MARCH 2026

HEYL ROYSTER

BELOW THE RED LINE

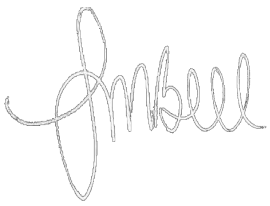
WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"

A WORD FROM THE PRACTICE GROUP CHAIR

There are some injuries that prompt statutory payments when there are no reasonable grounds to dispute the accident, causation, or the entitlement to statutory permanency. In these cases, an employee's right to statutory permanency can be triggered well before MMI, meaning statutory payment obligations arise during this period—well before permanent partial disability discussions begin. That gap in time might cause an employer to hesitate to issue the statutory payments, fearing they will be lost later when the employee reaches MMI, and permanency is discussed.

This month's article, written by Meg Bentley, addresses this very issue and provides assurances to employers that those "voluntary payments" (though not really voluntary if required under the Act) will be credited against a final permanency award.

This month, we are spotlighting two new partners in our Chicago office: Nicole Wiza and Nicole Russo. Both are experienced attorneys who joined Heyl Royster and our workers' compensation team this month. We're thrilled to have their experience on the team. Read on to learn more about Nicole and Nicole and what they have to offer!



PUBLICATION TEAM

PRACTICE GROUP CHAIR
JESSICA BELL



NEWSLETTER EDITOR
JENNA KOBERNUS



FEATURED AUTHOR
MEG BENTLEY



HEYL ROYSTER

Credit Where It's Due: The Illinois Appellate Court's Ruling in *Azcon Metals v. IWCC*

By Meg Bentley



The Illinois Appellate Court was recently presented with an issue of first impression in *Azcon Metals v. Illinois Workers' Compensation Comm'n,* 2026 IL App (5th) 250301WC. The court addressed whether an employer is entitled to a credit for the voluntary payment of benefits under Section 8(e) of the Illinois Workers' Compensation Act against the Commission's award of benefits under Section 8(d)(2) of the Act. The court held that the Commission erred by denying the employer credit for the voluntary payments it made under Section 8(e) of the Act against the Commission's award of permanent partial disability (PPD) benefits under Section 8(d)(2) of the Act. In *Azcon Metals,* the employee's right foot was crushed between two rail cars while he was working for the employer, resulting in an amputation of his right leg at the mid-tibia, or just below his right knee. Postoperatively, he was fitted for a transtibial prosthetic, completed physical therapy and work hardening, and underwent a functional capacity evaluation. He also participated in vocational rehabilitation and expressed intent to find employment in HVAC or the construction industry. The employer paid $97,010.30 in PPD benefits for the scheduled loss of his right foot pursuant to Section 8(e)(11) of the Act. *Id.* at ¶¶ 4-5.

Following the hearing, the arbitrator issued a written decision awarding the employee 65% loss of use of his body as a whole pursuant to Section 8(d)(2) of the Act. The arbitrator disagreed with the employer's argument that they were entitled to a credit for the statutory loss payment made under Section 8(e)(11) of the Act. The employer sought review of the arbitrator's decision before the Commission. The Commission reduced the PPD award to 45% loss of use

of the body as a whole and agreed with the arbitrator's decision that the employer could not receive a credit for the voluntary payments made under Section 8(e)(11), while acknowledging it was an issue of first impression. *Id.* at ¶¶ 6-8. The Circuit Court of Madison County confirmed the decision of the Commission, and the employer filed an appeal to the Fifth District. *Id.* at ¶ 10. The main issue on appeal was whether the Commission erred by denying the employer a credit for its voluntary payment made pursuant to Section 8(e)(11) of the Act.



The Fifth District Appellate Court reversed the portion of the Commission's award that denied credit to the employer for prior payments. The court determined, absent a statutory prohibition, the Commission should have credited the employer for the voluntary payment it made under Section 8(e) of the Act *unless* the employee was entitled to compensation under both Section 8(e) and Section 8(d)(2) of the Act for the same injury. The court relied on *World Color Press v. Industrial Comm'n*, 125 Ill. App. 3d 469 (1984) to come to this decision. In *World Color Press*, the court concluded that an employer could receive a credit for the overpayment of TTD benefits. While *Azcon Metals* did not involve a credit for TTD payments, the court noted the reasoning of that case was relevant in concluding whether or not an employee is entitled to a credit for voluntary payments made under Section 8(e). The court pointed out that the employer in *Azcon Metals* made a *voluntary payment* to the employee pursuant to Section 8(e) of the Act. Section 8(e) states "the employee shall receive compensation for the period of temporary total incapacity for work resulting from such accidental injury, under subparagraph 1 of paragraph (b) of this Section, and shall receive in addition thereto compensation for a further period for the specific loss herein mentioned, but *shall not receive any compensation under any other provisions of this Act." Id.* at ¶¶ 16-17.

In *Azcon Metals*, it was undisputed that the employer paid the employee $97,010.30 for the loss of his foot pursuant to this Section, even though the Commission found the employer's calculation of benefits was incorrect. The main issue, rather, was whether the employer was entitled to a credit for the amount paid toward the Commission's award of benefits under Section 8(d)(2) of the Act.

Section 8(d)(2) provides that:

> "If, as a result of the accident, the employee sustains serious and permanent injuries not covered by paragraphs (c) and (e) of this Section or having sustained injuries covered by the aforesaid paragraphs (c) and (e), he shall have sustained in addition thereto *other* injuries which injuries do not incapacitate him from pursuing the duties of his employment but which would disable him from pursuing other suitable occupations, or which have otherwise resulted in physical impairment; or if such injuries

> partially incapacitate him from pursuing the duties of his usual and customary line of employment but do not result in an impairment of earning capacity, or having resulted in an impairment of earning capacity, *the employee elects to waive his right to recover under the foregoing subparagraph 1 of paragraph (d) of this Section* then in any of the foregoing events, he shall receive in addition to compensation for temporary total disability under paragraph (b) of this Section, compensation at the rate provided in subparagraph 2.1 of paragraph (b) of this Section for that percentage of 500 weeks that the partial disability resulting from the injuries covered by this paragraph bears to total disability. *** *Compensation awarded under this subparagraph 2 shall not take into consideration injuries covered under paragraphs (c) and (e) of this Section and the compensation provided in this paragraph shall not affect the employee's right to compensation payable under paragraphs (b), (c) and (e) of this Section for the disabilities therein covered.*" (Emphases added.) *Id.* § 8(d)(2).

Based on a review of the applicable statutory provisions, the court concluded that the employee was entitled to elect an award under either Section 8(e) or Section 8(d)(2) where the employee sustained an injury to one body part as a result of the work accident, but not both. Unlike the Commission, however, the court also found that the language of Section 8(d)(2) permits an employee to elect an award under either Section 8(e) or Section 8(d)(2) for an injury sustained to a single body part during a work accident and to receive an award under both Section 8(e) and Section 8(d)(2) in cases where the employee sustains multiple injuries to separate body parts during a work accident. *Payetta v. Industrial Comm'n,* 339 Ill. App. 3d 718, 722, 274 Ill.Dec. 590, 791 N.E.2d 682 (2003); *General Electric Co. v. Industrial Comm'n,* 89 Ill. 2d 432, 437, 60 Ill.Dec. 629, 433 N.E.2d 671 (1982) ("Compensation may be proper under section [8(e) or 8(d)(1)], though not both at once."). *Id.* at ¶¶ 20-21.



The Fifth District also found this conclusion consistent with the Supreme Court's decision in *Beelman Trucking v. Illinois Workers' Compensation Comm'n,* 233 Ill. 2d 364, 330 Ill. Dec. 796, 909 N.E.2d 818 (2009); and the Appellate Court's recent decision in *American Coal Co. v. Illinois Workers' Compensation Comm'n,* 2024 IL App (5th) 230815WC, 478 Ill.Dec. 868, 248 N.E.3d 493. In both of those cases, the claimants suffered injuries to multiple body parts during the same work accident, warranting additional compensation under the Act. In the present case, however, the only work-related injury the employee suffered was to his right lower leg, which was covered by both Section 8(e) and 8(d)(2) of the Act. Therefore, the employee was entitled to elect an award under either Section 8(e) or Section 8(d)(2), but not both. *Id.* at ¶¶ 24-25.

The court noted that allowing a credit under these circumstances was consistent with the policies underlying the Act, which is to "provide employees with prompt payment of benefits for work-related injuries." (citing *Salisbury v. Illinois Workers' Compensation Comm'n,* 2017 IL App (3d) 160138WC, ¶ 14, 413 Ill.Dec. 703, 78 N.E.3d 979). *Id.* at ¶ 28.



CREDIT FOR BENEFITS: Employers are entitled to a credit off a Section 8(d)(2) award when a voluntary payment was made under Section 8(e).

EMPLOYER RESPONSIBILITIES: Employers must still pay full statutory amputation benefits immediately upon amputation, even if the amputation is likely to render the employee with permanent restrictions and a reduced earning capacity.

EMPLOYEE RIGHTS: Loss-of-trade benefits *can* apply even after statutory amputation benefits have been exhausted, thereby extending the employee's recovery, in certain cases involving permanent restrictions and reduced earning capacity.

If you have questions about when you may be entitled to a credit off settlement or an arbitration award, please do not hesitate to reach out to one of Heyl Royster's workers' compensation attorneys.

ABOUT THE AUTHOR

MEG BENTLEY

OF COUNSEL
CHICAGO, IL

PRACTICES
Casualt y & Tort
Workers' Compensation

With more than 18 years of experience, Meg is a successful litigator seasoned in both state and federal courts.

With more than 18 years of experience handling insurance defense cases involving large multi-party actions with multi-million-dollar exposure, Meg concentrates her practice in the areas of Workers' Compensation and civil litigation. She has represented clients in a wide range of cases, including Workers' Compensation, transportation/trucking negligence, premises liability, automobile negligence, wrongful death, construction negligence, insurance coverage, subrogation, and commercial litigation.



Meg has successfully litigated and tried numerous Workers' Compensation cases on a multitude of issues throughout Illinois. She has also handled cases in both state and federal courts. Before joining Heyl Royster, Meg was a Partner at a prominent Chicago firm with 200+ attorneys and 12 offices throughout the United States.

Meg received her Bachelor of Arts degree from Miami University (Ohio) in 1999 and then earned her Juris Doctor degree from DePaul University College of Law in 2003.

LEARN MORE ABOUT MEG'S ACCOMPLISHMENTS HERE.

BELOW THE RED LINE

Team Spotlight

Nicole V. Russo: Champion of Workers' Compensation Defense and Advocate for Justice

In the ever-evolving field of workers' compensation law, Nicole Russo truly shines as a consistent leader and advocate. With over 20 years of rich experience, her inspiring journey started as a law clerk during her studies, where she discovered her passion for litigation and confidently tried her first case just three months after becoming an attorney.

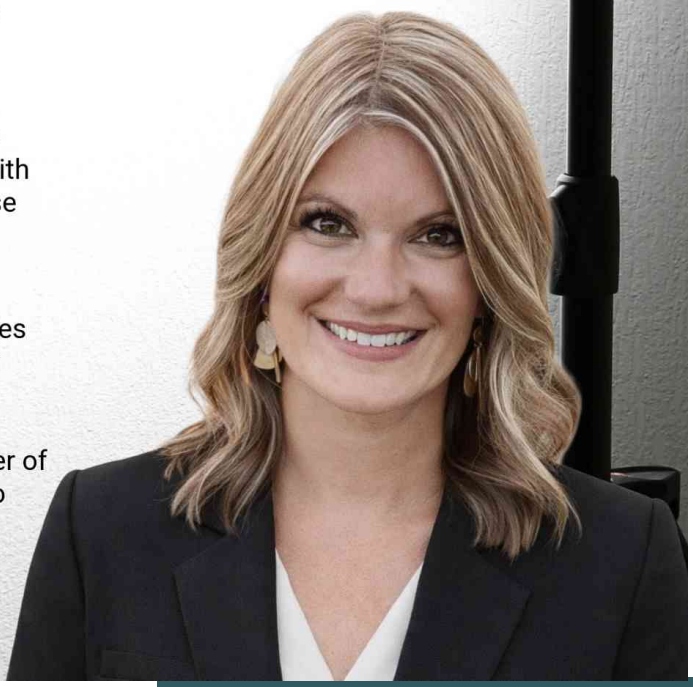
Her proactive and strategic approach has seen her adeptly manage more than 50 cases from arbitration to trial, showcasing her unwavering commitment to her clients. She collaborates with a diverse range of entities, including self-insured companies and healthcare facilities, skillfully minimizing risks and negotiating favorable settlements. Impressively, she has secured multiple "zero" trial awards before the Illinois Workers' Compensation Commission, significantly reducing costs for her clients.

Collaboration isn't just a practice for Nicole; it's the foundation of her success. By partnering closely with her clients and teams, she crafts innovative defense strategies tailored to the unique challenges of the workers' compensation landscape.

Beyond her professional dedication, Nicole treasures time spent with her daughters, cheering them on in their activities, and creating wonderful memories during vacations in Southwest Florida. She also volunteers with organizations like the Joliet Chapter of Pink Heals, illustrating her heartfelt commitment to giving back to her community.



Nicole is the 1992 Will County spelling bee champion!



NICOLE RUSSO
PARTNER
CHICAGO

BELOW THE RED LINE

Team Spotlight

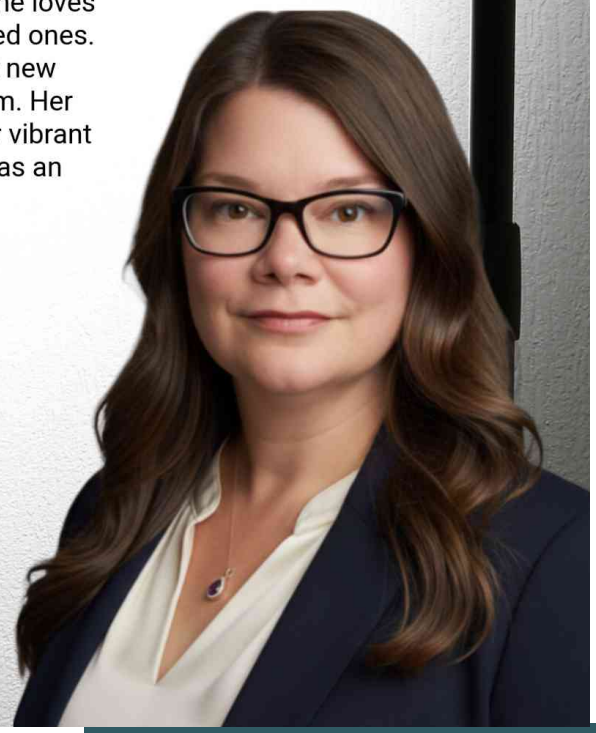
Nicole Wiza, Dedicated Advocate in Workers' Compensation Defense

Meet Nicole Wiza, a passionate litigator with an impressive 17+ years dedicated to workers' compensation defense throughout Illinois! Known for her thoughtful and personalized approach, she crafts innovative strategies uniquely suited to each client's needs, earning her the affectionate nickname "Wiza special."

Nicole has skillfully represented a broad spectrum of clients, from small businesses to municipalities, throughout Illinois. Her strong advocacy and professionalism make her a respected figure in this challenging field, where she consistently demonstrates her commitment to obtaining fair outcomes for her clients.

Beyond her legal work, Nicole truly cares about her community and actively participates in fundraising for Cystic Fibrosis. She often volunteers her time and resources to support local initiatives, believing in giving back to those in need. In her free time, she loves to cook, dine out, travel, and cherish moments with her loved ones. Whether exploring new cultures through travel or trying out new recipes in the kitchen, Nicole embraces life with enthusiasm. Her dedication to her career and her community, along with her vibrant enthusiasm for life, is evident in all her actions and serves as an inspiration to those around her.

Nicole has successfully mastered all U.S. Figure Skating ice dances up to the Gold level, plus two international dances!



NICOLE WIZA
PARTNER
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WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"

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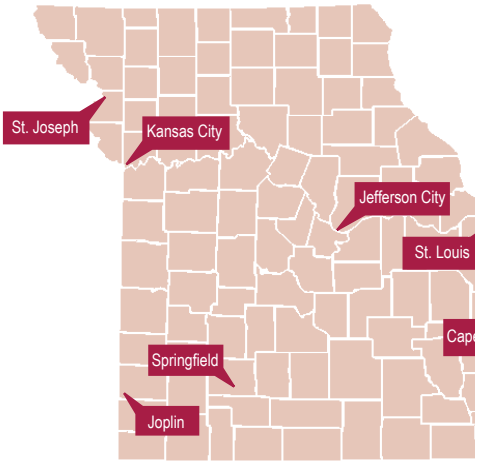
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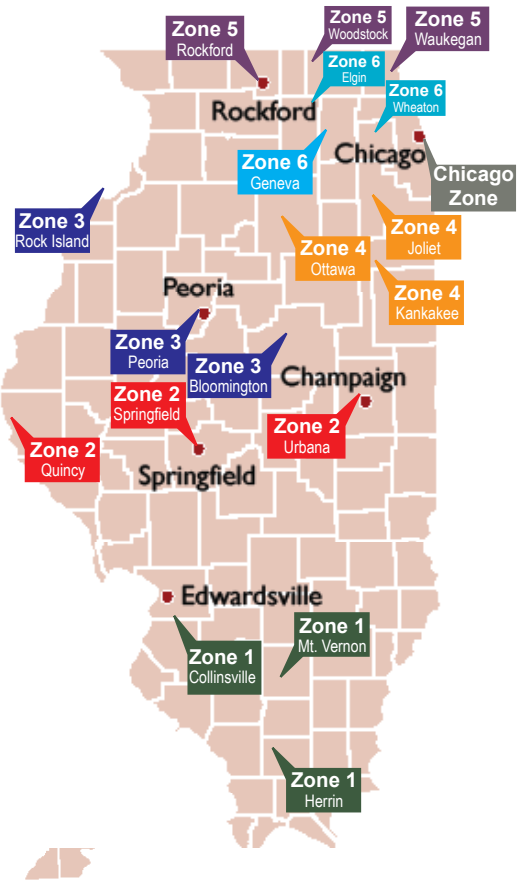
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WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"

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TTD, DEATH, PERM. TOTAL & AMP. RATES

ACCIDENT DATE	MAX. RATE TTD, DEATH, PERM. TOTAL, AMP.	MIN. RATE DEATH, PERM. TOTAL, AMP.
7/15/19 to 1/14/20	$1529.84	$573.69
1/15/20 to 7/14/20	$1549.07	$580.90
7/15/20 to 1/14/21	$1572.01	$589.51
1/15/21 to 7/14/21	$1613.93	$605.23
7/15/21 to 1/14/22	$1693.76	$635.16
1/15/22 to 7/14/22	$1734.83	$650.56
7/15/22 to 1/14/23	$1792.73	$672.28
1/15/23 to 7/14/23	$1848.20	$693.08
7/15/23 to 1/14/24	$1861.18	$697.96
1/15/24 to 7/14/24	$1897.92	$711.72
7/15/24 to 1/14/25	$1907.79	$715.42
1/15/25 to 7/14/25	$1936.86	$726.34
7/15/25 to 1/14/26	$1974.73	$740.53
1/15/26 to 7/14/26	$2008.60	$753.25

MINIMUM TTD & PPD RATES

# of dependents, including spouse	7/15/10-1/14/20	1/15/20-7/14/20	7/15/20-1/14/21	1/15/21-1/14/22	1/15/22-1/14/23	1/15/23-1/14/24	1/15/24-1/14/25	1/15/25-7/14/26
0	$220.00	$246.67	$266.67	$293.33	$320.00	$346.67	$373.33	$400.00
1	$253.00	$283.67	$306.67	$337.33	$368.00	$403.88	$429.33	$460.00
2	$286.00	$320.67	$346.67	$381.33	$416.00	$456.04	$485.33	$520.00
3	$319.00	$357.67	$386.67	$425.33	$464.00	$508.04	$541.33	$580.00
4+	$330.00	$370.00	$400.00	$440.00	$480.00	$520.00	$560.00	$600.00

MAXIMUM PERMANENT PARTIAL DISABILITY RATES

ACCIDENT DATE	MAXIMUM RATE
7/1/16 to 6/30/17	$775.18
7/1/17 to 6/30/18	$790.64
7/1/18 to 6/30/19	$813.87
7/1/19 to 6/30/20	$836.69
7/1/20 to 6/30/21	$871.73
7/1/21 to 6/30/22	$937.11
7/1/22 to 6/30/23	$998.02
7/1/23 to 6/30/24	$1024.87
7/1/24 to 6/30/25	$1045.92
7/1/25 to 6/30/26	$1084.66

MAXIMUM 8(D)(1) WAGE DIFFERENTIAL RATE

ACCIDENT DATE	MAXIMUM RATE
7/15/21 to 1/14/22	$1270.32
1/15/22 to 7/14/22	$1301.12
7/15/22 to 1/14/23	$1344.55
1/15/23 to 7/14/23	$1386.15
7/15/23 to 1/14/24	$1395.92
1/15/24 to 7/14/24	$1423.44
7/15/24 to 1/14/25	$1430.84
1/15/25 to 7/14/25	$1452.68
7/15/25 to 1/14/26	$1481.05
1/15/26 to 7/14/26	$1506.49

SCHEDULED LOSSES (100%) - Effective 2/1/2006

- Person as a whole ..... 500 wks
  - Arm ..... 253 wks
    - Amp at shoulder joint ..... 323 wks
    - Amp above elbow ..... 270 wks
    - Hand ..... 205 wks
      - Repetitive carpal tunnel claims ..... 190 wks
        - Benefits are capped at 15% loss of use of each affected hand absent clear and convincing evidence of greater disability, in which case benefits cannot exceed 30% loss of use of each affected hand.
      - Thumb ..... 76 wks
      - Index ..... 43 wks
      - Middle ..... 38 wks
      - Ring ..... 27 wks
      - Little ..... 22 wks
  - Leg ..... 215 wks
    - Amp at hip joint ..... 296 wks
    - Amp above knee ..... 242 wks
    - Foot ..... 167 wks
      - Great toe ..... 38 wks
      - Other toes ..... 13 wks
  - Hearing
    - Both ears ..... 215 wks
    - One ear ..... 54 wks
  - Eye
    - Enucleated ..... 173 wks
    - One eye ..... 162 wks
  - Disfigurement ..... 162 wks

Death benefits are paid for 25 years or $500,000 whichever is greater.

As of 2/1/06, burial expenses are $8,000.

The 2026 state mileage rate is $0.725 per mile.

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WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"

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MAXIMUM WEEKLY BENEFIT RATES

ACCIDENT DATE	TTD	PPD	PTD/DEATH
07/01/14 to 06/30/15	$861.04	$451.02	$861.04
07/01/15 to 06/30/16	$886.92	$464.58	$886.92
07/01/16 to 06/30/17	$911.27	$477.33	$911.27
07/01/17 to 06/30/18	$947.64	$496.38	$947.64
07/01/19 to 06/30/20	$981.65	$514.20	$981.65
07/01/20 to 06/30/21	$1,082.22	$566.88	$1,082.22
07/01/21 to 06/30/22	$1,011.92	$530.05	$1,011.92
07/01/22 to 06/30/23	$1,160.17	$601.71	$1,160.17
07/01/23 to 06/30/24	$1,186.51	$621.51	$1,186.51
07/01/24 to 06/30/25	$1,228.04	$643.26	$1,228.04
07/01/25 to 06/30/26	$1,280.84	$670.92	$1,280.84

MILEAGE RATES

Travel Date	Rate/Mile
07/01/20 to 06/30/21	$0.545
07/01/21 to 06/30/22	$0.530
07/01/22 to 06/30/23	$0.595
07/01/23 to 06/30/24	$0.625
07/01/24 to 06/30/25	$0.640
07/01/25 to 06/30/26	$0.670

Mileage: for treatment outside local or metro area from employee's principal place of employment. Maximum 250 miles each way.

Weeks as Decimal	
1/7	0.14
2/7	0.29
3/7	0.43
4/7	0.57
5/7	0.71
6/7	0.86

SCHEDULED LOSSES (100%)

Body as a whole	400 weeks
Arm at shoulder	232 weeks
Arm btwn shoulder and elbow	222 weeks
Arm at elbow	210 weeks
Arm btwn elbow and wrist	200 weeks
Hand at wrist joint	175 weeks
Thumb at proximal joint	60 weeks
Thumb at distal joint	45 weeks
Index Finger at proximal joint	45 weeks
Index Finger at second joint	35 weeks
Index Finger at distal joint	30 weeks
Middle or Ring Finger at proximal joint	35 weeks
Middle or Ring Finger at second joint	30 weeks
Middle or Ring Finger at distal joint	26 weeks
Little Finger at proximal joint	22 weeks
Little Finger at second joint	20 weeks
Little Finger at distal joint	16 weeks
Leg at hip joint	207 weeks
Leg at or above knee	160 weeks
Leg btwn knee and ankle	155 weeks
Foot at tarsus	150 weeks
Foot at metatarsus	110 weeks
Big Toe at proximal joint	40 weeks
Big Toe at distal joint	22 weeks
Any Toe other than big/great toe at proximal joint	14 weeks
Any Toe other than big/great toe at second joint	10 weeks
Any Toe other than big/great toe at distal joint	08 weeks
Complete loss of hearing - both ears	180 weeks
Complete loss of hearing - one ears	49 weeks
Complete loss of sight - one eye	140 weeks
Disfigurement Maximum (head, neck, hands, arms)	40 weeks
Severance or complete loss of scheduled body part	+10% weeks

Statute of Limitations: Later of 2 years from injury or last payment of benefits. Occupational Disease: 2 years from date causal connection made between disease and occupational exposure. 3 years if ER fails to file Report of Injury.

Report of Injury: File with Division within 30 days of knowledge of accident that requires medical aid or compensation.

Notice of Injury: Employee must report within 30 days of accident. Occupational Disability report within 30 days employee reasonably aware of work relatedness.

Answer: Must be filed by attorney within 30 days of Division acknowledgment of receipt of Claim. Failure to file timely answer results in acceptance of facts plead in claim.

Repetitive Trauma: work must be the prevailing factor causing both the medical condition and disability. If exposure is less than 3 months, prior employer may be liable.

Subrogation: "Ruediger" Formula (WC paid / gross 3rd party recovery) x (net 3rd party recovery) = subrogation amount due ER/IR.

AWW: Gross earnings / number of weeks worked in 13 weeks prior to accident. Gratuity and overtime is included.

PPD: 2/3 AWW up to maximum for accident date. *Minimum* $40.00/week. *Part-time* workers use "30 hour rule." *Minors* require consideration of increased earning power.

TTD: 2/3 AWW up to maximum for accident date. *Minimum* $40.00/week. *Maximum* payment of 400 weeks. *Waiting period:* 3 business days, but if loss of +14 days, waiting period paid to employee. *Ends* with MMI or termination for post-injury misconduct.

TPD: 2/3 difference between pre-accident wage and wage employee should be able to earn post accident. *Ends* with MMI. *Maximum* payment of 100 weeks.

PTD: 2/3 AWW up to maximum for accident date. Inability to return to any employment in open labor market. *Second Injury Fund* may have liability for PTD (Employer only liability for current injury disability) when current disability combines with minimum prior disability to make employee PTD.

Death: Total dependents receive lifetime benefits of 2/3 AWW up to maximum for accident date. *Burial Benefit:* $5,000.00.

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WORKERS' COMPENSATION UPDATE: "WE'VE GOT YOU COVERED!"



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