed on October 10, 2018 (DN 22). The Claimant filed a Trial Memorandum on February 15, 2019 (DN 50). The Employer/Carrier filed a Trial Memorandum on February 15, 2019 (DN 49). James R. Spears, Esq. was present on behalf of the Claimant. William H. Rogner, Esq. was present on behalf of the Employer/Carrier.

The claims are for: 1) temporary total disability (TTD)/temporary partial disability (TPD) from October 25, 2017, and continuing; 2) penalties, interest, costs and attorney's fees.

The defenses were 1) all TTD/TPD from October 25, 2017, to present has been paid; 2) any delay in any TPD payments was due to the Claimant's admitted failure to submit DWC-19s; 3) the sole issue for determination is whether the Employer/Carrier is entitled to a 25% reduction in indemnity benefits due to the Claimant's refusal to utilize a safety device under section 440.09(5), Fla. Stat.; 4) no penalties, interest, costs or attorney's fees are due.

The Claimant responded to the Employer/Carrier's affirmative defense regarding the 25% safety violation by indicating that the Claimant did not intentionally and knowingly refuse to use a safety device. The circumstances surrounding his fall justified him not being "tied off" at the time of the fall. The Employer/Carrier has withdrawn their avoidance to the Employer/Carrier's affirmative defense position.

The following pleadings were identified as relevant to this hearing:

Judge's Exhibits:

Exhibit #1: Order Denying Final Summary Order entered September 24, 2018 (DN 20)

Exhibit #2: Order Approving Uniform Pretrial Stipulation entered October 11, 2018 (DN 23)

Exhibit #3: Order Granting Motion to Compel Deposition entered December 14, 2018 (DN 37)

Exhibit #4: Employer/Carrier Trial Memorandum filed February 15, 2019 (DN 49)

Exhibit #5: Claimant's Trial Memorandum filed February 15, 2019 (DN 50)

The following documentary items were received into evidence:

Joint Exhibits:

Exhibit #1: Mediation Conference Report filed October 10, 2018 (DN 21)

Exhibit #2: Uniform Pretrial Stipulation and Pretrial Compliance Questionnaire filed October 10, 2018 (DN 22)

Exhibit #3: Deposition of Anthony Vansky (employee of Brevard Constructors) taken January 25, 2019, filed February 4, 2019 (DN 48)

Exhibit #4: Composite Medical Records:
Lawnwood Regional Medical Center (DN 25)
HealthSouth Sea Pines Hospital (DN 26)
Dr. Matthew Hurbanis (DN 27)
Dr. Bryan Reuss and Dr. Michael Riggenbach (DN 28)

Claimant's Exhibits:

Exhibit #1: Petition for Benefits filed June 14, 2018 (DN 1)

Exhibit #2: (moved to Joint Exhibit #3)

Exhibit #3: Roof Sketch introduced at the Hearing with numbered locations (DN 52)

(1) Place where Claimant working in lift
(2) Anthony Vansky working near peak of roof
(3) Tie-off location in that area
(4) Lean to
(5) Location where sheet metal flapping
(6) Location where removed lanyard
(7) Ditch by the lean to

Employer/Carrier's Exhibits:

Exhibit #1: Response to Petition for Benefits filed June 19, 2018 (DN 3)

Exhibit #2: Claimant's Deposition taken August 14, 2018, filed January 14, 2019 (DN 41)

Exhibit #3: Deposition of Michael D. Riggenbach, M.D. taken December 10, 2018, filed January 14, 2019 (DN 42)

Exhibit #4: Payment History from November 2, 2017, to January 16, 2019, filed January 16, 2019 (DN 45)

Testifying at the hearing was Jared Humphreys, the Claimant. Although I will not recite in explicit detail the witness's and deponents' testimony and may not refer to each piece of documentary evidence, I have attempted to resolve all of the conflicts in the testimony and evidence. Based on the foregoing and the applicable law, I make the following findings:

1) The undersigned has jurisdiction over the parties and the subject matter.

2) The stipulations agreed to by the parties in the Uniform Pretrial Stipulation filed on October 10, 2018 (DN 22) are accepted and adopted.

3) The parties stipulate that the average weekly wage is $964.73 with a corresponding compensation rate of $643.19.

The Accident

4) Jared Humphreys, the Claimant, currently 34 years old, worked for Brevard Constructors for seven years. On October 25, 2017, he was the foreman on a job installing a metal roof on a food processing plant that was being built. The building was 80 x 120 feet with a 50 x 20 foot lean-to off the back of the building (see Claimant's Exhibit 3, DN 52). Five workers were on the roof (including Mr. Humphreys) when the wind began to increase causing a 30 foot section of unattached lean-to roof to flap harder. As the noise from the flapping got louder, Mr. Humphreys moved toward it, fearful that it would fly off and endanger the workers. He was still hooked to the lift he was working from, but when the 50 foot retractable cable hooked to his back ran out, he unhooked his lanyard to get closer to the lean-to roof. There was no other place to hook-on between him and the lean-to roof. To create a new tie-down would have taken thirty minutes, about the same time as going to get a lift and moving it to a position where the lean-to roof could be reached. The job of securing the flapping roof would have required either using shears to cut off the metal section or screwing it down.

Company Policy

5) The Employer was a 100% tie-down company meaning that every employee on the roof had to be tied down 100% of the time. The company supplied the safety harnesses and the clips were six inches wide with 50 foot retractable cables attached to harnesses worn by the workers. The cables were hooked to the lifts (baskets) or to purlins running between the trusses.

6) Mr. Humphreys testified that the lift could not be easily moved from where it was located on the opposite side of the building and would have had to negotiate a ditch that was on the side of the lean-to where the sheet metal was flapping. The other option of creating another tie-off location on the purlins would also have taken 30 minutes. Not believing that he had time

to perform either task, he removed the harness attachment and continued down the roof toward the lean-to. Although he doesn't know the reason for the fall, he fell approximately 20 feet to the ground resulting in his injuries.

Medical Treatment

7) Mr. Humphreys was airlifted to Orlando. He was treated at Longwood Regional Meedical Center, SeaPines Rehab, and by Dr. Beiser, Dr. Hurbanis and Dr. Michael Riggenbach (DN 42, p.7). Dr. Riggenbach saw Mr. Humphreys September 7, 2018, and November 9, 2018, and diagnosed a complex elbow dislocation with radial head fracture and posterior wall acetabular fracture which were surgically repaired (DN 42, p.7). Dr. Riggenbach testified that the injuries were caused by Mr. Humphrey's fall from the roof (DN 42, p.17).

Application of the Defense

8) The Employer/Carrier raised an affirmative defense based on Section 440.09(5), Fla. Stat. (2017) which states:

> If injury is caused by the knowing refusal of the employee to use a safety rule required by statue or lawfully adopted by the department, and brought prior to the accident to the employee's knowledge, or if injury is caused by the knowing refusal of the employee to use a safety appliance provided by the employer, the compensation as provided in this chapter shall be reduced 25 percent.

9) It is the Employer/Carrier's burden to prove the knowing refusal. Mr. Humphreys admits that he disconnected his tie-down to get to the flapping metal roofing. His excuse was that he perceived this to be an emergency situation due to the increased wind and that the metal sheeting coming loose was endangering the workers present at the time. The alternative

procedures that would have allowed him to stay tied down would, he estimated, have taken 30 minutes to accomplish.

10) Does an emergency situation cancel the intent of the statute? No case law has been provided that gives the judge of compensation claims authority to excuse the knowing refusal to use a safety appliance. Even assuming that an emergency situation would justify Mr. Humphreys' actions, the metal roofing had been flapping for some time without any effort to resolve the problem. Anthony Vansky testified that he discussed the flapping metal panel that morning with the Claimant and that it would be cut when he finished working on the ridge cap (DN 48, p.5). Other statutory provisions provide the JCC with the authority to find that the affirmative defense is avoided when an act is in response to an emergency and designed to save life or property (see Section 440.092(3), Fla. Stat. (2017)). Section 440.09(5), Fla. Stat. (2017) does not.

11) The test is "not whether one is intending to specifically violate the statute, but whether he consciously intends to do the act which is violative of the statute." Gregory v. McKesson & Robbins, Inc., 54 So.2d 682, 686 (Fla. 1951). To require the employer to show that the claimant consciously intended to violate the law would render the defense meaningless. *Id*. The act that is violative of the statutory language is the claimant's intentional act of removing his safety harness's attachment to the lifts or the roof.

12) Inextricably intertwined with the requirement of a willful refusal is the necessity of determining that an employee had prior notice of the order to use a safety appliance or observe a safety rule. See McKenzie Tank Lines, Inc. v. McCauley, 418 So.2d 1177, 1181 (Fla. 1st DCA 1982). In his role as foreman, Mr. Humphreys had lead safety meetings for the Employer in which the 100% tie-down policy was discussed. There is no suggestion that he was not aware of

the safety rule and he confirmed as much in his testimony.

13) The fact that Mr. Humphreys did not intend for the consequence of his action is not determinative. The failure to use the safety device constitutes knowing refusal and caused Mr. Humphreys' injuries. For these reasons, the Employer/Carrier is entitled to take a 25% reduction in paid indemnity benefits due to the safety violation. While this ruling may be perceived unfairly punitive, that issue must be addressed with the Legislature.

Penalties, Interest, Costs and Attorney's Fees

14) The claim for penalties and interest is denied.

15) The claim for costs and attorney's fees is denied.

It is **ORDERED and ADJUDGED** that**:**

1. The Employer/Carrier's affirmative defense of a 25% reduction in indemnity benefits due to Claimant's knowing refusal to utilize a safety device pursuant to section 440.09(5), Fla. Stat. (2017) is granted.

2. The claim for penalties and interest is denied.

3. The claim for costs and attorney's fees is denied.

Done and electronically served on Counsel and the Carrier this 25th day of February, 2019, in Sebastian, Indian River County, Florida.

Robert L. Dietz
Judge of Compensation Claims
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
ORLANDO DISTRICT OFFICE

Matthew Griffin,
Employee/Claimant,

vs.

Southeast Personnel Leasing, Inc.
Packard Claims Administration,

Employer/Carrier/Servicing Agent.

_____

OJCC Case No. 18-017224TWS

Accident date: 5/10/2018

Judge: Thomas W. Sculco

COMPENSATION ORDER

THIS CAUSE came before the undersigned Judge of Compensation Claims (JCC) at Altamonte Springs, Seminole County, Florida on January 29, 2019 for a final merits hearing upon the Petition for Benefits filed July 17, 2018, August 28, 2018 and October 15, 2018. Mediation was held on November 1, 2018. The parties' Uniform Pretrial Stipulation was e-filed November 8, 2018. The claimant is represented by Gerald F. Znosko, Esquire. The Employer/Carrier is represented by William H. Rogner, Esquire.

LIVE TESTIMONY: Matthew Griffin, Chris Jacovetti, John Bumpass

CLAIMANT'S DOCUMENTARY EVIDENCE :

#1 Claimant's-ID#:38 Deposition Transcript of Brian Peterson (OBJECTION – HEARSAY – **SUSTAINED**)

#2 Claimant's-ID#:42-44 Deposition Transcript of Dr. Kevin Nowicki/attachments 1 & 2 (OBJECTION – SPECULATION – Page 14 – **OVERRULED**)

#3 Claimant's-ID#:26-27 Motion to Admit Medical Records/Order

#4 Claimant's-ID#:60 Hearing Memorandum

JOINT EXIBIT

#1 Joint-ID#:22-23 Pretrial Stipulation/Order

EMPLOYER/CARRIER/SERVICING AGENTS' DOCUMENTARY EVIDENCE

#1 E/C's-ID#:56 Notice of Filing Owner's Manual (**WITHDRAWN AT FINAL HEARING)**

#2 E/C's-ID#:25 Supplemental Witness List

#3 E/C's –ID#:61 Trial Memorandum

#4 E/C's-ID#:59 Notice of Filing deposition transcript of Chris Jacovetti

#5 E/C's –ID#58 Deposition/attachments of Chris Jacovetti (OBJECTION – HEARSAY – **SUSTAINED**)

After hearing all of the testimony and evidence presented, and after having resolved any and all conflicts therein, the undersigned Judge of Compensation Claims makes the following findings of fact and conclusions of law: The issues for

determination, as narrowed by the parties at the time of the final hearing, are claimant's claims for: 1-additional past underpaid TTD/TPD benefits from 5/10/18 through 11/8/18; and 2-penalties, interest, costs, and attorney's fees(PICA). The E/C raised the defense of the 25% "safety offset" pursuant to Section 440.90(5), Fla. Stat. (2018). The E/C agreed that regardless of whether its defense is accepted that it will owe some amount of past underpaid TTD/TPD benefits. The parties agreed to administratively determine the amount of benefits owed, with the specific amount owed depending on whether the E/C's defense is accepted, with jurisdiction reserved to resolve any disputes. The parties also agreed that claimant's AWW is $765.92.

BACKGROUND

Claimant is employed by Southeast Personnel Leasing, Inc., and works as a leased employee for Smart Ride at their Turkey Lake facility in Orlando. Smart Ride is contracted to provide general labor support to Universal Studios Orlando (Universal), and claimant testified he performed carpentry and concrete work at Universal.

Smart Ride's Turkey Lake facility is located across Turkey

Lake Road from Universal's property. In December of 2017 Smart Ride leased six 4-seat utility vehicles from Sunbelt Rentals. According to Chris Jacoveti of Sunbelt Rentals, these vehicles Were diesel powered, had headlamps, turn-signals, seatbelts, and were unable to go more than 25 MPH. Mr. Jacovetti testified that these vehicles had functional seat-belts when they were delivered, and that there were "stickers" affixed to the interiors of the vehicles instructing that seat-belts should be worn.

In 2018, Smart Ride Employees, including claimant, used these "low speed" utility vehicles to travel between Smart Ride's Turkey Lake facility and Universal property. John Bumpass, senior project manager for Smart Ride, testified that Smart Ride gave no specific instructions to its employees regarding the use of seat belts in the low-speed utility vehicles, but that employees were instructed to follow the rules of the road. Mr. Bumpass testified that when he drove or rode in the "low speed" utility vehicles he wore his seat belt "most of the time" as best as he could remember.

Claimant testified that no one at Smart Ride ever instructed him to wear a seatbelt in the "low speed" vehicles, and that when he rode as a passenger no Smart Ride employees told him to wear a seatbelt. Claimant testified that he

remembers riding in a "low speed" vehicle with Mr. Bumpass on two occasions, and that on those occasions Mr. Bumpass did not wear a seatbelt, and did not require claimant to wear a seatbelt.

At approximately 12:00 a.m. on 5/10/18, claimant was involved in a serious accident driving a "low speed" vehicle. Claimant was not wearing a seatbelt at the time of the accident, and apparently was ejected from the vehicle during the crash. He was transporting a Smart Ride employee and a sub-contractor from the Smart Ride facility to Universal, when he was rear-ended on Turkey Lake road. He sustained a concussion, as well as injuries to his neck, both knees, left shoulder, and cuts and contusions. Dr. Kevin Nowicki, who treated claimant for the knee and shoulder injuries, testified that claimant being ejected during the crash likely resulted in his knee and shoulder injuries.

HAS THE E/C ESTABLISHED ENTITLEMENT TO A 25% REDUCTION IN COMPENSATION PURSUANT TO SECTION 440.09(5)?

To be entitled to a 25% reduction of compensation pursuant to Section 440.09(5), the E/C must establish "the knowing refusal of the employee to use a safety appliance or observe a safety rule required by statute… or the knowing refusal of the

employee to use a safety appliance provided by the employer, if brought prior to the accident to the employee's knowledge." The requirement of prior notice to the employee does not apply, however, to laws that are a matter of common knowledge, such as speeding. *See Gregory v. McKesson & Robbins, Inc.,* 54 So.2d 682, 684 (Fla. 1951).

Moreover, the statute, "…as gleaned from its terms, is intended to induce the employer into providing for a safe environment for the worker, as well as requiring that workers follow safe practices on the job. By adhering to the strict standards of the statute and insisting on safe conditions at the job site, the employer is rewarded with a "carrot" by being relieved of some of the burden of compensating in full a claimant who is injured due to the latter's willful refusal to observe prescribed safety practices. On the other hand, the employer who fails to demand such practices from workers receives the "stick", or burden of paying out full compensation benefits to the injured worker." *McKenzie Tank Lines Inc. v. McCauley*, 418 So. 2d 1177, 1180 (Fla. 1st DCA 1982).

Applying these principles to this case, it is clear that the E/C is not entitled to reduce claimant's compensation pursuant to Section 440.09(5). Counsel for both parties make persuasive and interesting arguments as to the applicability of

state statutes requiring the use of seat belts in low speed vehicles on public roads, as well as to whether claimant had actual notice of the seat-belt stickers inside the vehicle he was in during the accident. It is not necessary to resolve these issues, however, because claimant's unrefuted testimony, which I accept as truthful and credible, establishes that Smart Ride failed to adhere "to the strict standards of the statute and insisting on safe conditions at the job site" with regard to seat belt usage by its employees on its "low-speed" vehicles before the accident. *See McKenzie Tank Lines, Inc., supra*. Consequently, Smart Ride is not entitled to the "carrot" of reduced compensation pursuant to the statute. *See id*.

Specifically, I accept claimant's testimony at the final hearing that that no one at Smart Ride ever instructed him to wear a seatbelt in the "low speed" vehicles, and that when he rode as a passenger no Smart Ride employees told him to wear a seatbelt. Most significantly, I accept claimant's testimony that he remembers riding in a "low speed" vehicle with Mr. Bumpass on two occasions, and that Mr. Bumpass did not wear a seatbelt, and did not require claimant to wear a seatbelt. The testimony of Mr. Bumpass that he wore his seat belt "most of the time" as best as he could remember, is not inconsistent with claimant's testimony, and is in fact an admission that there

were occasions he did *not* wear a seat belt. Under these circumstances, the E/C cannot avail itself of the statutory 25% reduction in benefits pursuant to the court's analysis in *McKenzie Tank Lines, Inc., supra.*

WHEREFORE, IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. The E/C's defense that compensation should be reduced by 25% pursuant to Section 440.09(5), Fla. Stat. (2018) is rejected.

2. The E/C is ordered to pay claimant past-underpaid TTD/TPD benefits from 4/10/18 through 11/8/18, plus associated statutory penalties and interest. The parties shall administratively determine the exact amounts owed, with jurisdiction reserved to resolve any disputes.

3. Claimant is entitled to reasonable costs and attorney's fees from the E/C, pursuant to Section 440.34(3), Fla. Stat. (2018), for securing the above benefits. Jurisdiction is reserved to determine the amount of attorney's fees and costs owed.

DONE AND SERVED this 18th day of February, 2019, in Altamonte Springs, Seminole County, Florida.

Thomas W. Sculco
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