

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
ORLANDO DISTRICT OFFICE**

EMPLOYEE:

James Wilcox
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Apopka, FL 32703

ATTORNEY FOR EMPLOYEE:

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EMPLOYER:

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CARRIER:

United States Fire Insurance Company
Post Office Box 958426
Lake Mary, FL 32795

OJCC CASE NUMBER: 09-020203WJC

DATE OF ACCIDENT: 06/03/2009

Judge: W. James Condry, II

FINAL COMPENSATION ORDER

After proper notice to all parties, a final hearing was held and concluded on this claim in Orlando, Orange County, Florida on the afternoon of Thursday, June 24, 2010. Present at the final hearing were Attorneys Thomas A. Vaughan and Carrie L. Hixson for the claimant and Attorneys Andrew R. Borah and Kimberly C. DeArcangelis for the employer/carrier, hereinafter referred to as the E/C.

Testifying in-person at the final hearing were James Robert Wilcox, Richard Holiday, James Milton Fluker, Jerry Stewart Hall and Joel Edward Smith. The remainder of the evidence was received via deposition and other documents as detailed below.

This order addresses the Petition for Benefits filed with DOAH on 08/03/09.

OVERVIEW

The claimant, a forty-six-year-old pipe fitter foreman for East Coast Fire Protection reportedly injured his lower back while replacing a sprinkler head in the course and scope of his employment on June 03, 2009. He also claims bilateral foot injuries from repetitive ladder climbing. The E/C denied both claims that were pursued under a single petition.

The claimant subsequently withdrew his claim seeking the compensability of his back condition. However his claim for a finding of compensability of his bilateral foot complaints and the award of indemnity and medical benefits related to same was maintained. For the reasons expressed below I find that the requested finding of compensability of the bilateral foot condition should be denied.

The specific issues to be determined at the 06/24/10 final hearing were as follows:

1. Whether Mr. Wilcox is entitled to a finding of compensability of his bilateral foot condition?
2. Whether Mr. Wilcox is entitled to the payment of temporary total or temporary partial disability benefits with interest and penalties from 06/03/09 to present and continuing as otherwise provided by law?
3. Whether Mr. Wilcox is entitled to the authorization of an orthopedic surgeon for the evaluation and treatment of his bilateral foot condition per the recommendation of Dr. Paul Jeung?
4. Whether Mr. Wilcox is entitled to the payment of his reasonable costs and attorney fees at the expense of the E/C?

The E/C defended the claim on the following grounds:

1. That the major contributing cause of the claimant's bilateral foot conditions is not his employment.
2. That the authorization of an orthopedic surgeon to evaluate and treat the claimant's bilateral foot conditions is not medically necessary or causally related to his employment.
3. That the claimant is not entitled to temporary total or temporary partial disability benefits.
4. That the claimant has voluntarily limited his income.
5. That the claimant has violated the misrepresentation provisions of *Section 440.09(4)*.

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6. That the E/C is entitled to apportionment in the event compensability is found.
7. That no penalties, interest, cost or attorney fees are due.

*****The E/C withdrew its notice defense at trial*****

STIPULATIONS OF THE PARTIES

1. That the Judge of Compensation Claims has jurisdiction over the parties and the subject matter.
2. That venue properly lies in Seminole County.
3. That there was an employer/employee relationship at the time of the alleged 06/03/09 accident.
4. That there was worker's compensation insurance coverage in effect on the date of the alleged accident.
5. That there was timely notice of the pretrial conference and the final hearing.
6. The parties stipulated at trial that Mr. Wilcox's average weekly wage up until 12/31/09 was \$980.98. That his average weekly wage is to be upwardly adjusted to \$1,074.10 with the discontinuation of his fringe benefits on 01/01/10.

JUDGE'S EXHIBITS

1. The pre-trial stipulation and pre-trial compliance questionnaire approved by order entered on 12/21/09 and any timely amendments thereto.
2. A composite exhibit consisting of the claimant's hearing information sheet dated 06/22/10 and the E/C's hearing information sheet dated 06/21/10. The composite items and any submitted case opinions were considered for argument purposes only.

JOINT EXHIBIT

The 01/18/10 deposition transcript of Rose Powell and attachments.

CLAIMANT'S EXHIBITS

1. The 03/09/10 deposition transcript of Dr. Richard Smith and attachments.
2. The 06/16/10 deposition transcript of Dr. Douglas Childs and attachments.

E/C EXHIBITS

1. The 04/23/10 deposition transcript of Dr. Paul J. Maluso and attachments.
2. The 10/26/09 deposition transcript of Dr. Robert Williams and attachments.
3. The 02/03/10 deposition transcript of Dr. Paul Jueng over objection for factual and historical purposes only.
4. The 01/14/10 deposition transcript of Dr. Dean Behner over objection for factual and historical purposes only.
5. The 01/28/10 deposition transcript of Karen Hibbits and attachments.
6. The 03/04/10 deposition transcript of Tracey Jackson and attachments.
7. The 03/04/10 deposition transcript of Robert S. Cockrell and attachments.
8. The 06/08/10 deposition transcript of James R. Burkett, Jr.
9. The weekly field time card for the week ending 06/04/09.

PROFERRED EXHIBITS

NONE

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In making my findings of fact and conclusions of law in this claim, I have carefully considered and weighed all of the evidence presented. I have observed and assessed the candor and demeanor of the witnesses that testified live before me, and I have resolved all of the conflicts in the live testimony, deposition testimony and documentary evidence.

I have carefully considered all of the evidence admitted even though I have not commented on or summated every piece thereof. Nevertheless, in my ruling I have set forth my ultimate findings of facts

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with mandate as required by *Section 440.25(4) (e), Florida Statutes (2009)*.

Pursuant to *Section 440.015*, I have not interpreted the facts in this case liberally in favor of either the rights of the injured worker or the rights of the employer. I have, as required, construed the law in accordance with the basic principles of statutory construction. Based on the foregoing, the evidence, and applicable law, I make the following determinations:

1. I find that I have jurisdiction over the parties and the subject matter and I accept as true those matters for which the parties have stipulated.
2. *Section 440.02(1)* provides that “accident” means only an unexpected or unusual event or result that happens suddenly.
3. *Section 440.09(1)* provides that the employer must pay compensation or furnish benefits required by *Chapter 440* if the employee suffers an accidental compensable injury or death arising out of work performed in the course and the scope of employment.
4. The section further requires that the injury, its occupational cause, and any resulting manifestation or disability must be:
 - a. Established to a reasonable degree of medical certainty based on objective relevant medical findings; and,
 - b. The accidental compensable injury must be the major contributing cause of any resulting injuries. “Major contributing cause” is defined under *Section 440.09(1)* as, “the cause which is more than 50 percent responsible for the injury as compared to all other causes combined for which treatment is sought.”
5. In cases involving occupational disease or repetitive exposure, both causation and sufficient exposure to support causation must be proven by clear and convincing evidence (*Id.*).
6. This case is best described as a credibility case. Not only because of the misrepresentation defense presented but because the reliability and accuracy of Mr. Wilcox’s testimony is critical in evaluating the weight to be given physician opinions that are expressed concerning occupational causation and appropriate treatment and/or restrictions.
7. For reasons detailed below I do not find Mr. Wilcox to be believable and in fact conclude that he knowingly and intentionally lied about preexisting back problems in initially pursuing his alleged on-the-job back injury with East Coast Fire Protection. On that claim he maintained he injured his back while pulling a heavy object at work on 06/03/09. I find that even his descriptions of his 06/03/09 accident are inconsistent. He provides a different reversion of events claiming he

injured his back on that same day after slipping on a lift and falling two to three feet landing awkwardly on his buttocks. (See 10/26/09 deposition transcript of Dr. Robert Williams at pg 6 as contrasted with the 03/09/10 deposition transcript of Dr. Richard Smith at pg 25).

8. The record reflects that Mr. Wilcox saw Dr. Paul Jueng as early as 04/03/09 with complaints of lower back and left leg pain that he experienced for a period of at least three weeks (See 02/03/10 deposition transcript of Dr. Jueng at pg 6). There was no described traumatic event for that back pain. Additionally Mr. Wilcox was seen at the emergency room of the Florida Hospital Altamonte on 06/05/09 where he complained of back pain existing for several weeks. However he specifically denied trauma related to that back pain. The Florida Hospital emergency room visit occurred only two days after the claimed on-the- job accident with the employer. Not only does Mr. Wilcox's representation to Florida Hospital establish the existence of back pain before 06/03/09 but he did not even report a traumatic event occurring on 06/03/09. Additionally , Mr. Wilcox saw an internal medicine physician, Dr. Dean Behner, on 06/08/09 for back and abdominal pain but he did not tell that doctor that his back problems were due to a work related event (See 01/14/10 deposition transcript of Dr. Behner at pg 16). This is notwithstanding Mr. Wilcox's at trial testimony that he did. I find that Mr. Wilcox did have back problems that preceded 06/03/09 and that his failure to disclose them was not accidental.
9. I find contrary to his testimony that Mr. Wilcox also signed a weekly field time card with his employer representing that he did not have any injuries on the job site for the week ending 06/04/09. At trial he said he lied to the staff at the Florida Hospital emergency room and he lied when he completed his application for short-term disability benefits. These multiple lies and inconsistencies make it doubtful that Mr. Wilcox had an actual work place accident involving his back on 06/03/09. I do not find that he did. In this regard I have rejected the testimony of Mr. Wilcox as well as Richard Holiday who I did not find to be credible. I find Mr. Holiday to be biased being a personal friend of Mr. Wilcox and I find his testimony effectively impeached especially as it relates to the completion of the weekly field time card and the alleged reporting of injuries to James Fluker.
10. Even if an accident involving his back did occur on 06/03/09 both Doctors Richard Smith and Robert Williams testified that Mr. Wilcox specifically denied any back problems before 06/03/09 and that such denial would be inconsistent with other medical reports and testimony. Mr. Wilcox was initially examined by his independent medical examiner Dr. Smith on 10/27/09 for his back

injury claim and Mr. Wilcox denied having any back problems before 06/03/09. The E/C deposed Mr. Wilcox on 10/15/09 and he denied any preexisting back problems. He was later examined by the E/C's independent medical examiner on 02/10/10 and he denied any back problems before 06/03/09.

11. In light of the above I do not find it coincidental that Mr. Wilcox elected to voluntarily withdraw his claim for the compensability of his back condition. The claim was withdrawn despite the fact that an MRI revealed a protruded or herniated disc at L4-5 and despite the fact that Mr. Wilcox continued to complain of back pain even days before the withdrawal of the back claim.
12. At trial Mr. Wilcox would give no explanation for why he withdrew the claim. I believe the claim was not just withdrawn because Dr. Richard Smith testified that in light of the claimant's preexisting back complaints he could not state that the major contributing cause of his back pain was the purported 06/03/09 accident. I believe the claim was also withdrawn because the claimant knew that if I were to find that the nondisclosure of his preexisting back problems was knowing and intentional to advance his back injury claim, said intentional non-disclosure would violate *Sections 440.09(4) and 440.105(4), Florida Statutes* barring his entitlement to workers' compensation benefits.
13. With the withdrawal of the back injury claim from this cause of action, the claimant has objected to and argued that any testimony regarding his prior back complaints or claim is irrelevant and should not be considered by me. I overrule those objections. In rejecting the claimant's argument I find that to the extent I might arguably be precluded from denying the balance of the claim based on the knowing misrepresentations made advancing his withdrawn back injury claim, I find that I can still consider any inconsistencies in Mr. Wilcox's testimony concerning his back injury in evaluating his general or overall credibility as a witness.
14. Mr. Wilcox testified at trial that he lied on his application for short-term disability benefits when he represented that his bilateral foot and back conditions were not job related. Even though such misrepresentations concerning his foot problems were knowingly made, they were made for purposes of securing short-term disability benefits and not for securing workers' compensation benefits. Therefore they, standing alone, I find would not be sufficient to deny the bilateral foot injury claim under *Sections 440.09(4) and 440.105*. See *Eric Quiroz v Health Central Hospital, 929 So.2d 563 (Fla. 1st DCA 2006)*. Nevertheless I find that Mr. Wilcox's testimony has been effectively impeached raising serious doubts concerning its reliability.

15. Whether misrepresentations were also made in pursuing the bilateral foot injury claim thereby violating the Chapter 440 misrepresentation provisions will be addressed later as well as whether Mr. Wilcox can be insulated from the consequences of his misrepresentations made on the back claim by simply withdrawing that claim.

WHETHER CLAIMANT SUSTAINED BILATERAL FOOT INJURIES FROM REPETITIVE TRAUMA?

16. Mr. Wilcox testified that he has worked with East Coast Fire Protection for a total of 27 years. He was originally hired as a helper and pipe fitter. His job involved the installation of fire protection safety sprinklers. He claims his feet first began to hurt in 2007. He saw a Dr. Rubin for those complaints and notified his supervisor and company field superintendent, Joel Smith. He said that he showed Mr. Smith the tumors on his feet and he told him that they were work related. He said that in 2008 and 2009 he also told his new supervisors, Richard Holiday and James Fluker about his feet.
17. Mr. Wilcox attributes the development of the tumors on both of his feet to the repetitive climbing of ladders in the course and scope of his employ performing the sprinkler installation work. He testified that he saw Dr. Douglas Childs for his feet on 06/10/09. He was taken off of work and after surgery on his left foot on 08/13/09 and right foot on 12/17/09 he has remained off of work until the present time. He received short-term and he now is receiving long-term disability benefits.
18. To establish an injury resulting from repetitive trauma an injured worker must show 1) prolonged exposure, 2) the cumulative effect of which is injury or aggravation of a pre-existing condition and 3) that he has been subjected to a hazard greater than that to which the general public is exposed. Alternatively, he must demonstrate a series of occurrences, the cumulative effect of which is injury. See *Festa v Teleflex, Inc.*, 382 So.2d 122 (Fla. 1st DCA 1980).
19. The medical evidence reveals that Mr. Wilcox had been diagnosed with plantar fascial fibromatosis and neuropathy. He has also been found to have type 2 diabetes, fibromyalgia and hypertension. Mr. Wilcox developed plantar fibromas in both of his feet. Fibromas are a scar-tissue-type mass that forms in the plantar fascia ligament. They involve the connective tissue in the plantar area or sole of the foot where the connective tissue gets inflamed and thickens. The

mass is called a fibroma and said mass can cause irritation and palpable swelling of the nerves producing what is called a neuroma.

20. There is conflicting testimony as to the cause of the fibromas and resulting neuromas in Mr. Wilcox's feet. Dr. Richard Smith testified that they were caused by trauma from Mr. Wilcox's repetitive ladder climbing at work. He said that he based his opinion in part on Dr. Childs' 02/12/10 letter addressed To Whom It May Concern. He also believed Mr. Wilcox's diabetes and neuropathy (both unrelated conditions) play a role in his foot problems but he could not apportion what percentage would be due to repetitive activities at work as compared to the diabetic neuropathy. Nevertheless he believed the major contributing cause of the claimant's bilateral foot condition was his repetitive activities at work.
21. Dr. Douglas Childs testified that the cause of fibromas is usually from trauma. He testified that although they sometimes can be genetic in origin, when they are bilateral it is usually from repetitive trauma. He believed repetitive foot bending with the foot on the rungs of ladders caused the fibromas in Mr. Wilcox's feet although he acknowledged that they can also develop from every day walking. Complicating Dr. Childs' testimony is the fact that he had expressed previous opinions that the fibromas were not job related in supporting Mr. Wilcox's claim for short-term disability benefits. He even indicated that he would not have approved an application for short-term disability benefits if he believed it was job related and he would not have assumed treatment of the claimant if he initially believed that it was being pursued as a workers' compensation claim.
22. Dr. Paul Maluso rendered an opinion that the fibromas were not caused by the employment. He said that they are typically caused by idiopathic changes of the connective tissue and are generally not related to any type of trauma. That any trauma from climbing ladders in his opinion would not be sufficient to produce the fibromas if the claimant were wearing shoes. To get a fibroma from trauma he believed there would have to be a significant blow to the foot such as someone landing from a height onto his or her feet and injuring it. Also in regard to the claimant's pain symptoms he testified that although the claimant's non-job related fibromyalgia and diabetes would not cause the fibromas, the pain from the fibromyalgia and diabetic neuropathy can be confused with pain from the fibromas.
23. Although there is a clear conflict in the medical opinions with respect to causation that existed prior to the 06/24/10 final hearing neither party requested the appointment of an expert medical

advisor (EMA). Notwithstanding this conflict I decline to appoint an EMA on my own motion finding that the parties have waived any claim to one by failing to advance it timely. See *Palm Beach County Sheriff's Office v Blair*, 965 So.2d 1210 (Fla. 1st DCA 2007) and *U.S. Agri-Chemicals Corp v Camacho*, 975 So.2d 1219 (Fla. 1st DCA 2008).

24. In that the claimant has developed multiple conditions including fibromyalgia, diabetic neuropathy, and hypertension and he has assorted complaints that include knee pain, back pain, and frequent leg cramps, I do not readily dismiss the testimony of the doctors that these fibromas can develop idiopathically. They can result from every day walking and can be due to genetic reasons. Although Dr. Smith expressed an opinion that Mr. Wilcox's fibromas were not genetically caused, he provides no clear explanation for it. I am also not convinced that because the neuromas were bilateral that they had to result from trauma. I find Dr. Maluso's testimony regarding shoe use very persuasive, and I consider the fact that the conditions relating to the claimant's pain complaints in his feet are complicated by his fibromyalgia and severe diabetic neuropathy as revealed by nerve study. The diabetic neuropathy affects both his feet and hands according to Dr. Childs.
25. With Mr. Wilcox's plethora of problems and the conflicting medical testimony I am not persuaded that his employment caused his fibromas or even the extent to which his fibromas are contributing to his foot complaints. It is claimant's burden to prove the compensability of his condition that he maintains was caused by repetitive trauma by *clear and convincing evidence*. From these various factors coupled with my lack of confidence in the reliability and accuracy of Mr. Wilcox's history given to the medical providers I am not convinced without hesitancy that the major contributing cause of Mr. Wilcox's fibromas and neuromas is his employment with East Coast Fire Protection. Therefore I am not persuaded that the employment is the major contributing cause of the bilateral foot condition. I thus conclude that the request for the finding of its compensability should be denied.

WHETHER THE CLAIMANT VIOLATED SECTIONS 440.09(4) AND 440.105, FLORIDA STATUTES?

26. *Section 440.09(4)(a)* provides in part that, "An employee shall not be entitled to compensation or benefits under this chapter if any judge of compensation claims, administrative law judge, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of

the acts described in s. 440.105”

27. Section 440.105(4) (b) provides that it would be unlawful for any person:

- a. To knowingly make, or cause to be made, any false, fraudulent, or misleading oral or written statement for the purpose of obtaining or denying any benefit or payment under this chapter.
- b. To present or cause to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefits pursuant to any provision of this chapter, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.
- c. To prepare or cause to be prepared an written or oral statement that is intended to be presented to any employer, insurance company, or self-insured program in connection with, or in support of, any claim for payment or other benefit pursuant to any provision of this chapter, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.

28. It is clear from the record that Mr. Wilcox’s claim to the compensability of both his back and bilateral foot conditions were pursued as one claim on a single petition and claiming a single date of loss. The petition was filed on 08/03/09, mediated resulting in impasse on 10/10/09 and initially pre-tried on 12/21/09. All of said proceedings included the claim for a finding of compensability of Mr. Wilcox’s back condition and the authorization of medical care for same.

29. The claimant filed an amended pretrial stipulation on 02/15/10 withdrawing the issue of compensability and medical treatment for the low back. However before that withdrawal I find that Mr. Wilcox knowingly lied in deposition to the E/C attorney and to Doctors Smith and Maluso about the existence of preexisting back problems in pursuing his back injury claim under the 08/03/09 petition. The failure to disclose the prior back complains were sufficient for Dr. Smith to revise his opinion as to the major contributing cause of Mr. Wilcox’s back pain. Dr. Maluso in his 02/10/10 IME report indicated that upon his review of medical records provided that included the reports of low back pain for 3 weeks on 04/03/09 and a subsequent Florida Hospital Emergency Room record of 06/05/09 indicating that Mr. Wilcox was having back pain for several weeks but in the absence of any specific traumatic event, Dr. Maluso opined that the back complaints preexisted the alleged industrial accident and he recommended no treatment for it.

30. As elaborated on in the case of Citrus Pest Control v Brown, 913 So.2d 754 (Fla. 1st DCA 2005),

under most circumstances, accurate medical histories, evidence of prior accidents, and statements regarding the extent of current injuries are relevant and material to a workers' compensation claim. Such statements are relevant and material whether made to health care providers, or during testimony given at depositions or the merit hearings. I find that the existence of back difficulties before a reported 06/03/09 accident was clearly material in assessing issues of causation as well as appropriate treatment in this case. I find that Mr. Wilcox's nondisclosure of his prior back problems was knowing and intentional to secure workers' compensation benefits. As such his entire claim must be denied as demanded by the misrepresentation provisions of Chapter 440.

31. I find that allowing the claimant to avoid the consequences of his misrepresentation by simply withdrawing a claim for the specific benefits on which his lies were tendered would thwart the spirit and intent of the misrepresentation statute and produce an absurd result empowering the claimant to manipulate the consequences for his misdeed. As the First District Court has previously expressed in quoting a trial court's order in Baker v Myers Tractor Servs., Inc., 765 So.2d 149,150 (Fla. 1st DCA 2000)

"Honesty is not a luxury to be invoked at the convenience of a litigant"

See Village Apartments v Hernandez, 856 So.2d 1140 (Fla. 1st DCA 2003).

32. I accordingly find that with his misrepresentations concerning his back in pursuit of the 08/03/09 petition Mr. Wilcox has violated *Sections 440.09(4) and 440.105* requiring the forfeiture of his complete claim to workers' compensation benefits.
33. I further find that Mr. Wilcox made knowing and intentional misrepresentations in pursuit of his bilateral foot claim that support a separate and independent basis with which to bar his claim on misrepresentation grounds. I have thoroughly considered the testimony of all of the witnesses produced at the final hearing. In weighing their credibility I accept the testimony of James Fluker, Joel Smith, Jerry Hall and Ronnie Burkett that Mr. Wilcox did not tell them that his tumors on his feet were related to his work during the time periods that he claimed he did. I find Mr. Wilcox was untruthful in testifying that he told them and that he made those representations in the advancement of his claim to establish the compensability of his bilateral foot condition. The germane question to my mind is whether Mr. Wilcox intended to mislead by making false or misleading statements designed to advance his claim which I find that he did. It has been held that it is not necessary that a false, fraudulent, or misleading statement be material to the claim; it

only must be made for the purpose of obtaining benefits. See *Section 440.105(b) 1* and *Village of North Palm Beach v McKale, 911 So.2d 1282 (Fla. 1st DCA 2005)*. For example in the case of *Citrus Pest Control v Brown* even though it was subsequently determined that the false statements had no effect on the IME physician's determination of causation, the fact that the judge expressly found that the claimant in that case intended to mislead by making false or misleading statements about his symptoms designed to advance his claim was sufficient enough at that point to preclude the claimant from receiving further benefits pursuant to *Section 440.09(4)*. Here I find the misrepresentations were made to support his claim to benefits for his bilateral foot condition.

CONCLUSION

34. For the foregoing reasons I find that Mr. Wilcox's claim should be denied first in that I am not convinced by clear and convincing evidence that he met his burden of proof in establishing the compensability of his bilateral foot condition. Secondly I find that Mr. Wilcox made knowing and intentional false, misleading and incomplete oral statements for purposes of advancing his workers' compensation claim under the 08/03/09 petition. That by so doing he has violated *Sections 440.09(4) and 440.105(4) (b) 1* thereby forfeiting his entitlement to any continuing benefits under the Florida Workers Compensation Act.

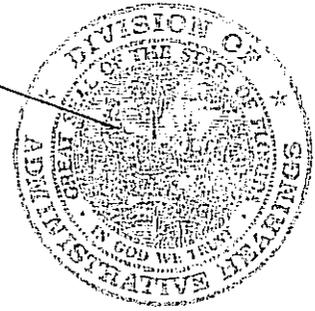
WHEREFORE it is hereby **ORDERED** and **ADJUDGED** that:

1. The request for the finding of compensability of the claimant's bi-lateral foot conditions is denied with prejudice.
2. The request for the payment of temporary total disability benefits from 06/03/09 to present with interest and penalties as otherwise provided by law is denied with prejudice.
3. The request for the payment of temporary partial disability benefits from 06/03/09 to present with interest and penalties as otherwise provided by law is denied with prejudice.
4. The request for the authorization of an orthopedic surgeon for the evaluation and treatment of pain and functional disability attributable to Mr. Wilcox's bi-lateral foot condition is denied with prejudice.
5. The request for the payment of the claimant's reasonable attorney fees and costs at the expense of the E/C is denied with prejudice.

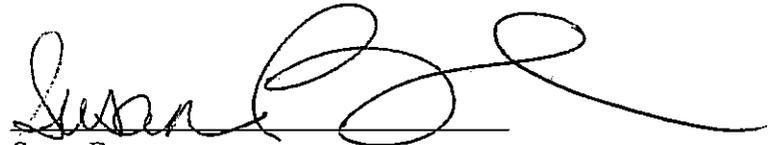
DONE AND ORDERED in Chambers at Orlando, Orange County, Florida.



W. James Condry, II
Judge of Compensation Claims
400 West Robinson Street, Suite 608-North
Orlando, Florida 32801-1701



I HEREBY CERTIFY that the Judge of Compensation Claims entered the foregoing Compensation Order. A true and accurate copy of the order has been furnished by e-mail on this the 23rd day of July 2010 to the parties' attorneys of record and to all other parties by U.S. Mail.



Susan Berman
Assistant to Judge of Compensation Claims